

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2044 of 1997**

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Budhan Rai son of Jangi Rau, resident of village- Sharma, P.S. Mahua, District- Vaishali.

.... .... Petitioner/s

Versus

- 1.The State of Bihar
- 2.The Additional Collector, Vaishali at Hajipur.
3. The Anchaladhikari, Mahua, Vaishali.
4. The Labour Inspector, Mahua, Vaishali.
- 5.Chandeshwar Mahto son of late Ram Dayal Mahto, resident of village- Sharma, P.S. Mahua, District- Vaishali.

.... .... Respondent/s

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**Appearance :**

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|----------------------------|---|---------------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Ram Suhawan Singh<br>Mr. Chandra Moleshwar                |
| For the State              | : | Mr.Y.P.Sinha, A.A.G 15<br>Mr. Shankar Kumar, A.C. to A.A.G 15 |
| For the Respondent<br>No.5 | : | Mr. Nityanand                                                 |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**  
**Date: 10-02-2015**

Heard learned counsel for the petitioner and the State.

In this case the petitioner is challenging the order dated 01.07.1996 passed by learned Additional Collector, Vaishali in Minimum Wages Case No. 6/1993-94 whereby he has affirmed the order dated 08.10.1993 passed by learned Anchaladhikari, Mahua in Minimum Wages Case No. 15/1993-94.

It appears that an application was filed by Labour Enforcement Officer where a statement was made that the petitioner has taken work for 15 (fifteen years) but not paid minimum wages and Anchaladhikari on that basis instituted Minimum Wages Case No. 15/1993-94. The Anchaladhikari computed the minimum wages to the tune of Rs. 2028/- along 10 times compensation directed for payment of Rs. 23,308/-. That was challenged before the Appellate Court vide

Minimum Wages Act No. 15/1993-94 and the appellate authority rejected the plea of the petitioner and thereby affirmed the order of Circle Officer. The claim of the petitioner is that the case was heard without giving any notice to him. It was decided ex parte. On merit he has submitted that only 0.75 decimals of land has fallen in his share and for that portion the family members are sufficiently to cultivate the same. There was no need for engaging the private respondent as labour.

As the Circle Officer never issued notice of the case and so much so both the authorities have granted ten times compensation in mechanical manner which is upper limit without providing any reason shows arbitrary exercise of power. The compensation amount should not have been more than one time to the principal amount. It has further been submitted that the claim is not made with respect to non payment of minimum rate of wages fixed by the government as no where in the order of the original court or the appellate court any notification has been mentioned.

Counsel of the other side disputed the claim of the petitioner and submitted that the orders of both the courts are legal and is based on materials available on the records and does not require any interference.

The Minimum Wages Act fixes the minimum wages for different classes of labours engaged in different establishments.

From the orders passed by both the authorities it does not show that both the authorities adjudicated the disputes relating to non payment of minimum wages fixed by the State Government. Mere a statement has been made that the petitioner was getting less payment than what was fixed by the State Government.

Having considered the rival contentions of the parties as per claim of

the private respondent he was paying less than the wages for the period 1977-86, 1986-89 and 1980-83, according to private respondent he was entitled to Rs. 82,859.75. The appellate authority and the original authority have recorded that the petitioner was paid Rs. 5/- per day. On what basis the authorities have arrived to difference of wages Rs. 2028/- has not given any reason so much cogent reason. No where it has been mentioned that what was the minimum wages fixed by the State Government for the period in question. The minimum wages cannot be calculated beyond six months backward from the date of filing of the application and for earlier period of claim condonation petition and order is essential concomitant. Neither in the order of Anchaladhikari nor in the order of Appellate Court provides the period for which calculation was made and there is no disclosure that what was the minimum rate of wages was fixed by the State Government. In absence of those primary materials the order of the Circle Officer and the Appellate Authority are not sustainable in the eye of law and so much so that before the appellate authority the plea of small piece of land with him did not take any assistance from the respondents has not been considered.

In such view of the matter the order of the Circle Officer and the Appellate Authority are quashed and the matter is remanded back for fresh consideration by the Circle Officer.

The application is allowed to aforesaid extent.

**(Shivaji Pandey, J)**

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