

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.241 OF 2003

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ORDER:

This writ petition filed under Article 226 of the Constitution of India seeking a writ of mandamus declaring the order dated 28.5.2007 in I.A. No.5 of 2002 in P.W. Case No.11 of 1997 passed by the first respondent–Assistant Commissioner of Labour, as without jurisdiction and, consequently dismiss P.W. Case No.11 of 1997.

2. The facts leading to filing of the writ petition, in brief, are as follows: The second respondent herein filed P.W. Case No.11 of 1997 before the first respondent i.e., the Authority under Payment of Wages Act, Sangareddy, claiming wages from the petitioner for the period from July, 1996 to February, 1997. While the matter stood thus, the petitioner herein filed I.A.No.5 of 2002 in P.W. Case No.11 of 1997 contending that the first respondent lacks inherent jurisdiction to entertain the petition filed by the second respondent. The first respondent by the impugned order dated 28.5.2007 dismissed I.A.No.5 of 2002. Hence, the present writ petition.

3. The second respondent, having received notice in the writ petition, did not choose to appear before this court.

4. Heard the learned Government Pleader for Agriculture representing the petitioner and learned Government Pleader for Labour representing the first respondent.

5. It is not in dispute that the second respondent herein filed P.W. Case No.11 of 1997 before the first respondent under Section 16(3) of Payment of Wages Act, 1936 (the Act), claiming wages from the petitioner, which is Horticulture Department, for the period from July, 1996 to February, 1997. The petitioner filed I.A. No.5 of 2002 in P.W. Case No.11 of 1997 raising preliminary objection as to the jurisdiction of the first respondent to entertain P.W. Case No.11 of 1997. The main contention raised by the petitioner is that Section 2(2) of the Act excludes the State Government or any of its department from the definitions of 'industry' or 'establishment' and therefore, the first respondent has no jurisdiction. When one of the parties to the *lis* raises objection touching the jurisdictional aspect, the court or the Authority has to decide the same as preliminary issue before going into the merits of the case. The first

respondent passed the impugned order in I.A. No.5 of 2002, which reads as under:

“Applicants counsel present and filed counter in I.A.No.5 of 2002, Opposite Party and Opposite Parties counsel called absent.

Applicants counsel argued that under Section 22F of Minimum Wages Act, 1948 is applicable to the Payment of Wages Act under procedure Rules 1962 application to Schedule Employment, as the Horticulture Department is under Schedule Employment. This Hon’ble authority has the jurisdiction power. Argument heard. I.A. Dismissed, call on 19.6.2002 at 3.00 P.M”

6. The impugned order passed by the Authority is bereft of any reasons. Except stating that “*This Hon’ble authority has the jurisdiction power*”, no reasons are given stating that under which provision of law the first respondent has jurisdiction. It is the duty of the Authorities under the Government to pass reasoned orders while exercising quasi judicial powers. My view is fortified by the decision of this court in **Jadhav Rekoba v Government of Andhra Pradesh**, wherein it was held that “*The Constitutional Courts have repeatedly held that the Government while exercising quasi judicial, appellate/revisional jurisdiction, is bound to give reasons and absence of reasons itself would be in violation of principles of natural justice. Therefore, the impugned order has to be set aside*”.

7. The learned Government Pleader for Agriculture submitted that if the State Government issues Gazette Notification conferring status of ‘industry’ or ‘establishment’ to the petitioner- Department, undoubtedly the first respondent has jurisdiction to entertain the main case. Admittedly, the second respondent has not produced Gazette Notification, if any, conferring the jurisdiction on the Authority under the Act in respect of workmen of Horticulture Department. The material available falls short to establish whether the Horticulture Department is notified in the official Gazette of the State Government as ‘industry’ or not. As observed earlier, the first respondent has not assigned reasons while passing the impugned order. Viewed from any angle, the impugned order is liable to be set aside.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, the impugned order is hereby set aside and the matter is remanded to the Authority to pass order afresh giving reasons as to whether it has jurisdiction to deal with P.W.Case No.11 of 1997 and if so, under what provision of law. The Authority shall pass the orders afresh in I.A.No.5 of 2002 as expeditiously as possible.

9. With the above observations, the writ petition is allowed. No costs. Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

T.SUNIL CHOWDARY, J

April 10, 2015.

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