

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
WRIT PETITION Nos.15183, 15210, 15211, 15299 and
15616 of 2009 and 2935 of 2010

Date:11.8.2015

WRIT PETITION No.15183 of 2009

Between:

Rayalaseema Thermal Power Project,
Kalamala Village, Kadapa District,
reptd., by its Chief Engineer (O & M).

..... Petitioner

And:

The Authority appointed under the
Minimum Wages Act, 1948-Joint
Commissioner of Labour, Rayalaseema
Region, Kurnool and two others.

.....Respondents

Counsel for the Petitioner: Sri G.Vidyasagar
senior counsel

Counsel for the Respondents: None appeared

The Court made the following:

COMMON ORDER:

The subject matter and parties in these Writ Petitions are common. Hence, they are heard and being disposed of together.

I have heard Sri G.Vidyasagar, learned senior counsel for the petitioner, who is common in all these Writ Petitions, and Sri K.V.Raghuveer, learned counsel appearing for respondent No.3 in Writ Petition Nos.15211 and 15299 of 2009

Respondent No.3 is a Contractor supplying labour to the petitioner in connection with the execution of work in

the petitioner Power Plant. Respondent No.2 filed applications in Form-VII under the payment of Minimum Wages Act, 1948, claiming wages. By separate orders passed by respondent No.1, directions were issued to deposit certain amounts towards alleged variation between the wages paid to certain labourers and the minimum wages. Aggrieved by these orders, the petitioner filed these Writ Petitions.

It is the pleaded case of the petitioner that in the applications filed by respondent No.2 before respondent No.1, the name of respondent No.3 alone was shown and that in spite of the fact that complaints were not filed against the petitioner claiming differential wages, the impugned orders were issued jointly against both parties.

It is the further case of the petitioner that except in connection with the order impugned in Writ Petition No.15183 of 2009, in all other cases, no prior notices were served on it before passing of the order by respondent No.1.

Counter-affidavit is filed in Writ Petition No.15183 of 2003 on behalf of respondent No.1, wherein it is averred that a notice was served on the petitioner in connection with the order impugned in the said Writ Petition.

Sri G.Vidyasagar, learned senior counsel for the petitioner, submitted that while it is not clear as to whether notices were served on the petitioner in other cases before the impugned orders were passed, no one on behalf of the petitioner has appeared before respondent No.1 for the reason that the complaint was not filed against it and that the same was only filed against respondent No.3.

The copies of applications in Form-VII filed by the petitioner show that the name of respondent No.3 alone has been mentioned therein as the employer.

As rightly submitted by learned senior counsel

appearing for the petitioner, unless proper application in Form-VII is filed claiming differential wages against the petitioner also, it cannot be fastened with the liability of payment of minimum wages. On this short ground alone, the Writ Petitions are allowed and the impugned orders are set aside, however, giving liberty to respondent No.2 to file fresh complaints, if he so desires, by duly showing the petitioner also in the complaint. In such event, respondent No.1 shall serve proper notices on the petitioner as well as respondent No.3 and make a fresh adjudication.

As a sequel to the disposal of the Writ Petitions, WPMP.Nos.19442, 24859, 19971, 19972, 20084 and 20499 of 2009 and 3870 of 2010 are disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*11th August 2015
DR*