

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-3829-2013

Date of decision : 06.10.2015

Principal & Director, Motilal Nehru School of Sports, Rai
..... Petitioner

Vs

Authority, Minimum Wages Act, Circle-2, Sonipat (Haryana) and
others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present : Ms. Vibha Dhiman, AAG, Haryana
for the petitioner.

Mr. Ramesh Goyat, Advocate
for respondents No.2 to 9.

Mr. Rupinder Thakur, Advocate for
Mr. Vikram Punia, Advocate
for respondent No.11.

Mr. S.P. Chahar, Advocate
for respondent No.12.

RAJIV NARAIN RAINA, J. (ORAL)

There is no dispute that the claimants who had filed an application under Section 20(2) of the Minimum Wages Act, 1948 (for short 'the Act'), were paid less than minimum rates of wages fixed for the scheduled employment. The claimants were employed as Sweepers to work in the Motilal Nehru School of Sports, Rai which is a Government owned institution. The claimants, who are the respondents in this petition, were engaged through a contractor and there was no direct relationship of employer and employee between the School and

the workers, however, the petitioner remains the principal employer of the workman engaged or employed through a contractor. To guard against payment to workers less than the minimum rate of wages fixed by the Deputy Commissioner of the District, the Haryana Government, Labour Department issued a notification dated 27.06.2007 in exercise of powers conferred by Sub-section (2) of Section 5 of the Act after consultation with the State Minimum Wages Advisory Board, Haryana notifying the revised Schedule annexed to the notification listing scheduled employments where the rigours of the Act are applicable. The notification issued by the Financial Commissioner and Principal Secretary to Government of Haryana, Labour Department contains Note 5 beneath the Annexure (A) which mandates as follows:

“5. Where any of the above categories of workmen are engaged/employed through a contractor, the occupier/the principal employer shall be personally responsible for ensuring the payment of the minimum rates of wages by the contractor.”

This duty cast on the petitioner, has not been discharged by it and has been breached in presence of the notification and therefore, the authority under the Minimum Wages Act, Sonipat is perfectly justified in awarding the difference of wages paid as per the minimum wages fixed for Sweepers under the notification and the amounts so calculated

become money due and payable.

In case the work under the contract was undervalued at the time of floating tenders, inviting bids from prospective contractors and contracts came into existence and were signed, then it is no argument of the petitioner that the School has incurred loss in undervaluing the contract without taking into account the number of Sweepers to be employed or the rates of wages admissible to them as fixed under the Act from time to time. The minimum rates of wages fixed under the Act from time to time have to be read into contracts executed by Government with the private agencies as the burden is statutory and no one can contract out of the law. In case, the petitioner has suffered loss, it is at liberty to recover the difference from the contractor but workers must be paid their dues. If the petitioner has polluted the law of minimum wages in the first instance then it must shoulder the value of repair. The principle "polluter pays" evolved by the Supreme Court in policing environment laws should suitably be applied to the case in hand. The one who pollutes the law must pay the cost.

Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

06.10.2015

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