

#13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20.01.2016

+ **W.P.(CRL) 2072/2013**

AMIT PANDEY

..... Petitioner

Through

Mr. S.N. Bhardwaj and Ms. Harsha Rani,
Advocates

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through

Mr. Rahul Mehra, Standing Counsel
(Crl.) with Mr. Jamal Akhtar and Mr.
Sanyog Bahadur, Advocates
SI Mahesh Kumar, P.S. R.K. Puram

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 assailing the order dated 22nd September, 2013 passed by the Labour Inspector under Section 3 of the Child Labour (Prohibition and Regulation) Act, 1986 [hereinafter referred to as 'the Act'] and directing the petitioner herein to deposit a fine of Rs. 20,000/- in the office of Deputy Labour Commissioner, District South West, New Delhi within 15 days from the date of impugned

order.

2. The issue that arises for consideration in the present writ petition is within a narrow compass.

3. Mr. S.N. Bhardwaj, learned counsel appearing on behalf of the petitioner would urge that the direction contained in the impugned order has been issued before an order convicting the petitioner has been made and is, therefore, bad in law and contrary to all canons of jurisprudence.

4. On the other hand, Mr. Rahul Mehra, learned Standing Counsel (Criminal) appearing on behalf of the official respondent relies upon paragraph 23 of a decision of the Division Bench of this Court in *Writ Petition (C) 9767/2009* titled *Court on its own Motion vs. Govt. of NCT of Delhi*; *Writ Petition (Crl.) 2069/2005* titled *Save the childhood Foundation vs. Union of India & Ors.*; *Writ Petition (C) 15090/2006* titled *QIC & AC vs. Ministry of Labour and Employment and Anr.*; *Writ Petition (C) 4125/2007* titled *All India Bhrashtachar Virodhi Morcha (Regd.) vs. Karol Bagh Bangiya Swaran Shilpi Samiti (Regd.) & Ors.*; and *Writ Petition (C) 4161/2008* titled *Court on its own Motion vs. State NCT of Delhi* rendered on 15th July, 2009 to urge that the recovery of fine does not have to await an order convicting the offending employer under the said Act.

5. It is an admitted position that the petitioner as well as the State places reliance on a decision of the Hon'ble Supreme Court in *M.C. Mehta vs. State of*

Tamil Nadu & Ors. reported as ***AIR 1997 SC 699.***

6. Mr. S.N. Bhardwaj, learned counsel appearing on behalf of the petitioner would then urge that the decision of the Division Bench of this Court in ***Writ Petition (C) 9767/2009*** titled ***Court on its own Motion vs. Govt. of NCT of Delhi (supra)*** relied upon by the learned Standing Counsel (Criminal) would not come to his aid, inasmuch as, in view of paragraph 27 of the decision of the Supreme Court in ***M.C. Mehta (supra)***, the decision of the High Court in ***Court on its own Motion (supra)*** is erroneous and untenable.

7. In my view, the interpretation sought to be placed by learned counsel appearing on behalf of the petitioner on paragraph 27 of the report in ***M.C. Mehta (supra)*** does not hold any water and is misplaced.

8. In that case, the Hon'ble Supreme Court did not specifically consider or determine the issue raised in the present writ petition to the effect that direction to pay fine cannot precede an order of conviction.

9. In view of the foregoing and specifically in terms of the dictum of the Division Bench of this Court in ***Court on its own Motion (supra)*** as contained in paragraph 23 of the report, it is incumbent upon me to hold that the deposition of fine as directed by the order impugned herein is not required to await the order convicting the offending employer under the said Act, which is a beneficial legislation and has the welfare of underage minors who are employed as its object.

10. The present writ petition is therefore devoid of any merit and the same is accordingly dismissed.

JANUARY 20, 2016
sd

SIDDHARTH MRIDUL, J