

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.5663 of 2009

State of Chhattisgarh, Through Executive Engineer, Public Works Department, Bridge Construction Division, Rajnandgaon (Earlier Raipur) (C.G.)

---- Petitioner

Versus

1. Authority under the Minimum Wages Act, 1948, Labour Court, Rajnandgaon (C.G.)
2. State of Chhattisgarh, through Inspector under the Minimum Wages Act, 1948, Rajnandgaon (wrongly mentioned as State of C.G. through Inspector though acted upon as a Inspector under the Minimum Wages Act, 1948)
3. M/s. Aakar Builders, through its Director Kamlesh Patel, S/o G. Patel, aged about 40 years, R/o Q. No.38 B, Deendayal Upadhyay Nagar, Raipur (C.G.) (Contractor)
4. Nehli, W/o Mohan Sahu, R/o Village Khuteri, Distt. Rajnandgaon (C.G)
5. Kanti, W/o Budharu Sinha, R/o Village Khuteri, Distt. Rajnandgaon (C.G)
6. Padma, W/o Kuwarsingh, R/o Village Khuteri, Distt. Rajnandgaon (C.G)
7. Thagni, W/o Ramgopal, R/o Village Khuteri, Distt. Rajnandgaon (C.G)
8. Leelabai, W/o Yashwant, R/o Village Khuteri, Distt. Rajnandgaon (C.G)

---- Respondents

For Petitioner/State:	Mr. Prasun Kumar Bhaduri, Govt. Advocate and Mr. Gary Mukhopadhyay, Dy. Govt. Advocate.
For Respondents No.4 to 8:	Mr. Shishir Dixit, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/02/2017

1. The authority under the Minimum Wages Act, 1948 (for short 'the Act of 1948') allowed the application filed under Section 20(2) of the Act of 1948 and the petitioner herein / State was proceeded ex parte. The petitioner moved an application for setting aside the ex parte order assigning reason that due to shifting of their office from Raipur to Rajnandgaon, their officers could not appear though earlier they were appearing regularly. The said application was rejected by the authority under the Minimum Wages Act, 1948, finding that no sufficient cause has been established for non-appearance when the case was called-up for hearing against which this writ petition under Article 227 of the Constitution of India has been preferred.
2. Mr. Prasun Kumar Bhaduri, learned Govt. Advocate appearing for the State/petitioner, would submit that the authority under the Minimum Wages Act, 1948 is absolutely unjustified in holding that sufficient cause has not been shown for setting aside the ex parte order.
3. Mr. Shishir Dixit, learned counsel appearing for respondents No.4 to 8, would support the impugned order.
4. I have heard learned counsel for the parties and considered the rival submissions made herein and also perused the material available on record with utmost circumspection.
5. It is the case of the petitioner / State that earlier, the Raipur

officers were appearing before the Rajnandgaon Court and during the pendency of litigation, the office of their Department has been shifted from Raipur to Rajnandgaon and officers of Rajnandgaon could not note the date of hearing of the application and final order came to be passed and they could not appear on that day for hearing. It is well settled law that sufficient cause should be construed liberally and if delay is not deliberate and if the explanation does not smack of mala fides then ordinarily, the court should condone the delay. (See **N. Balakrishnan v. M. Krishnamurthy**¹).

6. In this connection, reference was also made to a decision of the Supreme Court in the matter of **State of Haryana v. Chandra Mani and others**² in which Their Lordships of the Supreme Court have held that when the State is an applicant, the expression “sufficient cause” should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. It has also been held that in view of the fact that the Government is impersonal machinery and decisions are taken by officers/agencies proverbially at slow pace, certain amount of latitude is not impermissible.
7. In view of the aforesaid analysis and material available on record, I am of the view that the State Government has shown sufficient cause for setting aside the ex parte order.

1 (1998) 7 SCC 123

2 AIR 1996 SC 1623

Therefore, the impugned order dated 22-6-2009 is set aside and the original order dated 27-4-2007 is also set aside. The matter is restored to the Labour Court, Rajnandgaon for hearing and disposal in accordance with law. Now, the parties will appear before the Labour Court, Rajnandgaon on 6-3-2017. No fresh notices are necessary to be issued to the petitioner herein / State and the labours / respondents No.4 to 8 herein, only notice shall be issued to respondent No.3 herein. The order is set-aside to the extent of liability of the State Government, however, the Labour Court would do well to recover the amount of ₹ 1,90,960/- from M/s. Aakar Builders, if already not recovered, and shall ensure that payment is made to the labours, as the order is only set-aside partly to the liability of the State Government. The petitioner / State will make respondents No.4 to 8 herein party before the Labour Court. The case shall be decided by the Labour Court within three months from the date of receipt of a copy of this order.

8. The writ petition is allowed to the extent indicated herein-above leaving the parties to bear their own costs.

Sd/-
(Sanjay K. Agrawal)
Judge