

THE HON'BLE SRI JUSTICE S. V. BHATT

WRIT PETITION No. 23392 of 2012

ORDER:

Heard Mr.S.Chalapathi Rao for petitioners and the Government Pleader for Labour for Respondents.

2. Petitioners challenge in this writ petition the order of 1st Respondent in M.W.M.P. Case No.01/ 2011 in File No.B2/ 1946/ 2011, dated 24.04.2012, as illegal, arbitrary and unconstitutional. Through the impugned order in the writ petition, the 1st Respondent directed payment of Rs.1,03,600/- for having the household assistance of a girl-child, by name Taslima, more particularly without paying any remuneration to her. The order impugned in the writ petition reads thus:

"After perusal of the entire material on record, I conclude as follows:

That the criminal case filed by the Police Station, Subedari will be dealt with under certain sections of the IPC and it is not a bar to hear this case which is filed under the provisions of the Minimum Wages Act. Having concluded thus, it is important to establish the fact or otherwise of engagement of the child. A perusal of the inspection report shows that it was not only the Applicant who visited the household but also another female inspector, chairperson of CWC and also another NGO was present at the time and signed on the said document. The signature of the Respondent is affixed on the report along with his cell phone No. Being a Government employee, he could have protested if he was corrected or at least he could have

refuted the contents of the report. Having done neither, he cannot now claim that his signature was obtained while he was in custody. It appears to be an after thought and the arguments fails to convince me. While the Respondents refute the claim that they did not engage the child, they fail to spell out what exactly the girl was doing in their residence. The very nature of employment of children is such that no record is maintained nor can it be spelt out. Section 14 of the Child Labour Act has no relevance in this particular context.

Having considered all the above issues, I come to the inescapable conclusion that the child Thaslima was engaged to work as a domestic worker in the residence of the Respondents and order that an amount of Rs,93,600/- together with a penalty of Rs,10,000/- totaling to Rs.103600/- is payable by the Respondents.

The amount shall be deposited within a period of 15 days of receipt of this order.”

3. Mr.Chalapathi Rao, learned counsel for petitioners, having regard to the scope of judicial review and also the details contained in the report prepared by the officials of the Department, lady Inspector and Chair Person of CWC, did not vehemently challenge the order impugned in the writ petition. However, he contends that the findings have been arrived and direction to pay the amount is issued by the 1st Respondent arbitrarily. The contention of the learned counsel is merely noted to be rejected.

4. Prima facie, after perusing the order impugned in the writ petition, this Court is satisfied that before exercising the

jurisdiction for passing the order against the petitioners herein, the 1st Respondent has followed the procedure, and basing on the spot inspection report and the evidence of the girl-child, the order impugned in the writ petition has been passed. At the instance of petitioners, this Court is not inclined to re-appreciate or re-examine each one of the circumstances to disturb the findings or arrive at independent conclusion. The challenge to impugned order fails. Accordingly, the writ petition is liable to be dismissed.

5. On 31.07.2012 this Court directed petitioners to deposit 50% of the amount demanded by the 1st Respondent. The counsel for the petitioners submits that the condition has been complied with and some more time may be granted to petitioners for paying the balance amount demanded by the 1st Respondent. Having regard to the request, the petitioners are granted eight weeks time from the date of receipt of copy of this order to pay the balance 50% amount demanded through the order dated 24.04.2012. If the amount is not deposited within the time now granted by this Court, the 1st Respondent is directed to recover the balance amount with interest at 12% per annum from 31.07.2012 till the date of realization. Upon deposit of the amount, the 1st Respondent under proper proof, acknowledgment and ensure payment to the girl-child i.e. Taslima.

6. The writ petition is dismissed, as indicated above. As a sequel, the miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

February 22, 2017
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