

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.2246 of 2004

ORDER:

This writ petition is filed seeking a writ of Certiorari calling for the records relating to and connected with the orders passed by the 1st respondent in M.W.No.10 of 2002, dated 11.09.2003 and quash or set aside the same holding it as arbitrary and illegal.

Heard Sri Vedula Venkata Ramana, learned counsel for petitioner, learned Government Pleader for Labour, appearing for 1st respondent and Sri K.Bhaskar Rao, learned counsel appearing for the 2nd respondent.

It has been contended by the petitioner that the petitioner is a proprietary concern engaged in the sale of Cigarettes, Beedies and Matches. In order to run the business, the petitioner has engaged the 2nd respondent. The State Government has not issued any notification under Minimum Wages Act covering the petitioner concern. The 2nd respondent appears to have filed a complaint before the Authority under Minimum Wages Act complaining that he is not being paid minimum wages as stipulated under the Minimum Wages Act. The Authority under the Minimum Wages Act had entertained the said complaint and numbered it as M.W.No.10 of 2002 and adjudicated the matter in favour of the 2nd respondent, holding that the 2nd respondent is entitled for an amount of Rs.1,39,517/- with penalty of one time compensation of equal amount, totalling to Rs.2,79,034/-, vide orders dated 11.09.2003. Challenging the same, the present writ petition is filed.

It has been contended by the learned counsel for petitioner that the petitioner has specifically contended that there is no notification issued covering the establishment of petitioner. Without examining whether the petitioner comes under Minimum Wages Act or not, the Authority under Minimum Wages Act has mechanically passed orders and this Court was pleased to grant interim stay of the orders passed by the Authority subject to the condition that the petitioner shall deposit Rs.70,000/- before the Authority, vide orders dated 16.03.2009. It is contended that appropriate orders be passed in this writ petition setting aside the orders passed by the Authority under Minimum Wages Act.

Learned counsel for the 2nd respondent-workman contend that the establishment of the petitioner is covered under the Minimum Wages Act and the Authority has rightly passed orders in favour of the 2nd respondent-workman and no illegality or irregularity has been pointed out in the orders passed by the Authority under Minimum Wages Act. There are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of the parties, is of the considered view that this writ petition can be disposed of remanding the matter back to the Authority under Minimum Wages Act i.e. 1st respondent, by duly setting aside the orders passed in M.W.No.10 of 2002, dated 11.09.2003, to reconsider the case of 2nd respondent afresh by first adjudicating whether Minimum Wages Act has any application to the petitioner-Concern and whether appropriate Government has issued any notification

covering the establishment of the petitioner under the Minimum Wages Act, and pass appropriate orders within Eight weeks from the date of receipt of a copy of this order, by giving opportunity to the petitioner as well as the 2nd respondent.

With these observations, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

12th December 2018

ajr

