

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3411 of 2019**

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Sunil Kumar @ Sunil Mehta Arjun Mahto @ Arjun Prasad Resident of  
Village- Tarwan, P.S.- Wazirganj, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Labour Department, Govt. of Bihar, Patna
2. The Commissioner of Labour, Government of Bihar, Patna
3. The Superintendent of Labour, Nawada
4. The District Magistrate, Nawada
5. The Additional Collector, Nawada
6. The Sub-Divisional Magistrate, Nawada Sadar, District- Nawada
7. The Labour Enforcement Officer, Hisua, District- Nawada
8. Labour Inspector, Hisua, District- Nawada
9. Hiranman Chauhan Narayan Chauhan Resident of Village- Seraj Nagar, P.S.- Hisua, District- Nawada
10. Mundrika Ravidas Saryug Ravidas Resident of Village- Chatar, P.S.- Narhat, District- Nawada
11. Dilip Rajbansi Prasadi Rajbansi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
12. Shankar Manjhi Budhu Manjhi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
13. Ambika Manjhi Dhaneshwar Manjhi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
14. Rajo Manjhi Radhe Manjhi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
15. Chhotelal Manjhi Jagdish Manjhi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
16. Prakash Manjhi Mangal Manjhi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
17. Nandelal Chauhan Lakhan Chauhan Resident of Village- Shivnarayan Bigha, P.S.- Hisua, District- Nawada
18. Kaila Manjhi Videshi Manjhi Resident of Village- Chatar, P.S.- Narhat, District- Nawada
19. Nagdu Rajbansi Nandu Rajbansi Resident of Village- Mahulee, P.S.- Hisua, District- Nawada
20. Sarita Devi Late Atwari Manjhi Resident of Village- Bajra, P.S.- Nardiganj, District- Nawada

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Bharat Lal  
For the Respondent/s : None

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**ORAL ORDER**

5      04-09-2019                      Heard learned counsel for the petitioner.

2. There is no representation on behalf of the State of Bihar, despite service of notice on the office of the Advocate General prior to filing of the writ application.

3. The petitioner has put to challenge an order dated 11.07.2017, passed by the Sub-Divisional Magistrate, Nawada Sadar in Case No. 09 of 2015 under Section 20(2) of the Minimum Wages Act, 1948 (hereinafter referred to as 'the Act'), whereby he has ordered payment of a sum of Rs. 69,63000/- to respondent Nos. 9 to 20, which according to the Sub-Divisional Officer, the said respondents were entitled to receive under the Act. Notices were issued to the said respondents. Notices have been served upon the said respondents except respondent Nos. 9,19 and 20. However, there is no representation on their behalf and none of them have not entered appearance.

4. The impugned order has been passed on a report submitted by Labour Enforcement Officer, Hisua, Nawada in respect of all the said private respondents, who had jointly claimed that they were under the employment of the petitioner



in his brick-kiln. From the impugned order, it transpires that the employees had alleged non-payment of their wages and that the payment of wages was due in respect of almost all the employees working under the petitioner in the said brick-kiln, on an average of Rs. 10,000/- to Rs. 15,000/-.

5. Assailing the impugned order, learned counsel appearing on behalf of the petitioner has submitted that there is no finding recorded by the Sub-Divisional Officer that the amount paid by the petitioner to the employees was less than the Minimum Wages. He contends that the finding of the Sub-Divisional Officer is based on so called agreement of payment of a sum of Rs. 500/- per thousand of bricks. He contends, while denying allegation of agreement of breach of such agreement, that without recording any specific finding of payments having been made less than Minimum Wages in respect of individual employees, the Sub-Divisional Officer, Nawada could not have passed such order, which is impugned. It has been argued that though it has been mentioned in the order that despite notice, the petitioner did not appear before the Sub-Divisional Officer in the proceeding under the Act, there is no evidence to suggest that any notice was effectively served on the petitioner.

6. A counter affidavit has been filed on behalf of the



State of Bihar, stating that the petitioner neither appeared nor submitted any written reply before the Sub-Divisional Officer and he did not show any interest in the said proceeding. It was in such circumstance that the Sub-Divisional Officer passed the order for payment of a minimum wages. This is to be noticed that no material has been brought on record, even in the counter affidavit, to show that notice was ever served on the petitioner. It has been stated in paragraph 15 of the counter affidavit that wages have duly been calculated as per agreement between the parties, i.e., Rs. 500 for each 1000 bricks which was admitted by the petitioner before the enquiry team.

7. On perusal of the writ petition and the counter affidavit filed on behalf of the State Respondents, it can be easily seen that there is no conclusion recorded by the Sub-Divisional Officer while passing the impugned order that the amount which was paid by the petitioner was less than the minimum wages fixed under the Act.

8. Learned counsel appearing on behalf of the petitioner appears to be right in his contention that payment of less amount by the employer than agreed upon cannot raise dispute under the provisions of the Act unless the amount paid by the employer is found to be less than the minimum wages



prescribed in accordance with law. Further, in the absence of any evidence shown to this Court that notice was effectively served on the petitioner in respect of the proceeding before the Sub-Divisional Officer in Case No. 09 of 2015, plea of the petitioner that the impugned order has been passed behind his back will have to be accepted by this Court.

9. For the aforesaid two reasons, the impugned order cannot be sustained.

10. This writ application is, accordingly, allowed and the impugned order dated 11.07.2017 passed in Case No. 09 of 2015 by the Sub-Divisional Officer, Nawada, is, hereby, set aside.

**(Chakradhari Sharan Singh, J)**

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