



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NOS.20186 AND 25031 OF 2013
MP 1 & 2 /2013 in 20186/2013
MP.1/2013 in WP.20186/2013
MP.1/2013 in WP.25031/2013

1.Chief Conservator of Forests
Chennai.

2.Regional Conservator of Forests
Villupuram.

3.The District Forest Officer
Interface Forestry Division
Villupuram.

.. Petitioners
in both WPs'

Versus

1.V.Govindan
Vice President
Tamil Nadu Grama Sammgavana Ooliyar
and Vanathotta Kavalar Sangam
Paiyur.

2.The Tribunal Constituted under the
Provisions of the Minimum Wages Act
Chennai, Deputy Commissioner of Labour - 2
Chennai - 600 006.

.. Respondents 1 & 2
in both Wps'

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in M.W.No.22 of 2008 and M.W.No.21 of 2008 respectively, dated 18.01.2013, on the file of the Tribunal Constituted under the Provisions of Minimum Wages Act, Chennai, the second respondent herein and quash the same.

For Petitioners : Mr.S.Prabhu
(in both WPs') Additional Government Pleader
For Respondent-1: Mr.T.Dharani
(in both WPs')



COMMON ORDER

Inveighing the order passed by the 2nd respondent in M.W.Nos. 21 and 22 of 2008 dated 18.01.2013, the Chief Conservator of Forest has preferred the above writ petitions.

2. On a claim petition filed by the 1st respondent Sangam, the 2nd respondent awarded minimum wages following G.O.Ms.No.1047 dated 03.08.1995 and G.O.Ms.No.56 dated 27.12.2002 as the Social Forestry Workers are fully eligible to minimum wages.

3. But the Forest department would contend that the Government possesses unfettered rights as per Proviso to Sec.27 of Minimum Wages Act to fix such rates for a part of the State or for any specified class or classes of employment specified in part II of the Schedule in the whole State or part thereof. Further the Government, by G.O.Ms.No.82 Labour and Employment (J1) Department dated 27.09.2002 have ordered provisos of the Minimum Wages Act shall not be applicable to the Social Forestry Workers as they are paid a consolidated pay of Rs.818/- as determined by the empowered committee on Swedish International Development Authority (SIDA) project. Therefore from the date of G.O.(2D) No.56 dated 27.12.2002, the provision of Minimum Wages Act is not applicable to the member of the 1st respondent. Hence, the order of the 2nd respondent is unenforceable.

4. All the above points were analysed threadbare by this Court in W.P.Nos.24601 to 24606 of 2005, 10618 of 2011 and batch of cases, wherein it has been held that:

" The Authority under Minimum Wages Act is empowered to condone the delay in filing the claim petition; non payment of minimum wages would amount to forced labour which has been prohibited under Art.2 of the Constitution as held by the Hon'ble Supreme Court in Sanjit Roy vs State of Rajasthan reported in 1983 1 SCC 525.

The Forest Department passes a separate order every time either giving effect to the minimum wages notification which is statutorily prescribed or that they had fixed their own wages by adding daily rate of wages with dearness allowance payable on a particular date and paying consolidated wages. It does not absolve them from paying the actual minimum wages fixed by the authority under the Act. The fact



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on and from the date on which they were regularised, the workers have been brought under the regular time scale of pay and there is no justification for them to approach the Minimum Wages Authority after several years claiming minimum wages.

5. In our considered view, if the project is funded by a foreign Government or a third party agency, to be executed through State or Central Government, it goes without saying that those employees engaged in the project should be paid nothing less than the minimum wages fixed under the statute.

6. Thus, the grant of exemption from the provisions of the Minimum Wages Act, 1948, was not justified. The wages which were paid to the workers is far below the minimum wages and therefore, the Writ Court was justified in allowing the writ petitions by placing reliance on the earlier order of this Court.

7. For the above reasons, we find no reason to interfere with the order of the learned Single Bench and thus, the writ appeals are dismissed. No costs. Consequently, the connected civil miscellaneous petitions are also dismissed."

6. I had an occasion to deal with similar matters in W.P. (MD) Nos.3726 of 2011 and 3727 of 2011 dated 16.11.2016 and refused to interfere with the order granting minimum wages by the Authority, following the judgment of this Court in W.P. (MD)No.24601 of 2005 dated 08.08.2011.

7. Thus the issue is no longer res-integra and is squarely covered by the above mentioned decisions.

8. In view of the same, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK



To

1.The Tribunal Constituted under the
Provisions of the Minimum Wages Act
Chennai, Deputy Commissioner of Labour - 2
Chennai - 600 006.

2.The Chief Conservator of Forests,
Chennai.

3.The Regional Conservator of Forest,
Villupuram.

4.The District Forest Officer,
Interface Forestry Divison,
Villupuram.

+1cc to the Special Government Pleader(forest) SR.No.21303

WP NOS.20186 & 25031 OF 2013

VSN II(CO)
GN(06/06/2022)