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W.P.No.979 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.10.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.979 of 2006

Sri Venkateswara Rice Mill,
Rep. by its Proprietor,
Mr.Radhakrishnan,
Kolappakkam Village,
Sriperambadur Taluk.

...Petitioner

Vs

1. The Deputy Commissioner of Labour
and Competent Authority appointed
under the Minimum Wages Act,
Chennai-600 006.

2.The Assistant Inspector of Labour,
Parangimalai,
Chennai-600 016.

3. Selvam.
4. Kasturi
5. Ravikumar
6. Rajendran
7. Kanniammal
8. Jayanthi
9. Chandra

...Respondents

(R3to R9 impleaded as per order dated 08.07.2010 by NPVJ in
MP.No.386/10 in W.P.No. 979/06)



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Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings dated 20.10.2005 in Case No.21 of 2005 and the proceedings dated 28.12.2005 in C2/- 21 of 2005 of the first respondent herein, quash the same.

For Petitioner : Mr.R.Munusamy

For Respondents : RR1 & 2 – Mr.M.S.Premkumar
Government Advocate
RR3 to 9 – No appearance

ORDER

Writ petition is filed challenging the order dated 20.10.2005 in Case No.21 of 2005 passed by the 1st respondent directing the petitioner herein to pay a sum of Rs.1,08,712.80/- as minimum wages due from the petitioner to the persons engaged by them as daily wages.

2. The gist of the facts are as follows:

The Petitioner Rice Mill was functioning in Kolapakkam Village, Kancheepuram District. The Petitioner Mill was a small Mill having no permanent employees but only daily wage coolies, who were engaged on need basis.



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3. According to the petitioner, a sum of Rs.120/- was paid to the daily wagers hired by it. While so, on 26.10.2004, the officials of the Revenue Divisional Office, Kancheepuram conducted an inspection in the petitioner Mill and alleged that the Mill engaged bonded labourers, who were hired without any minimum wages being paid to them. A claim petition was filed by the 2nd respondent against the petitioner's Mill before the 1st respondent for a direction to the petitioner, to pay the difference of wages between the actual wage paid and the minimum wages payable under the act. The petitioner submitted his reply to the claim petition denying all the averments made in the claim petition.

4. The 1st respondent without conducting enquiry in pursuance to the reply statement filed by the petitioner and without even furnishing the copy of the document relied on by the 2nd respondent, passed the impugned order dated 20.10.2005, directing the petitioner to pay a sum of Rs.1,08,712.80/- as difference in wages.

5. The petitioner gave representation to the 1st respondent on 22.11.2005 after receipt of the order dated 20.10.2005, seeking for an opportunity to defend the case. The petitioner further pleaded its inability to pay the huge amount awarded towards minimum wages.



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According to the petitioner, instead of giving the petitioner an opportunity to putforth his case, the respondent passed the impugned order dated 28.12.2005, directing the petitioner to comply with the order dated 20.10.2005 of the 1st respondent with further direction to pay the amount within a period of seven days from the date of receipt of copy of the said order. The impugned order further called upon the petitioner to show cause, as to why criminal proceedings should not be initiated against the petitioner in accordance with Section 20 (5) (b) of the Minimum Wages Act. Aggrieved by the impugned order, the petitioner has approached this Court for the aforesaid relief.

6. The learned counsel for the petitioner submitted that absolutely no opportunity was given to the petitioner to putforth his case before the 1st respondent. The learned counsel further submitted that, had the enquiry been conducted in pursuance of the reply filed by the petitioner, the petitioner would have produced all the material documents to prove that the persons referred to in the impugned order were not bonded labourers, but daily wagers engaged by it on minimum wages of Rs.120/- per day. The learned counsel relying on the order dated 14.07.2022 passed by this Court in a similar case in W.P.No.39516 of 2022



prayed that the present writ petition may also be remitted back to the 1st respondent for fresh consideration.

7. Earlier, when the matter was taken up for hearing, the learned counsel for the respondent's 1 and 2 sought time to get instructions on whether an enquiry was conducted before passing the impugned order. Today, the learned counsel fairly submits that no enquiry was conducted.

8. In the light of the submissions made by the learned counsel for the petitioner that no opportunity was given to the petitioner to substantiate its case that there was no violation of Minimum Wages Act, and in view of the fair submission of the learned counsel for the respondent's that no enquiry was conducted, I am of the view that the impugned order cannot be sustained. I therefore set aside both the impugned orders dated 20.10.2005 and 28.12.2005 and remit the case to the 1st respondent for fresh consideration.

9. As the impugned orders were passed in the year 2005, it is necessary that a time frame should be fixed for speedy disposal of the



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cases. The next day of hearing shall be fixed on 20.11.2023, on which date, the petitioner shall appear with his counter and all supporting documents. The petitioner shall not seek any adjournment, but if a request is made for oral evidence, then it is open to the 1st respondent to fix the date for recording the oral evidence. After recording adequate opportunity of hearing to the concerned parties, the 1st respondent shall pass orders on merits and in accordance with law and communicate its decision to the petitioner and other parties and file the report of compliance to the Registrar (Judicial) at this Court on or before 15.12.2023. It is further made clear, that the correctness or entitlement of the claim made by the petitioner shall be considered without reference to this order, as no opinion has been expressed by this Court on the merits of the case.

The writ petition is accordingly allowed with the above directions.

There shall be no order as to costs.

18.10.2023.

Index:Yes/No

Speaking order: Yes/No

Neutral Citation:Yes/No

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To

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N.MALA,J.

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