

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 556 OF 2024

Hingangaon Vividh Karyakari Sahakari
Society Ltd. Through Chairman

... Petitioner

Versus

Salim Yasin Mujawar

... Respondent

Mr. Sandeep S. Mutalik (*Through V.C.*) a/w *Mr. Sandeep Mahadik for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATE : 12 FEBRUARY 2025.

P.C. :

1) The Petition challenges Order dated 18 November 2019 passed by the Presiding Officer, Labour Court, Sangali partly allowing the application preferred by the Respondent under provisions of Section 33(c)(2) of the Industrial Disputes Act, 1947 and directing the Petitioner-Employer to pay amount of Rs.1,30,040/- to the Respondent alongwith interest at the rate of 6% per annum.

2) I have heard Mr. Mutalik, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by him.

3) Mr. Mutalik has principally submitted that the provisions of Minimum Wages Act, 1948 are not applicable to the Petitioner-Employer. He would submit that the Act applies only to 'scheduled employment' as defined under the provisions of Section 2(g) of the Minimum Wages Act. He would further submit that under

Entry No. 17 to the schedule, though employment in ‘shop’ and ‘commercial establishment’ is treated as a ‘scheduled employment’, the expressions ‘shop’ and ‘commercial establishment’ are required to be given same meaning as assigned to them in the Bombay Shops and Establishments Act, 1948 (**Shops Act**). He would submit that the provisions of Shops Act are not made applicable to the Petitioner-Employer and that therefore Petitioner is not a ‘scheduled employment’ within the meaning of Section 2(g) of the Minimum Wages Act.

4) In my view, Entry No. 17 to the schedule of Minimum Wages Act, 1948 merely borrows the definition of the terms ‘shop’ and ‘commercial establishment’ from the Shops Act. Borrowing definition of the said terms is completely different from applicability of provisions of the Shop Act to a particular establishment. A particular establishment may not be governed by the provisions of the Shops Act. However it can still qualify to be a ‘commercial establishment’ and hence a ‘scheduled employment’ within the meaning of Minimum Wages Act. It is otherwise inconceivable that an employer carrying on scheduled employment outside the jurisdiction of area where Shops Act applies can be permitted to exploit the workers by not paying the minimum wages as provided for under the Minimum Wages Act.

5) In my view, the Labour Court has rightly interpreted the provisions of both the Minimum Wages Act as well as Shops Act while passing impugned order. No serious error can be traced in the impugned order of the Labour Court. Writ Petition is devoid of merits and is accordingly **dismissed** without any orders as to costs.

[SANDEEP V. MARNE, J.]