



W.P. No.34095/2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.04.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.34095 OF 2018

AND

W.M.P. NOS. 39614, 39615 & 39618 OF 2018

W.M.P. NOS. 1124 & 29969 OF 2021

W.M.P. NOS. 26777 OF 2022 & 470 OF 2023

M/s.Padma Chemicals
(Salt Division – Chemfab Alakalis Ltd.)
Rep. By its Sr. Manager – HR
V.Kannappan, Villipakkam Village
Chunampet Post, Cheyyar Taluk
Kancheepuram District.

.. Petitioner

- Vs -

1. The Government of Tamil Nadu
Rep. By its Secretary to Government
Labour & Employment Department
Fort St. George, Chennai 600 009.
2. The Commissioner of Labour
Chennai 600 006.
3. The Director of Industrial Safety & Health
Guindy.
4. The Joint Director of Industrial Safety & Health
Cuddalore.



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5. The Joint Commissioner of Labour II (DCL-II)
Chennai (Camp at Cuddalore).

6. The Joint Commissioner of Labour
(Camp at Villupuram), Vellore.

7. The Tamil Nadu Uppalam Matrum Kadalsaar
Thozhilalar Nala Sangam, rep. By
K.Umanath, President
No.9, Thottachery Village
Chunampedu Post, Cheyyar Taluk
Kancheepuram 603 401.
(R-7 impleaded vide order dated 14.9.2022
Made in WMP No.29969/2021)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of declaration declaring that the G.O. (2D) No.38 dated 08.07.2014 issued by the 1st respondent and G.O. (2D) No.116, Labour & Employment (J1) dated 12.12.2018 published in Tamil Nadu Government Gazette, Part II, Section 2 dated 09.01.2019 is contrary to law and not enforceable.

For Petitioner : Mr. A.L.Somayaji, SC, for Mr.
T.Sai Krishnan

For Respondents : Mr. K.Surendran, AGP for
RR-1 to 6
Ms. M.Sreela for R-7



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ORDER

Aggrieved by the Government Orders issued and gazetted in and by which minimum wages have been fixed by the 1st respondent in respect of the employment relating to the workmen engaged in the salt production activities, the present writ petition has been filed assailing the said Government Orders.

2. It is the case of the petitioner that it is engaged in the production of salt and that it is having a long term lease of about 1650 acres of saultry lands at Villipakkam Village and adjoining areas. The salt pans of the petitioner are providing direct and indirect employment to the villagers in the locality and that the workmen engaged by the contractors of the petitioner for the production activities work only for about 2 to 5 hours in a day and the payments for the activities of scrapping, hauling and heaping are paid on quantum basis and the workmen earn about Rs.500/- to Rs.600/- per day. Whiles, vide the impugned notification, in exercise of the powers conferred u/s 3 of the Minimum Wages Act, 1948 (for short 'the Act'), have come to be



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issued fixing the minimum rates of wages for different activities that are being carried on in the salt pans in connection with the production of salt.

3. It is the further case of the petitioner that the impugned notification seeks to supersede the earlier notification dated 7.7.2010 issued by the 1st respondent whereby the minimum rates of wages are sought to be increased by about 100% of the then fixed rates of minimum wages. The workmen do not work for the entire day, but only work for about 2 to 3 hours in a day, which has not at all been taken into consideration while fixing the minimum rates of wages. The petitioner became aware of the Government Order only when certain proceedings were initiated against the petitioner alleging non-payment of minimum wages. It is the further grievance of the petitioner that before enhancing the minimum wages the petitioner has not been put on notice about the proposal to revise the minimum rate of wages and the procedure provided for under the Act has not been followed and the minimum rate of wages are sought to be fixed arbitrarily without affording an opportunity to the petitioner, which is in gross violation of principles of natural justice.



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4. It is the further stand of the petitioner that the work being done by the workmen is only for 2 to 3 hours per day has not been taken into consideration by the 1st respondent while fixing the minimum wages and the minimum wages fixed for the various types of works are arbitrary. It is the further stand of the petitioner that though the notification has been issued in consultation with the Advisory Board stating that it has been published in the official gazette inviting proposal from persons, who are likely to be affected, however, the petitioner has not been put on notice nor given any opportunity before issuing the impugned notification. The arbitrary issuance of the notification has been questioned by the petitioner by filing the present petition.

5. Learned senior counsel appearing for the petitioner submitted that there is stark violation of the procedure in fixing the minimum wages as the procedure fixed for revising the minimum rates of wages have not been followed by the respondents and, therefore, the impugned notification cannot stand the test of law.



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6. It is the further submission of the learned senior counsel that the said notification for minimum wages has been issued without taking into consideration the fact that the contract labourers work only for 2 to 3 hours in the salt pans in a day and engage themselves in other work during the other period of time. Such an act of the contract labourers cannot be allowed and in the aforesaid backdrop, the issuance of the said notification is bad.

7. It is the further submission of the learned senior counsel that no publication was made in the official gazette inviting objection from the stakeholders for the proposed revision of minimum wages and, therefore, the notification is hit by procedural violations. It is the further submission of the learned senior counsel that the statute prescribes issuance of notice to the persons likely to be affected by the proposal, mere publication in the official gazette would not by itself serve the purpose contemplated under the statute.

8. It is the further submission of the learned senior counsel that the consultation with regard to enhancement of minimum wages with the



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Advisory Board is not reflected in the impugned notification, except for a bare reference to the same, which renders the notification bad. Any revision of minimum wages should be in a pragmatic manner considering the actual prevailing conditions of the trade and also take into consideration the daily minimum hours of work done by the workmen, more particularly with reference to double employment on the same day under two different employers, which is specifically the case here, as the workmen here work for only 2 to 3 hours in a day and the rest of the day, they are free to carry on any avocation. Without considering the same, the present enhancement in minimum wages has been made, which cannot be sustained. Accordingly, he prays for interference with the Government Order enhancing the minimum wages.

9. In support of the aforesaid submission, learned senior counsel for the petitioner placed reliance on the decision of the Division Bench of the Delhi High Court in ***Federation of Okhla Industrial Association – Vs – Lt. Governor of Delhi & anr. (2018 SCC OnLine Del 10321 :: 2018 (3) LLJ 622).***



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10. Per contra, placing reliance upon the counter affidavit filed by the 4th respondent, learned Addl. Government Pleader appearing for respondents 1 to 6 submitted that the revision for minimum wages is done once in 4 years by Notification/Committee Method. For revision of minimum wages, preliminary notification is issued by the Government and published in the Government Gazette giving time for submitting suggestions/objections by the relevant stakeholders, which are placed before the Tamil Nadu Minimum Wages (State) Advisory Board for discussion and final decision and based on the recommendations, the notification prescribing the minimum wages and publication of the same is being issued.

11. It is the further submission of the learned Addl. Government Pleader that minimum wages were revised in the year 2004 and, thereafter, the next revision fell due after four years and by issuance of notification on 17.6.2010, the minimum wages was notified. Thereafter, in the year 2014, the revision of minimum wages in respect of Salt Pans was to be taken up. At that time, the Advisory Board deduced to enhance the minimum wages from 5% to 8% in its meeting and based on the above decision, preliminary



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notification was issued in G.O. (2D) No.66, Labour & Employment Department, dated 25.10.2013, which was published in the Tamil Nadu Government Gazette and two months time was given for submitting objections/suggestions and, thereafter, upon completion of the time, the preliminary notification was placed before the Advisory Board for final decision and based on the recommendations of the Advisory Board, minimum wages was revised vide issuance of notification dated 8.7.2014.

12. It is the submission of the learned Addl. Government Pleader that no objections/suggestions were received from any stakeholders, including the petitioner, which resulted in the issuance of the notification. It is the further submission of the learned Addl. Government Pleader that non-compliance with the aforesaid order, resulted in submission of compliant, which resulted in the invocation of the administrative machinery leading to the filing of the report, which has resulted in the filing of the present petition.

13. It is the further submission of the learned Addl. Government Pleader that the next revision of minimum wages is scheduled for the year



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2018, for which notification was issued on 15.2.2018, but the petitioner did not file any objection for the said preliminary notification. It is the further submission of the learned Addl. Government Pleader that the fact about the issuance of the next notification was not brought to the notice of this Court and that through clandestine means, the petitioner is avoiding to pay the statutory minimum wages to the employees.

14. It is the submission of the learned Addl. Government Pleader that the enhancement of minimum wages being done in consonance with the provisions of the Minimum Wages Act and also following the procedure laid down therein calling for suggestions/objections, the petitioner having not been diligent in giving suggestions/objections, cannot come and plead that they have not been put on notice and without notice, the minimum wages has been increased and the said stand of the petitioner is wholly erroneous.

15. It is the submission of the learned Addl. Government Pleader after following the due procedures laid down under the Act, the wages of the workmen have been increased and the petitioner having not objected to the



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same on the issuance of the notification nor had given any suggestions, now cannot come before this Court and claim that proper consultation has not taken place, when everything has been done by properly issuing notifications and, therefore, no interference is warranted with the said notifications and the consequential Government Orders. Accordingly, he prays for dismissal of the present petition.

16. On the above submissions advanced by the learned counsel on either side, this Court heard the submission advanced by the learned counsel appearing for the 7th respondent, who sailed along with the contentions advanced on behalf of the official respondents and submitted that the minimum wages prescribed in the aforesaid notifications is in consonance with the provisions of the Act and, therefore, no interference is warranted with the same.

17. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.



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18. It is borne out by record that G.O. Ms. 274, Labour & Employment Dept., dated 8.9.2004 was issued in and by which the period for increase of minimum wages in terms of the Act, which has been fixed not to exceed five years, was fixed for revisitation once in four years and for such revisitation, the process to be started at the end of the third years from the date of initial fixation/last revision. The said Government Order has not been challenged and based on the said Government Order, the subsequent revisions had taken place.

19. The first of the revision, on the basis of the said Government Order had taken place in the year 2010 during which time, G.O. (2D) No.29, Labour & Employment (J1) Dept., dated 17.6.2010 was issued wherein minimum wages was increased in respect of certain categories of workmen based on which wages have been paid by the petitioner to its workmen. The petitioner has not disputed the same. Further, no challenge has also been made to the said increase in minimum wages.



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20. After the increase of wages in the year 2010, the next wage revision fell due in the year 2014, which has prompted the issuance of preliminary notification in the year 2013 calling upon the stakeholders to file their objections/suggestions and, thereafter, the records reveal that the matter was placed before the Advisory Board and the copy of the minutes of the Advisory Board dated 24.2.2014 has been placed before the Government giving their recommendation. Based on the said recommendation, the Government had issued G.O. (2D) No.38, Labour & Employment (J1) Dept., dated 8.7.2014, increasing the minimum wages, which is the first part of the challenge in the writ petition.

21. The second part of the challenge is to that of the Government Order in G.O. (2D) No.116, Labour & Employment (J1) Dept., dated 12.12.2018, in and by which acting on the preliminary notification and there being no suggestions/objections received from persons likely to be affected by such revision, the Government had issued the aforesaid Government Order increasing the minimum wages of the workmen engaged in the Salt Pans as per the provisions of the Minimum Wages Act.



22. The main grievance espoused on behalf of the petitioner is that the consultation of the Advisory Board with regard to enhancement of minimum wages is not reflected in the impugned notification. It is the further stand of the petitioner that there is no issue of notice of the proposals with regard to increase of minimum wages to the petitioner and other persons like placed has been done and mere publication of intention in the gazette would not serve the purpose contemplated by the statute.

23. The procedure for fixing minimum wages is provided for u/s 5 of the Act and for better appreciation, the same is quoted hereunder :-

“5. Procedure for fixing and revising minimum wages.-

(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either--

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected



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thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of subsection (1), the appropriate Government shall consult the Advisory Board also.]”

24. Sub-section (1) of Section 5 reveals that where minimum wages are sought to be fixed by the appropriate Government, either for the first time or revision subsequently, it shall appoint the necessary committees to advise it with regard to the fixation of minimum wages and by publishing notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the



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date of the notification, on which the proposals will be taken into consideration.

25. Sub-section (2) of Section 5 provides that the Government, after considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

26. In the present case, the materials on record reveal that preliminary notifications have been issued in the Government both in the year 2014 and 2018 with regard to the intention of the Government to revise the minimum wages and objections were called from the persons interested and the said publication was made in the official gazette.



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27. The stand of the petitioner is that no individual notice was issued to the petitioner and mere publication in the official gazette would not suffice as it would not serve the purpose contemplated under the Act. The stand of the petitioner with regard to individual notice to be served is too far-fetched a contention to be appreciated by this Court for the simple reason that what is contemplated in sub-section (2) of Section 5 is only for publication of notification in the official gazette and after considering the objections/suggestions, the Government is bound to take a decision upon application of mind.

28. In the present case, following the procedure contemplated u/s (1) of Section 5, the Advisory Board has been constituted to give inputs to the Government by obtaining views, objections and suggestions and upon receipt of the report of the Advisory Board, the Government, in exercise of its power u/s (2) of Section 5, had issued the notification fixing the minimum wages of the workmen employed in the Salt Pans, inclusive of the petitioner and the said procedure adopted by the respondents cannot be said to be erroneous



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and unsustainable, as it clearly fulfils the mandate imposed on it by Section 5 of the Minimum Wages Act and, therefore, the contention advanced in this behalf requires to be rejected.

29. The next contention placed before the Court is that the working hours of the workmen is only 2 or 3 hours daily in the salt pans and the said period is not for the entire day and, therefore, fixation of minimum wages for the entire day, as notified is erroneous.

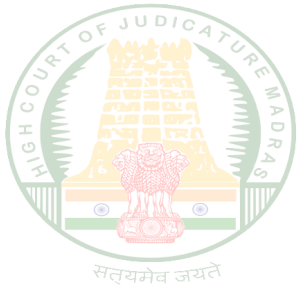
30. The contention placed by the petitioner before this Court cannot be gone into, as the petitioner has not ventilated its objections and grievances before the Advisory Board with regard to the same, which could be considered only by the Advisory Board before making its recommendations to the Government and this Court, sitting under Article 226 of the Constitution can only test the decision making process so long as it is fair and in accordance with the provisions of the Act and cannot fill up any lacunae that had happened on account of the petitioner not placing its grievance before the Advisory Board.



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31. The other leg of the contention advanced on behalf of the petitioner relates to the workmen hardly working for 2 to 3 hours, which has not been taken into consideration by the appropriate Government while fixing the minimum wages. In this regard, it is to be pointed out that Section 15 of the Act provides for the wages to workers, who work less than the normal working day, which prescribes that if the employer takes less period of work from the workmen, the workmen cannot be denied wages for the normal working hours. In the present case, the workers have not desisted from working full time; rather it is only the employer, viz., the petitioner, who takes work only for a particular length of time less than the normal working hours and that being the case, if the employer had not utilised the workmen for the full duration of time, the workmen cannot be denied the minimum wages prescribed under the Act by citing that they have not put in work for the entire time. The contention of the petitioner on the said ground cannot be acceded to and deserves to be rejected.



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32. On a holistic consideration of the entire materials, it is clear that all the procedural formalities have been duly complied with before issuing the notification specifying the minimum wages and, therefore, the G.O. (2D) No.38 dated 08.07.2014 issued by the 1st respondent and G.O. (2D) No.116, Labour & Employment (J1) dated 12.12.2018 published in Tamil Nadu Government Gazette, Part II, Section 2 dated 09.01.2019 do not suffer the vice of any perversity and they are fair, proper, reasonable and sustainable and no interference is warranted with the same.

33. For the reasons aforesaid, this writ petition fails and the same is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

07.04.2025

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To

1. The Secretary to Government

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Government of Tamil Nadu
Labour & Employment Department
Fort St. George, Chennai 600 009.

2. The Commissioner of Labour
Chennai 600 006.
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