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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 145/2025**

VIPIN KUMAR

.....Petitioner

Through: Mr. Utsav Jain, Advocate.

versus

LABOUR ENFORCEMENT OFFICER AND ORS

.....Respondents

Through: Mr. G.D. Sharma, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

14.01.2025

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CRL.M.A. 817/2025 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

CRL.M.C. 145/2025

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS') read with Article 227 of the Constitution of India, the petitioner seeks a direction to the learned JMFC, Patiala House District Courts, New Delhi to proceed with execution of order dated 28.11.2022 passed by the competent authority under the Minimum Wages Act, 1948 ('Minimum Wages Act') and to dispose-of the same in a time-bound manner.



2. The petitioner also seeks award of costs and compensation against respondents Nos.2 and 3 for undue delay in compliance of order dated 28.11.2022.
3. Mr. Utsav Jain, learned counsel appearing for the petitioner submits, that pursuant to order dated 28.11.2022, the authority under the Minimum Wages Act moved an application dated 27.04.2023 under section 20(5)(b) before the learned Metropolitan Magistrate, Patiala House District Courts, New Delhi for recovery of the amount awarded as fine and the prayer in the application reads as under :

“It is, therefore respectfully prayed that this Hon’ble Court may be pleased to summon the O.P. No.2 for depositing the aforesaid payment through demand draft/pay order in favour of employee failing which a sum of Rs.1,50,582/- (Rupees one lakh fifty thousand five hundred eighty two only) may be recovered from the O.P. No.2 as if it were a fine imposed by this Hon’ble Court and remit the same to the applicant for disbursement to employee.”

(bold in original)

4. Mr. Jain has taken the court through the order-sheets of the proceedings before the learned Magistrate, to submit that as will be seen from the order-sheets, after having issued notice to the respondents in those proceedings *vide* order dated 18.11.2023, the proceedings before the learned Magistrate have not progressed any further despite the respondents having been duly served and having entered appearance as of February, 2024 and having been granted sufficient time to file a written response. Copies of the order-sheets of the proceedings before the learned Magistrate have been appended to the present petition.



5. Learned counsel submits, that in order to allay any doubt on the part of the learned Magistrate, it has been repeatedly clarified that the proceedings before the learned Magistrate have not been stayed by the Co-ordinate Bench of this court in W.P.(C) No. 1512/2023. Attention in this behalf is drawn to para 11 of order dated 06.02.2023 passed by the Co-ordinate Bench in the aforesaid matter, wherein the Co-ordinate Bench has observed that no ground is made-out for staying the order, except that any payment made in the matter would be subject to the outcome of that writ petition. A copy of order dated 06.02.2023 as been appended to the present petition.
6. Upon being queried, Mr. Jain informs the court that the amount payable in matter is about Rs. 1.5 lacs.
7. In the above view of the matter, issue notice.
8. Mr. G.D. Sharma, learned counsel appears on behalf of respondent No.3/National Institute of Plant Genome Research (contesting respondent) on advance copy; accepts notice; and submits that the present petition is not maintainable under the provision of section 528 of the BNSS since the proceedings before the learned Magistrate arise from an order passed by the competent authority under the Minimum Wages Act.
9. Mr. Sharma further submits, that he proposes to move a fresh application citing fresh grounds seeking stay of execution of the award in the civil writ proceedings pending before the Co-ordinate Bench of this court.
10. On point of maintainability, it is necessary to consider the provisions of section 20(5) of the Minimum Wages Act, which read as under :



“(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.”

(emphasis supplied)

11. The above provision makes it clear that any amount directed to be paid under section 20 of the Minimum Wages Act is recoverable as a ‘fine’ imposed by a Magistrate.
12. In the present case, the record shows that the authority under the Minimum Wages Act has filed the requisite application before the learned Metropolitan Magistrate (now Judicial Magistrate First Class under the BNSS); and there is therefore no reason why the learned Magistrate should not proceed to recover the amount, especially since there is no stay operating against such recovery in view of para 11 of order dated 06.02.2023 passed by the Co-ordinate Bench in W.P.(C) No. 1512/2023.
13. In view of the limited prayer made, it is not considered necessary to require a written response in the present case.
14. As a result, the present petition is disposed-of, with a direction to the learned Magistrate to proceed with the application pending before that court as expeditiously as feasible, in accordance with law.
15. Needless to add that any fresh application seeking stay of recovery of the amount awarded under the Minimum Wages Act would be considered by the Co-ordinate Bench in the civil writ proceedings independent of the observations contained in this order; and any order



passed in those proceedings would be brought to the notice of the learned Magistrate.

16. The petition is disposed-of in the above terms.
17. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 14, 2025/ak