

Rajangam, Secretary, District Beedi ... vs State Of Tamil Nadu And Ors on 19 November, 1992

Equivalent citations: 1991 SCR, SUPL. (2) 357 1992 SCC (1) 221

Author: Rangnath Misra

Bench: Rangnath Misra, Yogeshwar Dayal

PETITIONER:

RAJANGAM, SECRETARY, DISTRICT BEEDI WORKERS' UNION AND ORS.

Vs.

RESPONDENT:

STATE OF TAMIL NADU AND ORS.

DATE OF JUDGMENT 19/11/1992

BENCH:

MISRA, RANGNATH (CJ)

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MISRA, RANGNATH (CJ)

YOGESHWAR DAYAL (J)

CITATION:

1991 SCR Supl. (2) 357 1992 SCC (1) 221

JT 1991 (5) 299 1991 SCALE (2) 1043

ACT:

Beedi & Cigar Workers ('Conditions of Employment , Act, 1966/ Rules, 1968:

Improper/non-implementation of in the State of Tamil Nadu--Employment of child labour--Prohibition of--Contract labour system--Prevalence of--Whether indispensable--Formulation of Schemes .for proper implementation of the provisions for welfare of workers--Directions issued.

Child Labour Abolition Act, 1986.

Manufacture of beedi and cigar---Health hazard---Employment of child labour--Abolition of---Directions issued for strict implementation.

Beedi Workers Cess Act, 1976/Beedi Workers Welfare Fund Act, 1976.'

In the nature of beneficial provisions--Implementation o fin the true spirit---Insurance , Schem for workers--Directions issued.

HEADNOTE:

These petitions relate to child employment, prevalence of contract labour system and the non-implementation of Beedi and Cigar Workers (Conditions of Employment) Act, 1966. This Court considered the petitions and appointed a Trust viz., Society for Community Organisation Trust for conducting appropriate investigation and to submit a report. The Trust submitted its report, which was then circulated to the Respondent State Government and the beedi manufacturers. On the direction of this Court for formulating a scheme, two Schemes came to be formulated, one by the State Government and the other by the petitioners. This Court directed that

the terms should be settled for one Scheme to be accepted by the Court, and given time to the Union of India to respond to the same. Union of India filed certain objections.

Rejecting the objections and disposing of the petitions, this Court,

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HELD: 1.1 The Beedi and Cigar Workers (Condition of Employment) Rules, 1968 should be strictly implemented and once that is done the evil of not furnishing the books to the home workers would be eradicated. [361 D, E]

2. An establishment of the Regional Provident Fund Commissioner with full equipment for the purpose of implementation of the Statute should be located within the area and the Regional provident Fund Commissioner should have directions to enforce the Act in all aspects. This establishment should start functioning within three months from now. [361 E, F]

3. The labour laws as also the Beedi and Cigar Workers (Conditions of Employment) Act should be strictly enforced so that the workers get their legitimate dues and the conditions of employment improve. [361 F-G]

4. Tobacco manufacturing has indeed health hazards. Child labour in this trade should therefore be prohibited as far as possible and employment of child labour should be stopped either immediately or in a phased manner to be decided by the State Government but within a period not exceeding three years from now. The provisions of Child Labour Abolition Act, 1986 should be strictly implemented. [361 G, 11]

5. The Union Government is directed to look into the aspect whether contract labour system is indispensable in this trade and take its final decision one way or the other within six months from now. [362-A]

6. Beedi trade is a flourishing one and exploitation of labour is rampant in this trade. A governmental labour establishment should be located in the area with full complement to answer the requiretenants of the matter. [362-F]

7. Since Beedi manufacturing process is carried more outside the factory than within, the system of maintaining the registers as a regulating practice has become necessary.

Great care should, there-

fore be taken to ensure the maintenance of the register system as the bulk of the employees outside the factories can be regulated through the record maintained in the registers. [362-C]

8. The Beedi Workers Welfare Cess Act, 1976 and the Beedi 359

Workers Welfare Fund Act, 1976 which contain beneficial provision should be implemented in the true spirit and since they are legislations of the Central Government, the machinery of the Central Government should be made operational in the area. [362-D]

9. It should be ensured that pass books are maintained in the names of actual workers. [362-E]

10. The Welfare Fund should be properly administered and in the case of death of workman appropriate assistance should be extended out of the Fund quickly. [362 E, F]

11. In view of the health hazard involved in the manufacturing process, every worker including children, if employed should be insured for a minimum amount of Rs.50,000 and the premium should be paid by the employer and the incidence should not be passed on to the workman. [362-F]

12. The implementation of the scheme within the State in an effective manner would require to be supervised by an independent external agency. The Tamil Nadu State Legal Aid JUDGMENT:

three year period of such supervision would meet the requirement and at the end of such period the scheme is expected to become effectively operative. The Tamil Nadu Board may undertake the supervision from January 1992, and it is directed that the State Government and the said Board to coordinate the implementation. The Secretary of the Tamil Nadu Board who would be mainly in-charge of the field job shall be paid by the State Government a sum of Rs.1,500 per month from January 1992, as an allowance to meet out of pocket expenses for the period he does the work as Secretary of the Board. [362 G, H, 363-A] & ORIGINAL JURISDICTION: Writ Petition (Civil) No. 1262 of WITH Writ Petition (Civil) No. 13064 of 1983. (Under Article 32 of the Constitution of India). Har Dev Singh and R.K. Agnihotri for the Petitioners. Raju Ramachandran, R.Mohan, Ms Shanta Vasudeva, P.K.Manohar, K.Swamy, Ms.A.Subhashini and R.C.Kohli for the respondents.

The Judgment of the Court was delivered by RANGANATH MISRA, CJ. A letter petition received from the District Beedi Worker's Union, Tirunelveli in the State of Tamil Nadu was treated as an application under Article 32 of the Constitution and notice was ordered initially to three factories referred to in the said letter and later to other beedi manufacturing units within the State. In the letter, complaint was made about manipulation of records regarding employees, non-payment of appropriate dues for work taken, failure to implement the provisions of the labour laws, prevalence of contract labour system etc. There is a connected petition also relating to the same subject matter with different ancillary reliefs covering employment of child labour and the non-implementation of the Beedi and Cigar Workers (Conditions of Employment) Act, 1956. We have considered it appropriate to deal with both the applications together.

This Court by an Order dated 24th October, 1989 appointed a social organisation by name 'Society for Community Organisa-

tion Trust (SOCCO) ganisation for making appropriate investigation and circuited the State to the court. After the Report was received an were given time to file their responses Tamil Nadu and the manu- facturers were given time to file their response by way of affidavits. This Court then directed that a scheme should be formulated for for consideration of the Court. This court made an Order on 24th July, 1991 to the following effect.

"We gather from the submissions made at the bar that in the meantime some exercise has been undertaken for the purpose of finalising the Scheme. Initially the state of Tamil Nadu has taken the lead but later Union of India has also go interested and meeting on a bigger ,scale for the purpose of finalising the Scheme is being arranged. The attorney General is present in Court today. We have also suggested to him that he may par-

ticipate in the proceedings to help the schem to be finalised as quickly as possible."

Then came two Schemes, one by the petitioners and the other by the State of r Thamil Nadu. By order dated October 8, 1991, the Court directedon -the basis of consent of counsel that at a conference the terms should be settled for one Scheme to be adopted by the Court. On 10 th October, 1991, on the representation of the parties, the Court made the following Order:

"Pursuant to our earlier direction, the em- ployers, employees and the State Government through their representatives met and have sorted out, some of the differences. Matters which are agreed to by all. and as- pects which are not agreed to by the employers have been seperately shown. A copy of this may be served on counsel for the Union of India present in the court today and he is given three weeks' time to indicate the responses. The appropriate Ministry of the Government of india to respond to the relevant aspects."

Pursuant to this Order, the Under Secretary in the Minis- try of Labour of the Union Government has filed an affidavit which we have examined.

The objection which have. been especially refered to in the affidavit of the Central Government do not really surive after the matter is heard inasmuch as these are questions with which the union Government in not concerned and Under the constitutional scheme they relate to the power of the State Government. w,e would like' to dispose of these petitions with the following directions taken from the scheme as formulated by the petitioners and the State Government,

1. The Beedi and Cigar Workers (Conditions of Employment) Rules 1969 should be strictly implemented ,and once that is done the evil of not furnishing the books to the home workers would be eradicated.

2. An establishment of the Regional Provident Fund Commissioner with full 'equipment for the purpose of implementation of the Statute should be located within the area and the Regional Provident Fund commissioner should have directions to enforce the Act in all aspects. This establishment should start functioning within three months from now.
3. The labour laws as also the Beedi and Cigar Workers (Conditions of Employment) Act should be strictly enforced so that the workers get their legitimate dues and the conditions of employment improve.
4. Tobacco manufacturing has indeed health hazards. Child labour in this grade should therefore be prohibited as far as possible and employment of child labour should be stopped either immediately or in a phased manner to be decided by the State Government within a period not exceeding three years from now. The provisions of Child Labour Abolition Act, 1986 should be strictly implemented.
5. Contract labour system, it is alleged, is indispensable in this trade. The Union Government is directed to look into this aspect of the matter and take its final decision one way or the other within six months from now.
6. Beedi trade is a flourishing one. Exploitation of labour is rampant in this trade. A governmental labour establishment should be located in the area with full complement to answer the requirements of the matter.
7. Since beedi manufacturing process is carried more outside the factory than within, the system of maintaining the registers as a regulating practice has become necessary. Great care should, therefore, be taken to ensure the maintenance of the register system as the bulk of the employees outside the factories can be regulated only through the record maintained in the registers.
8. The Beedi Workers Welfare Cess Act, 1976 and the Beedi Workers Welfare Fund Act, 1976 which contain beneficial provisions should be implemented in the true spirit and since they are legislations of the Central Government, the machinery of the Central Government should be made operational in the area.
9. Grievance has been made that the pass books are not maintained in the names of actual workers. This should be ensured.
10. The Welfare Fund should be properly administered after and in the case of death of a workman appropriate assistance should be extended out of the Fund quickly.
11. In view of the health hazard involved in the manufacturing process, every worker including children, if employed, should be insured for a minimum amount of Rs.50,000 and the premium should be paid by the employer and the incidence should not be passed on to the workman.

We are of the view that the implementation of the scheme within the state in an effective manner would require to be supervised by an independent external agency. The Tamil Nadu State Legal Aid & Advice Board can be entrusted with this responsibility. A three year period of such supervision, in our opinion, would meet the requirement and at the end of such period the scheme is expected to become effectively operative. We, therefore, require the Tamil Nadu Board to undertake the super.

vision from January, 1992 and we direct the Tamil Nadu Government and the said Board to coordinate the implementa- tion. The Secretary of the Tamil Nadu Board Mr. Raja, who would be mainly in-charge of the field job shall be paid a sum of Rs. 1,500 (fifteen) per month from January 1992, as an allowance to meet out of pocket expenses by the State Government for the period he does the work as Secretary of the Board.

We dispose of these cases with the directions indicated above and hope and trust that the authorities as also the employers and the employees would try to implement the directions in true spirit. Liberty to apply.

G.N.
disposed of.

Petitions