Supreme Court of India
Haryana Unrecognised Schools ... vs State Of Haryana on 12 April, 1996
Equivalent citations: 1996 AIR 2108, 1996 SCC (4) 225
Author: G Pattanaik
Bench: G.B. Pattanaik (J)

PETITIONER:
HARYANA UNRECOGNISED SCHOOLS ASSOCIATION

Vs.

RESPONDENT:
STATE OF HARYANA

DATE OF JUDGMENT: 12/04/1996

BENCH:
G.B. PATTANAIK (J)
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G.B. PATTANAIK (J)
RAMASWAMY, K.

CITATION:
1996 AIR 2108 1996 SCC (4) 225
JT 1996 (4) 363 1996 SCALE (3)685

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T PATTANAIK, J.

Leave granted.

This appeal by special leave is directed against the Judgment of the Punjab and Haryana High Court in Civil Writ Petition No. 3599 of 1983 dismissing the writ petition filed by the appellants. The short question that arises for consideration is whether teachers of an educational institution can be held to be employee under Section 2(i) of the Minimum Wages Act (hereinafter referred to as 'the Act') to enable the Government to fix their minimum wages? The Government of Haryana in exercise of power conferred under Section 27 of the Act added in Part I of the Schedule Item No. 40 describing "Employment in private coaching classes, schools including Nursery Schools and technical institutions", for the purpose of fixing minimum rate of wages for the employees therein. By Notification dated 30th of April, 1983 the State Government in exercise of power conferred under

sub-section (2) of Section 5 of the Act fixed the minimum rate of wages in respect of the different categories of employees serving in such schools. Challenging these notifications the writ petitions were filed essentially on the ground that the teachers of educational institution cannot come within the purview of the Act since they are not workmen within the meaning of Industrial Disputes Act nor would they be employee under Section 2(i) of the Act. The High Court, however, dismissed the writ petition on the ground that the power of the State Government to add any employment to the Schedule under Section 27 of the Act is without any fetter and further the appropriate Government has tried to mitigate the sufferings and exploitation of the educated trained/untrained teachers at the hands of the managements/employers of the private educational institutions and Section 5 of the Act gives large powers to the appropriate Government. With regard to the allegation of the writ petitioners that the views of the representatives of the educational institutions were not taken into consideration, the High Court repelled the same relying upon the decision of this Court in Ministry of Labour & Rehabilitation and another v. Tiffin's Barytes Asbestos & Paints Ltd. and another (S.C.C. 1985 (3) 594), wherein this Court had observed that a notification fixing minimum wages, in a country where wages are already minimal should not be interfered with under Article 226 of the Constitution except on the most substantial grounds and the legislation is a social welfare legislation undertaken to further the Directive Principles of State Policies and action taken pursuant to it cannot be struck down on mere technicalities.

Assailing the correctness of the decision of the High Court the learned counsel for the appellant contended that the object of the Act being to prevent exploitation of the workers and for that purpose it aims at fixation of minimum wages which the employers must pay, the teachers of an educational institution cannot be brought within the purview of the Act. The learned counsel also contended that the definition of employee under Section 2(i) of the Act even if is given a liberal interpretation, will not bring within its sweep a teacher of an educational institution since the duty discharged by a teacher can neither be termed as manual or clerical nor can it be held to be skilled or unskilled. Accordingly it is contended that the State Government has no power to fix the minimum wage of a teacher of an educational institution in exercise of power under Section 5(2) read with Section 27 of the Act. The learned counsel appearing for the respondent on the other hand contended that it was open for the State Government to add a particular category of employment to the Schedule in exercise of power under Section 27 of the Act and since the Management of the schools are exploiting the teachers the State Government to mitigate the grievances of the teachers has fixed minimum. wage under Section 5(2) of the Act and therefore the same should not be interfered with. It may be noted that the counsel appearing for the appellant in course of his argument has submitted that the association which filed the Writ petition and which is appellant before us consist of teachers and if teacher themselves do not urge to be brought within the purview of the Act there was no need for the Government to bring them within the purview of the Act.

In view of rival submissions at the Bar the only question that crops up for consideration is whether the teachers of an educational institution can be brought within the purview of the Act and the appropriate Government can fix the minimum wage of such teachers by issuing notification under the Act?

The Statements of Objects and Reasons of the Act justifying the statutory fixation of minimum wage states thus:

> "The justification for statutory fixation of minimum wages is obvious. Such provisions which exist in more advanced countries are even more necessary in India, where workers organization are yet poorly developed and the workers' bargaining power is consequently poor."

In introducing the Bill it had been stated that the items in the Schedule are those where sweated labour is most prevalent or where there is a big chance of exploitation of labour. The Act had been passed for the welfare of labour deriving legislative competence from Item 27 of the Concurrent List in the Seventh schedule to the Government of India Act, 1935. The object of the Act is to prevent exploitation of the workers and for that purpose it aims at fixation of minimum wages which the employers must pay. This Court in the Constitution Bench decision in the case of M/s. Bhikusa Yamasa Kshatriya and another v. Sangamner Akola Taluka Bidi Kamgar Union and others (1963 (2) SCC 242) held that:

> "The object of the Act is to prevent exploitation of the workers, and for that purpose it aims at fixation of minimum wages which the employers must Pay. The Legislate undoubtedly intended to apply the Act to those industries or localities in which by reason of causes such as unorganised labour or absence of machinery for regulation of wages, the wages paid to workers were, in the light of the general level of wages, and subsistence level, inadequate. Conditions of labour vary in different industries and from locality to locality and the expediency of fixing minimum wages, and the rates thereof depends largely upon diverse factors which in their very nature are variable and can properly be ascertained by the Government which is in charge of the administration of the State. It is to carry out effectively the purpose of this enactment that power has been given to the appropriate Government to decide with reference to local conditions, whether it is desirable that minimum wages should be fixed in regard to any scheduled trade or industry, in any locality, and if it be deemed expedient to do so. the rates at which the wages should be fixed in respect of that industry in the locality."

There cannot be any dispute with the proposition that while construing t he provisions of a statute like Minimum Wages Act a beneficial interpretation has to be preferred which advances the object of the Act. But nevertheless it has to be borne in mind that the beneficial interpretation should relate only to those employments which are intended to be covered by the Act and not to others. Section J of the Act provides that the appropriate Government shall, in the manner hereinafter provided fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under section 27. The expression 'employee' has been defined in Section 2(i) of the Act thus:

> "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of

> which minimum rates of wages have been fixed, and includes an outworker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processes for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out- worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union.

Section 27 enables the State Government to add to either part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under the Act. Section 27 reads thus:

> "The appropriate Government after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may, by notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimal rates of stages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly."

A combined reading of the aforesaid provisions as well as the object of the legislation as indicated earlier make it explicitly clear that the State Government can add to either part of the Schedule any employment where persons are employed for hire or reward to do any work skilled or unskilled, manual or clerical. if the persons employed do not do the work of any skilled or unskilled or of a manual or clerical nature then it would not be possible for the State Government to include such an employment in the Schedule in exercise of power under Section 27 of the Act. Since the teachers of an educational institution are not employed to do any skilled or unskilled or manual or clerical work and therefore could not be held to be an employee under Section 2(i) of the Act it is beyond the competence of the State Government to bring them under the purview of the Act by adding the employment in educational institution in the Schedule in exercise of power under Section 27 of the Act. This Court while examining the question whether the teachers employed in a school is workmen under Industrial Disputes Act had observed in Miss A. Sundarambal v. Government of Goa, Daman & Diu and others (1988 (4) SCC 42) :

> We are of the view that the teachers employed by educational institutions whether the said institutions are imparting primary, secondary, graduate or post- graduate education cannot be called as workmen within the meaning of Section 2(s) of the Act. Imparting of education which is the main junction of teachers cannot be construed as skilled or unskilled manual work or clerical work.
>
> Imparting of education is an the nature of a mission or a noble vocation. A teacher educates children he moulds their character, builds up their personality and makes them fit become responsible citizens. Children grow under care of teachers. The clerical work, if any they may do, is only incidental to their principal of teaching."

Applying the aforesaid dictum to the definition of employee under Section 2(i) of the Act it may be held that a teacher should not come within the said definition. In the aforesaid premises we are of the considered opinion that the teachers of an educational institution cannot be brought within the purview of the Act and the State Government in exercise of powers under the Act is not entitled to fix the minimum wage of such teachers. The impugned notifications so far as the teachers of the educational institution concerned are accordingly quashed. This appeal is allowed. Writ petition filed succeeds to the extent mentioned above. There will be no order as to costs.