

OSHI v Hyvec Partners Ltd

2024 IND 34

THE INDUSTRIAL COURT OF MAURITIUS

(Criminal Side)

In the matter of:-

CN 129/2023

OSHI

v.

Hyvec Partners Ltd

SENTENCE

1. The Accused company pleaded guilty for having used a building as lodging accommodation for its employees without holding a lodging accommodation permit in breach of regulation 6(1) of the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011 and section 94(1)(i)(vi) of the Occupational Safety and Health Act 2005 (OSHA). The Accused stands convicted as charged.

2. The hearing into the facts of this case revealed that, following an inspection at Royal Road, Bramsthan by the Occupational Safety and Health Inspectorate, it was found that the Accused was using a building to lodge 20 Indian workers without holding the required lodging accommodation permit. The Accused company was booked accordingly.

3. In Court, the Accused's representative stated that the company never intended to use the building as accommodation for its workers. That was the decision of an

employee, made without consultation with higher management. The building has since been vacated. The Accused's representative tendered the company's apologies to the Court.

4. Pursuant to section 94(3)(b) of the OSHA, the Accused is liable *"to a fine not exceeding 75,000 rupees and to imprisonment for a term not exceeding one year"*. In **Mosaheb v. The State (2010) SCJ 150**, the Supreme Court held that *"the sentence in each case has to be determined in accordance with the facts and circumstances surrounding the commission of the particular offence and the other relevant personal circumstances of an accused party."* Moreover, in **Hossen v. The State (2013) SCJ 367**, the Supreme Court stressed the need to apply the principle of proportionality to reach the appropriate sentence in any given case.

5. The certificate of previous convictions filed by the prosecution (**Document X**), and admitted by the Accused, shows that the Accused is borne on record and that one of the previous convictions is cognate to the present charge. I note that there has been a timely guilty plea which is a significant mitigating factor.

6. Bearing all the above circumstances in mind, I sentence the Accused to pay a fine of Rs 4,000. together with Rs 200. as costs.

20 August 2024

M. ARMOOGUM

Magistrate