State of Maharashtra

Vs

Mohanlal Devichand Shah

Criminal Appeals Nos. 198 and 199 of 1963

(K. N. Wanchoo, J. R. Madholkar, S. M. Sikri JJ)

23.03.1965

JUDGMENT

SIKRI, J.

These are two appeals by certificate granted by the High Court of Judicature at Bombay against its judgment dated February 4, 1963, in Criminal Appeals Nos. 779 and 780 of 1962. By this judgment the High Court affirmed the order of acquittal passed against the respondent by the Judicial Magistrate, First Class, Vadagaon (Mawal).

The relevant facts are as follows : The Labour Inspector (Central), Bombay-1, appointed under the Minimum Wages Act (XI of 1948) (hereinafter called the Act) by the Central Government filed two complaints in the Court of the Judicial Magistrate alleging that the respondent had contravened certain provisions of the Minimum Wages (Central) Rules, 1950. It was alleged that the respondent was doing quarrying operation work in quarry survey Nos. 23(1), Kusegaon village, near Lonavala, and while carrying on this quarrying operation work, he failed to observe certain provisions in the Rules. The respondent submitted a written statement admitting the facts but he contended, inter alia, that the Inspector was not authorised to file the complaint and it was only an Inspector appointed by the Maharashtra State who was competent to file a complaint. The Judicial Magistrate, treating this as a preliminary objection, came to the conclusion that the Inspector was not entitled to file the complaint. According to him, the word "mine" in sub-cl. (i) of s. 2(b) of the Act does not include a stone quarry and, therefore, the appropriate Government was the State Government and not the Central Government. Thereupon he acquitted the accused of the offence under s. 22A, read with s. 18, of the Act and for contravening certain rules of the Minimum Wages (Central) Rules, 1950.

The State then filed two appeals before the High Court. The High Court also came to the conclusion that the Inspector was not competent to file the complaints but the reasoning of the High Court was different. It was of the opinion that "a stone quarry can fall within the category of a mine as defined in the Mines Act of 1952 or the Mines and Minerals (Regulation and Development) Act of 1957." But even so, according to it, "the schedule does not mention either a mine or a stone quarry and item No. 8, viz., Employment in stone breaking and stone crushing, cannot, therefore, be said to be an employment in respect of a mine whether in its broadest sense so as to include a stone quarry or in narrow sense as given in the Oxford English Dictionary." The High Court further held that 'unless, therefore, the Parliament amends item No. 8 of the Schedule so as to include the operation of stone-breaking and stone-crushing in a stone quarry or in all mines including a stone quarry, it is not possible to hold that the appropriate Government would be the Central Government, merely on the basis that, in its widest connotation, the words 'stone quarry' may fall within the ambit of the word 'mine'."

Section 2(b) of the Act defines "appropriate government" as follows :

> "2(b) "appropriate government" means -
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> (i) in relation to any scheduled employment carried on by or under the authority of the Central Government or a railway administration or in relation to a mine, oilfield or major port, or any corporation established by a Central Act, the Central Government, and
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> (ii) in relation to any other scheduled employment, the State Government."

Sub-clause (g) defines 'schedule employment' to mean an employment specified in the Schedule, or any process or branch of work forming part of such employment.

The Schedule is divided into two parts, and Part I contains entry 8 - Employment in stone breaking or stone crushing. Section 22 prescribes the penalties for certain offences and s. 22A provides that "any employer who contravenes any provisions of this Act or of any rule or order made thereunder shall, if no other penalty is provided for such contravention by this Act, be punishable with fine which may extend to five hundred rupees." Section 22B deals with the cognizance of offences and provides that "no Court shall take cognizance of a complaint against any person for an offence... under cl. (b) of section 22 or under section 22A except on a complaint made by, or with the sanction of, an Inspector."

The first question which arises is whether the quarry which the respondent is alleged to be working and in which the employees are alleged to be carrying on the operation of stone breaking or stone crushing is a mine, within s. 2(b). Learned counsel for the appellant has drawn our attention to the definition of the word "mine" in the Mines Act, 1952 (XXXV of 1952), and the Mines and Minerals (Regulation and Development) Act, 1957 (LXVII of 1957). Section 2(j) of the Mines Act defines 'mine', and the relevant part of the definition is as under :

> ""Mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes -
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> #x x x x x##
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> (iv) all open cast workings."

The word 'minerals' is defined to mean all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils (which in turn include natural gas and petroleum). The learned counsel says that a quarry is a mine within this definition.

In the Mines and Minerals (Regulation and Development) Act, 1957, the expressions 'mine' and 'owner' have the meanings assigned to them in the Mines Act, 1952. The learned counsel contends that this meaning should be read into the Minimum Wages Act.

The learned counsel for the respondents relies on the observations of this Court in Pandit Ram Narain v. The State of Uttar Pradesh [[1956] S.C.R. 664 at 673] that "it is no sound principle of construction to interpret expressions used in one Act with reference to their use in another Act. The meanings of words and expressions used in an Act must take their colour from the context in which

they appear." The learned counsel further contends, relying on a number of English decisions, that in its primary signification the word 'mine' means underground excavations or underground workings. He relies in particular on the speech of Lord Macnaughten in Lord Provost and Magistrates of Glasgow v. Farie [13 A.C. 657]. The House of Lords was concerned in that case with the interpretation of s. 18 of the Waterworks Clauses Act, 1847, which was in the following terms :

> "The undertakers shall not be entitled to any mines of coal, ironstone, state, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the water-works unless the same shall have been expressly purchased, and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby."

The appellants in that case had purchased from the respondent a parcel of land for the purpose of erecting waterworks and the conveyance contained a reservation of the "whole coal and other minerals in the land in terms of the Waterworks Clauses Act, 1847." Under the land was a seam of valuable brick clay. The respondent worked this clay in the adjoining land, and having reached the appellants' boundary, claimed the right to work out the clay under the land purchased by the appellants. The House of Lords held that common clay, forming the surface or subsoil of land, was not included in the reservation in the Act, and that the appellants were entitled to an interdict restraining the respondent from working the clay under the land purchased by them. It is true Lord Macnaughten first construed the word 'mine' in this enactment to mean underground excavations or underground workings, and then proceeded to construe the section. But Lord Watson was of the opinion that the word 'mine' did not necessarily mean underground excavations. He said that 'it does not occur to me that an open excavation of auriferous quartz would be generally described as a gold quarry; I think most people would call it a gold mine." Later he observed that "the word 'quarry' is, no doubt, inapplicable to underground excavations but the word 'mining' may without impropriety be used to denote some quarries. Dr. Johnson defines a quarry to be a stone mine". He arrived at the conclusion that "the word 'mine' must be taken to signify all excavations by which the excepted minerals may be legitimately worked and got."

In our opinion, as stated in Halsbury's Laws of England, Third Edition, volume 26, p. 317, the word 'mine' is not a definite term, but is one susceptible of limitation or expansion according to the intention with which it is used. In s. 2(b) of the Act, we have to see the context in which the word has been used. What the legislature is purporting to do is to demarcate the jurisdiction of the State Governments and the Central Government in respect of minimum wages to be paid to persons employed in the employments enumerated in the Schedule. Entry 35 in list I of Schedule VII of the Government of India Act, 1935, was "regulation of labour and safety in mines and oilfields." Entry 36 read "regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Dominion control is declared by Dominion law to be expedient in the public interest." It is not seriously contested that in Entries 35 and 36 the word 'mines' would include quarries. The Mines Act, 1923 (IV of 1923), which was the existing law when the Government of India Act came into force, made provisions regarding health and safety in mines and regulated hours and limitations of employment in the mines. The word 'mine' had been defined to mean any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine, provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals. Therefore, if we examine the definition of

'appropriate government' in s. 2(b) in the context and in the background of the Government of India Act and the existing law, it seems to us that the Central Legislature must have intended to include quarries in the word 'mine'; otherwise it would be rather incongruous that some matters such as health and safety, hours and employment in quarries, should be regulated by the Central Government and minimum wages by the State Governments. Further, there is no indication whatsoever in the Act that the word 'mine' has the narrower meaning suggested by the learned counsel for the respondent.

If the word 'mine' is held to include a quarry, the next question that arises is whether stone breaking or stone crushing in a quarry is within the Schedule. While interpreting Entry 8 in the Schedule, this Court observed in Madhya Pradesh Mineral Industry Association v. The Regional Labour Commissioner, Jabalpur [[1960] 3 S.C.R. 476] as follows :

> "When we speak of stone-breaking or stone-crushing normally we refer to stone in the sense of "piece of rock" and that would exclude manganese. Employment in stone-breaking or stone-crushing in this sense would refer to quarry operations."

This Court thus read Entry 8 to refer to quarry operations, and we hold that stone-breaking or stone-crushing in a quarry is within the Schedule.

Thus reading item 8 of the Schedule and s. 2(b) of the Act together, it seems to us that the definition demarcates the jurisdiction of the Central Government and the State Governments in this way : If the employment in stone-breaking or stone-crushing is in a quarry then it is within the jurisdiction of the Central Government; if the employment in stone-breaking or stone-crushing is not in a quarry, it is the State Government that will have jurisdiction. We are unable to appreciate the observations of the High Court that the operation of stone-breaking and stone-crushing in a stone quarry does not fall within item 8 of the Schedule and that it is necessary that Parliament should amend item 8 of the Schedule.

In the result, we hold that the Inspector was competent to file the complaints and the Magistrate and the High Court should not have acquitted the respondent on the ground of his being incompetent to file the complaints. The appeals are allowed and the judgment of the High Court and the order of the Magistrate are reversed and the cases remitted to the Magistrate to proceed with the complaints in accordance with law.

Appeals allowed.

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