

Ministry of Labour and Rehabilitation and Another

Vs

Tiffin's Barytes Asbestos and Paints Ltd. and Another

and

Government of India and Another

Vs

Barium Chemicals Ltd. and Another

Civil Appeals Nos. 589 of 1972 and 541-546 of 1973

(D. Chinnappa Reddy, V. Balakrishna Eradi, V. Khalid JJ)

16..07.1985

JUDGMENT

1. On October 16, 1968 the Government of India, Ministry of Labour, Employment and Rehabilitation, issued a notification, in exercise of their powers under Sections 5(1)(a) and 9 of the Minimum Wages Act, appointing a committee "to hold enquiries and advise the Central Government regarding -

- (a) the fixation of minimum rates of wages for the first time under the said Act, and
- (b) the revision of minimum rates of wages already fixed by the Central Government under the said Act",

in respect of the employment in manganese, gypsum, barytes and bauxite mines. Shri O. Venkatachalam, Chief Labour Commissioner (Central), New Delhi and Shri K. K. Bhatia, Director, Labour Bureau, Simla were appointed as independent members of the committee while (i) Shri K. S. Mahapatra, Controller of Indian Bureau of Mines, Nagpur (ii) Shri Dev Coomer Singhi, The Jhagrakhand Collieries Private Ltd., 14/4, Gariahat Road, Calcutta-19, (iii) Dr. S. K. Das Gupta Indian Aluminium Co. Ltd., 1, Middleton Street, Calcutta-16, (iv) Shri T. R. Goenka, Honorary Secretary-General, Federation of Indian Mining Industries. 7, N.D.S.E. Part I, New Delhi-3 and, (v) Mr. S. G. A. Naidu President of Mysore State Mine Owners' Association Bangalore, were appointed as representatives of the employers. Five other gentlemen were appointed as members of the committee to represent the employees. Thereafter, on May 19, 1969, after considering the advice of the committee, the Government of India issued a notification fixing minimum rates of wages payable to certain categories of employees in the scheduled employment in barytes, bauxite, manganese and gypsum mines. The notification fixing minimum wages was questioned by several owners of mines in writ petitions filed in the High Court of Andhra Pradesh. The notification was quashed by the High Court of Andhra Pradesh on the ground that the committee

on whose advice it was based was improperly constituted for two reasons : (1) Shri Venkatachalam and Shri K. K. Bhatia were Government employees in the Labour Department and were, therefore, not truly 'independent' so as to be eligible to be appointed to the committee constituted under Sections 5 and 9 of the Minimum Wages Act and; (2) the so-called representatives of the employers on the committee as appointed were not representatives of the barytes, bauxite, manganese and gypsum mining industries and they were therefore ineligible to be appointed to the committee to represent the employers of the particular scheduled employments.

2. We are afraid, we are unable to subscribe to the view taken by the High Court. In our opinion, Government employees, who are entrusted with the task of implementing the provisions of the Minimum Wages Act, cannot, for that reason, be dubbed as interested and not independent persons. It may be that in a case where the Government itself is the employer in the particular scheduled employment, it may be possible to urge that Government employees are not independent persons (we express no opinion on that) but in a case where the Government itself is not an employer, we do not see any justification for holding that Government employees who are interested in the implementation of the Minimum Wages Act, for that reason only, become 'interested persons' and cease to be independent. The 'independent persons' contemplated by Section 9 of the Act are persons who belong neither to the category of employers nor to the category of employees, and there is no reason to think that Government employees whose task is merely to implement Parliamentary Legislation made pursuant to Directive Principles of State Policy and the State's social obligations in that direction are excluded. The term 'independent persons', it must be emphasised, is used in the section in contradistinction to the words "persons representing employers and employees in the scheduled employments". We disagree with the view expressed by the Madhya Pradesh High Court in *Narottamdas v. P. B. Gowarikar* ((1961) 1 LLJ 442 (MP HC)) and Calcutta High Court in *Kohinoor Pictures (Pvt.) Ltd. v. State of W. B.* ((1961) 2 LLJ 741 (Cal HC)) and the Andhra Pradesh High Court in *Bansilal S. Patel v. State of A. P.* ((1965) 1 LLJ 28 (AP HC)). We agree with the view taken by the Punjab High Court in *Jaswant Rai Beri v. State of Punjab* (AIR 1958 Punj 425) and the Gujarat High Court in the *Digvijaysinghji Salt Works Pvt. Ltd. v. State of Gujarat* (AIR 1971 Guj 14 : 1971 Lab IC 63 : 37 FJR 487). The decision of this Court in *State of Rajasthan v. Hari Ram Nathwani* ((1976) 1 SCR 641 : (1975) 2 SCC 517 : 1975 SCC (L&S) 356) does not assist either party.

3. There is equally no substance in the other contention which found favour with the High Court, namely, that the persons appointed to the committee to represent the employers were ineligible to be appointed to the committee as they did not represent employers in the particular scheduled employments. The scheduled employments with which we are concerned are employment in gypsum mines, employment in barytes mines, employment in bauxite mines and employment in manganese mines. It is not explained why the persons appointed to the committee to represent the employers are ineligible to represent the employers in the scheduled employments. The High Court merely says

On a perusal of the names of the employers' representatives, we find that none of them can be said to be the representatives of the barytes mines. When the minimum wages of the categories of employees are to be fixed in respect of barytes mines, there is no point in appointing the representatives of other employments. The Government in its counter has not stated that any of the employers' representatives, who have been nominated to the committee, are the representatives of the barytes mines. The learned counsel appearing for the Central Government also has not been

able to point out whether anyone of those nominees of the Government as employers' representatives really represents the barytes mines or has got expert knowledge of the employers and their working conditions in the scheduled employments of barytes mines. We, therefore, held that the composition of the committee is defective in respect of the nominations of the employers' representatives. This is sufficient to quash the notification which is based upon the advice of such a defectively and irregularly constituted Committee.

We are afraid that the approach of the High Court was entirely wrong. For the purpose of appointing the committee to represent the employers in a scheduled employment, it was not necessary that the person appointed should be engaged for profit in the particular employment. It is enough if a nexus exists between the persons so appointed to represent the employers in the particular employment and the particular employment concerned. For example it may be absurd to appoint persons engaged in the newspaper industry to a committee to represent employers concerned in the employment of barytes mines or bauxite mines. The case before us is not one of that nature at all. There was no material before the High Court nor was the High Court in a position to say that the persons appointed to the committee to represent the employers were entirely unconnected with or ignorant of the particular employments. We fail to understand how by merely looking at their names and the positions occupied by them, the High Court was able to say that they were incompetent to represent the employers in the particular employments. The first of them was the Controller of the Indian Bureau of Mines, another was the Secretary-General of the Federation of Indian Mining Industries and yet another was the President of the Mysore State Mine Owners' Association. All of them are intimately connected with the mining industry and it has not been shown that they are unconnected with or ignorant of the particular scheduled employments in mines. We find it impossible to uphold the view of the High Court. The decision of this Court in *Champak Lal H. Thakkar v. State of Gujarat* ((1980) 4 SCC 329 : 1981 SCC (L&S) 9) is of no assistance whatever. In the circumstances we allow the appeals, set aside the judgment of the High Court and dismiss the writ petitions filed in the High Court. We also wish to emphasise that notifications fixing minimum wages are not to be lightly interfered with under Article 226 of the Constitution on the ground of some irregularities in the constitution of the committee or in the procedure adopted by the committee. It must be remembered that the committee acts only as a recommendatory body and the final notification fixing minimum wages has to be made by the Government. 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 of grounds. The legislation is a social welfare legislation undertaken to further the Directive Principles of State Policy and action taken pursuant to it cannot be struck down on mere technicalities.

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