

Rajangam, Secretary Distt. Beedi Workers Union

Vs

State of T.N. and Others

Writ Petn. Civil No. 1262 of 1987

(CJI Ranganath Misra, K.N. Saikia JJ)

ORDER

1. On the basis of a letter addressed to the Court Writ Petition No. 1262 of 1987 was registered as an application under Article 32 of the Constitution. Thereafter, the other petitions have been registered. The main grievance raised in the writ petitions is that while the bulk of the manufacturing process of Bidis is carried outside the factories by women and children in their respective residences, with the raw materials supplied by the factory owners and the manufactured bidis are collected by them, the actual rollers are not being paid their legitimate dues and have been deprived of sharing the several benefits provided by beneficial statutes and employment contrary to law is being tolerated and no attention is being devoted in enforcing the statutory provisions.

2. When the original, writ petition came, we requested Mr. Hardev Singh, senior counsel for appearing as amicus curiae in support of the petition. In due course the Society for Community Organisation Trust operating with its base at Madurai was requested to enquire into the several allegations and general conditions prevailing in the area in respect of manufacture of bidis and to make a report to the Court. On 27-3-1990 the Society after a thorough investigation into the several aspects indicated in the Court's order dated 24-10-1989, appointing the Commission has furnished its report.

3. A copy of the report has been duly circulated to counsel for the parties before us.

4. We have heard them today at length. The defects which have been summarised in the report are mainly the following:-

1. The prevailing practice is that the passbook is opened in the name of the head of the family and the names of actual persons engaged in the manufacturing process are not recorded.
2. The Provident Funds Act is not at all implemented.
3. The wages paid are below the minimum rate of wages.
4. Children are employed which is against the spirit of the Constitution and is contrary to provisions of the Bidis and Cigars Act.
5. The wages earned by the rollers/ manufacturers of bidis are shared between those involved in the process and the contractors.

6. There is no implementation of the Payment of Bonus Act.
7. Maternity benefit is not extended.
8. Inadequate material is supplied but when there is shortfall the liability is saddled on the rollers.
9. There is improper maintenance of registers etc.
10. The denial of family pension.
11. The reduction of the production is arbitrarily done.

5. There is a prevailing practice of receiving 100 extra bidis for every 1000 manufactured without payment of any remuneration for rolling the 100. There are many other aspects also in the report which may require attention. We have highlighted the defects for the purpose of our interlocutory order.

6. The Acts which are relied upon or referred to are Central Acts intended to benefit the workers. It is not in dispute that about 95% of the bidis is actually rolled outside the real factory. This Court as early as 1958 in "Chintaman Rao v. State of Madhya Pradesh", 1958 SCR 1340 : (AIR 1958 SC 388) indicated that the law relating to factory has to be extended to the place where manufacturing process, outside the factory, is carried on. The net effect of that position is that the benefit available under the Factories Act are available to those who are concerned with the manufacturing process even in their own residences for rolling of bidis.

7. The Commission has found that those who are engaged in the manufacturing process are exposed to health hazards.

8. There can be no doubt that both the Central and the State Governments have failed to effectively implement the laws and regulations so as to provide benefits to the actual manufacturers. We have discussed the matter with counsel in Court and we are adjourning the matter for eight weeks to enable the Union of India, the State Government, counsel for the employers and the petitioners to place before us written schemes, keeping in view the defects indicated and summarised above, for suggesting remedial measures to be taken to meet these evils. We are surprised that Union Government has not taken genuine interest in the matter as yet those enforcement of these laws is at issue.

9. It is open to the manufacturers before us to notify their contractors to appear in this case, if they so like.

10. Call on 8-1-1991. Order accordingly.

</html