

Rajangam Secretary, District Beedi Workers' Union

Vs

State of Tamil Nadu and Others

K. Chandra Segaram

Vs

State of Tamil Nadu and Others

Writ Petition (Civil) Nos. 1262 of 1987 and 13064 of 1983

(CJI Ranganath Misra, Yogeshwar Dayal JJ)

19.11.1991

JUDGMENT

RANGANATH MISRA, C.J. –

1. A letter petition received from the District Beedi Workers' Union, Tirunelveli in the State of Tamil Nadu was treated as an application under Article 32 of the Constitution and notice was ordered initially to three factories referred to in the said letter and later to other beedi manufacturing units within the State. In the letter, complaint was made about manipulation of records regarding employees, non-payment of appropriate dues of work taken, failure to implement the provisions of the labour laws, prevalence of contractor labour system etc. There is a connected petition also relating to the same subject matter with different ancillary reliefs covering employment of child labour and the non-implementation of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966. We have considered it appropriate to deal with both the applications together.

2. This court by an order dated October 24, 1989 appointed a social organisation by name 'Society for Community Organisation Trust' (SOCCO) for making appropriate investigation and furnish a report to the Court. After the Report was received and circulated, the State Government of Tamil Nadu and manufacturers were given time to file their response by way of affidavits. This Court then directed that a Scheme should be formulated for consideration of the Court. This court made an order on July 24, 1991 to the following effect :

"We gather from the submissions made at the bar that in the meantime some exercise has been undertaken for the purpose of finalising the Scheme. Initially the State of Tamil Nadu had taken the lead but later Union of India has also got interested and meeting on a bigger scale for the purpose of finalising the Scheme is being arranged. The Attorney General is present in court today. We have also suggested to him that he may participate in the proceedings to help the Scheme to be finalised as quickly as possible.

3. Then came two Schemes, one by the petitioners and the other by the State of Tamil Nadu. By order dated October 8, 1991, the Court directed on the basis of consent of counsel that at a

conference the terms should be settled for one Scheme to be adopted by the Court. On October 10, 1991, on the representation of the parties, the Court made the following order :

"Pursuant to or earlier direction, the employers, employees and the State Government through their representatives met and have sorted out some of the differences. Matters which are agreed to by all and aspects which are not agreed to by the employers have been separately shown. A copy of this may be served on counsel for the Union of India present in the Court today and he is given three weeks' time to indicate the responses. The appropriate Ministry of the Government of India to respond to the relevant aspects."

Pursuant to this order, the Under Secretary in the Ministry of Labour of the Union Government has filed an affidavit which we have examined.

4. The objections which have been especially referred to in the affidavit of the Central government do not really survive after the matter is heard in as much as these are questions with which the Union Government is not concerned and under the constitutional scheme, they relate to the power of the State government. We would like to dispose of these petitions with the following directions taken from the schemes as formulated by the petitioners and the state Government :

(1) The Beedi and Cigar Workers (Conditions of Employment) Rules, 1968 should be strictly implemented and once that is done the evil of not furnishing the books to the home workers would be eradicated.

(2) An establishment of the Regional Provident Fund Commissioner with full equipment for the purpose of implementation of the statute should be located within the area and the Regional Provident Fund Commissioner should have directions to enforce the Act in all aspects. This establishment should start functioning within three months from now.

(3) The labour laws as also the Beedi and Cigar Workers (Conditions of Employment) Act should be strictly enforced so that the workers get their legitimate dues and the conditions of employment improve.

(4) Tobacco manufacturing has indeed health hazards. Child labour in this trade should therefore be prohibited as far as possible and employment of child labour should be stopped either immediately or in a phased manner to be decided by the state Governments but within a period not exceeding three years from now. The provisions of Child Labour Abolition Act, 1986 should be strictly implemented.

(5) Contract labour system, it is alleged, is indispensable in this trade. This Union Government is directed to look into this aspect of the matter and take its final decision one way or the other within six months from now.

(6) Beedi trade is a flourishing one. Exploitation of labour is rampant in this trade. A government labour establishment should be located in the area with full complement to answer the requirements of the matter.

(7) Since beedi manufacturing process is carried more outside the factory than within, the system of maintaining the registers as a regulating practice has become

necessary. Grate care should, therefore, be taken to ensure the maintenance of the register system as the bulk of the employees outside the factories can be regulated only through the record maintained in the registers.

(8) The beedi Workers Welfare Case Act, 1976 and the Beedi Workers Welfare Fund Act, 1976 which contain beneficial provisions should be implemented in the true spirit and since they are legislations of the Central Government, the machinery of the Central government should be made operational in the area

(9) Grievance has been made that the pass books are not maintained in the names of actual workers. This should be ensured.

(10) The Welfare fund should be properly administered after (sic) and in the case of death of a workman appropriate assistance should be extended out of the Fund quickly.

(11) In view of the health hazard involved in the manufacturing process, every workers including children, if employed, should be insured for a minimum amount of Rs. 50,000 and the premium should be paid by the employer and the incidence should not be passed on to the workman.

5. We are of the view that the implementation of the Scheme within the State in an effective manner would require to be supervised by an independent external agency. The Tamil Nadu State Legal Aid and Advice Board can be entrusted with this responsibility. A three year period of such supervision, in our opinion, would meet the requirement and at the end of such period the Scheme is expected to become effectively operative, We, therefore, require the Tamil Nadu Board, to undertake the supervision from January 1992 and we direct the Tamil Nadu Government and the said board to coordinate the implementation. The Secretary of the Tamil Nadu board, Mr. Raja, who would be mainly in charge of the field job shall be paid a sum of Rs. 1500 (fifteen hundred) per month from January 1992, as an allowance to meet out of pocket expenses by the state government for the period he does the work as Secretary of the Board.

6. We dispose of these cases with the directions indicated above and hope and trust that the authorities as also the employers and the employees would try to implement the directions in true spirit. Liberty to apply.

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