

State Bank of India and Others

Vs

Labour Enforcement Officer (Central) and Another

Criminal Appeals Nos. 83 and 84 of 1990

(M. K. Mukherjee, S. P. Kurdukar JJ)

13.02.1997

ORDER

1. Aggrieved by a prosecution launched against them under Section 24 of the Contract Labour (Regulation and Abolition) Act, 1970 ("the Act" for short) for violation of a notification issued under Section 10(1) thereof the appellants moved the High Court under Section 482 of the Criminal Procedure Code for quashing the same. The principal ground on which the appellants assailed the prosecution was that in view of the provisions of Section 1(4), the Act had no application to their establishment as at the relevant time there were, admittedly, six persons working as contract labourers. A learned Single Judge of the High Court refused the prayer of the appellants on the ground that the non obstante clause of Section 10(1) of the Act excluded the applicability of Section 1(4) of the Act. The above order of the High Court is under challenge in this appeal.

2. It appears from the materials placed before us that the appellants brought to the notice of the learned Single Judge that another learned Single Judge of the same High Court had quashed a similar prosecution initiated against the appellants accepting their above contention but the learned Judge ignored the same.

3. If the learned Judge was unable to share the view earlier expressed by another learned Judge, on an identical point, he ought to have referred the matter to a Division Bench instead of deciding the same. In *Mahadeolal Kanodia v. Administrator General of W. B.* (1 AIR 1960 SC 936 : (1960) 3 SCR 578) this Court observed :

"Judicial decorum no less than legal propriety forms the basis of judicial procedure. If one thing is more necessary in law than any other thing, it is the quality of certainty. That quality would totally disappear if judges of coordinate jurisdiction in a High Court start overruling one another's decisions. If one Division Bench of a High Court is unable to distinguish a previous decision of another Division Bench, and holding the view that the earlier decision is wrong, itself gives effect to that view the result would be utter confusion. The position would be equally bad where a Judge sitting singly in the High Court is of opinion that the previous decision of another Single Judge on a question of law is wrong and gives effect to that view instead of referring the matter to a larger Bench. In such a case lawyers would not know how to advise their clients and all courts subordinate to the High Court would find themselves in an embarrassing position of having to choose between dissentient judgments of their own High Court."

4. We, therefore, set aside the impugned order and remand the matter to the High Court for hearing

by a Division Bench. Pending disposal of the matter by the High Court the interim order earlier passed will continue.