

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.(PIL) No.24 of 2019

ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

Petitioner before this Court, the Telangana State Tourism Contract, Outsourcing Dailywage Employees & Workers Union, has filed the present petition stating that various outsourcing agencies are supplying manforce to the Telangana State Tourism Corporation (for short 'the Tourism Corporation') on contract and the outsourcing agencies are not paying the minimum wages as per the Minimum Wages Act, 1948, to the outsourced employees, PF Contributions/ESI Contributions are not being deducted and they are not being paid bonus as per the Payment of Bonus Act, 1965.

The petitioner has prayed for the following relief:

“It is therefore, prayed that this Honourable Court may be pleased to issue a Writ, Order or Direction in the nature of Mandamus

[1] declaring the inaction of the Respondents in taking action on the representations dated 10-08-2017

::2::

and 06-09-2018 given to all the Respondents is bad, illegal, ultra vires the powers of the Respondents and consequently direct the respondents to conduct enquiry in order to find out amount evaded by all the outsourcing Agencies with regard to payment of Provident fund Dues, ESI, under paid salaries contrary to Minimum Wages Act, non-payment of Bonus as per Payment of Bonus Act, Leave entitlement as per Shops and Establishment Act or Factories Act, benefits to the lady employees of outsourcing under Maternity Benefit act and also evasion of Income Tax and service tax for the last 3 years and consequently direct the respondent to pay dues to outsourced employees payable under various labour law enactments and recover the same from the erring outsourcing Agencies along with interest and penalty and take disciplinary action on the officials involved in the crime as well as initiate criminal cases against them and blacklist all erring outsourcing agencies involved in the irregularities and be pleased to pass such other order or orders as this Honourable Court deems fit and proper in the circumstances of the case.

[2] It is also prayed that this Honourable Court may be pleased to direct the Respondents to draft foolproof integrated Outsourcing policy including common tender documents, common agreement, common rates for all Telangana State Government departments, Companies, Organizations, and Government financed institutions so

as to eliminate corruption, non compliance of Labour Acts and Taxes.

INTERIM PRAYER

It is prayed that this Honourable Court may be pleased to direct the Respondents to forthwith conduct inspection of all the Organisations engaging outsourced employees and outsourcing agencies, list out violations under various Acts i.e. Payment of Minimum Wages Act, Employees Provident Fund Act, E.S.I. Act, Payment of Bonus Act, Gratuity Act, Maternity Benefit Act and Leave Entitlement under Shops and Establishment Act or Factories Act. Submit a report to the Honourable High Court in a time bound manner, pending disposal of this Writ Petition and be pleased to pass such other order or orders as this Honourable Court deems fit and proper in the circumstances of the case.”

The petitioner has not impleaded any of the outsourcing agencies, which has supplied manforce to the Tourism Corporation.

However, respondent No.3- Employees Provident Fund Organisation (EPFO) has filed a detailed counter-affidavit stating that the Tourism Corporation was not complying with the provisions of the Employees Provident Fund and Miscellaneous

Provisions Act, 1952 (for short 'the Act 1952') and therefore, an enquiry was initiated against the Tourism Corporation. Eventually, an order was passed under Section 7A of the Act 1952, a liability of Rs.32,98,885/- was finalized based on the report of the Enforcement Officer and the said amount has already been recovered.

There is a counter-affidavit filed on behalf of respondent No.2- Commissioner of Labour, Government of Telangana, stating that a Grievance Cell has been constituted as per G.O.Rt.No.4271 Finance (SMPC) Department dated 01.11.2008, and it is exclusively meant for redressal of the grievance of the outsourced employees. It has been stated that any complaint received in the matter is thoroughly examined and remedial measures are taken by the State Government. It has also been stated that the outsourcing agency is certainly under obligation to comply with the provisions of the Contract Labour (Regulation and Adoption) Act, 1970 (for short 'the 1970 Act'), as well as the other statutory provisions relating to EPF and ESI Contributions. It has also been stated that the outsourcing agency is also under

obligation to pay minimum wages to the outsourced employees and in case of any complaint, there is a mechanism provided under the Statute for its redressal.

In the considered opinion of this Court, as there is already a grievance redressal mechanism in existence, in case any outsourced employees are not being paid minimum wages or, contribution towards the ESI dues are not being deposited to the Employees State Insurance Corporation, there is a remedy available under the 1970 Act, which can be availed by them. Therefore, in case of non-payment of wages, there is certainly a remedy under the Minimum Wages Act and in case other statutory provisions are not complied with, a complete mechanism is provided under the Statutes relating to the Employees State Insurance.

As Provident Fund dues have already been recovered and there is remedy available to all the workmen, this Court does not find any reason to issue any further directions.

However, it shall be the duty of the Tourism Corporation to ensure strict compliance of all statutory provisions in respect of the

::6::

outsourced employees also. The contractors, who are not complying with the statutory provisions relating to grant of minimum wages, ESI dues, EPF dues and other statutory dues, be blacklisted/debarred from participating in future contracts by following the due process of law.

Subject to the above observations, the Writ Petition is disposed of.

No costs.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

Date: 07-04-2022
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