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**Sharda Construction Vs. Authority Under Minimum Wages Act, 1948 and Regional Labour Commissioner (Central) and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/369049](http://sooperkanoon.com/369049)

**Court :** Mumbai

**Decided On :** Apr-22-2008

**Reported in :** (2009)IILLJ303Bom

**Judge :** S.C. Dharmadhikari, J.

**Acts :** [Minimum Wages Act, 1948](#) - Sections 20(2)

**Appeal No. :** O.O.C.J.W.P. No. 568/2008

**Appellant :** Sharda Construction

**Respondent :** Authority Under Minimum Wages Act, 1948 and Regional Labour Commissioner (Central) and ors.

**Advocate for Def. :** D.A. Athawale and ;M.R. Prajapati, Advs. for Respondent Nos. 1 and 2 and ;Manoj Chatole, Adv., i/b., J.J. Pandian, Adv. for Respondent No. 3

**Advocate for Pet/Ap. :** M.S. Topkar, Adv.

**Judgement :**

**S.C. Dharmadhikari, J.**

1. The petitioner was opponent No. 1 before the Authority under the Minimum Wages Act and Regional Labour Commissioner (Central) Mumbai. The proceedings are numbered as MCA 21/2007.

2. That was an application made by the Labour Enforcement Officer, respondent No. 2 before me. This application which was preferred on July 9, 2007 under Section 20(2) of the [Minimum Wages Act, 1948](#) stated that the said establishment was inspected in January 2007. Petitioner was carrying on activities as Contractor on behalf of principal employer, respondent No. 3. It is not in dispute that the work was being carried out in pursuance of the work order. However, at site, it was alleged that the workers were paid less than minimum wages. The amount was quantified at Rs. 24,458/-. The Authority therefore prayed that the direction be issued to pay minimum wages and 10 times compensation.

3. It is the case of petitioners that the order impugned in the present petition is ex parte order. The petitioner was present on July 31, 2007 but sought adjournment to file reply on the subsequent date to which the matter was adjourned. The person familiar with the facts of the case was not present due to illness and, therefore, in the absence of the petitioner, the matter proceeded and the authority directed not only payment of minimum wages but five times penalty and that is how the sum of Rs. 1,22,290/- has been computed.

4. The petitioner points out that an application to set aside the ex parte order was made on October 26, 2007. That application was also heard and the Authority rejected the same on January 10, 2008. The present petition is filed to challenge these orders.

5. Learned Counsel for petitioner makes a grievance that the order passed by the Authorities is an ex parte order and sufficient cause being shown for the absence of the petitioner, it should have been set aside. However, a strict view of the matter has been taken and relying upon some technical pleas with regard to the alleged non production proof of illness the application for review not has been rejected.

6. After the matter was heard for some time and considering that the order impugned (sic) ex parte, I expressed a view that the petitioner deserves an

opportunity to contest the application of second respondent on merits. This course is not seriously opposed by parties. However, before the said opportunity is granted, petitioner must comply with certain conditions. Accordingly, upon petitioner depositing a sum of Rs. 25,000/- with respondent No. 1 within a period of four weeks from today and paying costs quantified at Rs. 10,000/- the orders under challenge are quashed and set aside. The application of second respondent shall then be restored to file of the first respondent for hearing afresh on merits and in accordance with law, uninfluenced by the earlier observations and conclusions (sic) compliance is not made with the above, this petition stands dismissed without any further reference to Court. Needless to state that this Court has not expressed any opinion on the merits of the controversy. Petition disposed of accordingly.

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