

Sushil Dixit Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Nov-20-2008

Reported in : (2009)IILLJ208All

Judge : S.P. Mehrotra, J.

Appellant : Sushil Dixit

Respondent : State of U.P. and ors.

Advocate for Pet/Ap. : Sri. S.M. Ali

Judgement :

S.P. Mehrotra, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India, inter alia, praying for quashing the Recovery Certificate dated January 21, 2008 (Annexure 1 to the writ petition).

2. It is, inter alia, stated in the writ petition that the petitioner is owner of Shivani Restaurant, Orai situated at Gate of Konch Bus Stand, Qrai; and that Rajesh (respondent No. 4) is working in the said Restaurant since July, 2007.

It is, inter alia, further stated in the writ petition that the petitioner received the said Recovery Certificate dated January 21, 2008 from the Amin in the month of May, 2008. Copy of the said Recovery Certificate dated January 21, 2008 has been filed

as Annexure 1 to the writ petition.

3. A perusal of the said Recovery Certificate shows that the same refers to a Notice No. 5515 dated October 22, 2007 whereby the petitioner was required to deposit an amount of Rs. 20,000/- within 15 days as compensation on account of employment of a chila labour, namely, the said Rajesh in the establishment of the petitioner in view of the judgment dated December 10, 1996 passed by the Supreme Court in Writ Petition No. 465/1986. M.C. Mehta v. State of Tamil Nadu and Ors.

4. It is averted in paragraph 4 of the writ petition that before issuance of the said Recovery Certificate, the petitioner was neither served with any show-cause notice nor was any statement of the respondent No. 4 (Rajesh) or his parents was recorded nor was the petitioner ever required to file any objection before issuance of the said Recovery Certificate.

5. I have heard Sri S.M. Ali, learned Counsel for the petitioner and the learned Standing Counsel appearing for respondent Nos. 1,2 and 3, and perused the record.

In view of the nature of the order which is being passed below in the present writ petition it is not necessary to call for Counter Affidavit from the respondent Nos. 1, 2 and 3 or to issue notice to the respondent No. 4.

6. In view of the submission made by the learned Counsel for the petitioner-on the basis of the averments made in the writ petition, that no show-cause notice or opportunity was given to the petitioner to file any objections before the issuance of the Recovery Certificate dated January 21, 2008, I am of the opinion that the interest of justice would be sub-served in case the writ petition is disposed of with the following directions:

1. Within a month from today, the petitioner will file detailed objections before the respondent No. 2 (Deputy Labour Commissioner, Jhansi Region, Jhansi) alongwith a certified copy of this order.

2. The Deputy Labour Commissioner, Jhansi Region, Jhansi will consider the said objections, and after giving opportunity of hearing to the petitioner as well as to the respondent No. 4 (Rajesh), pass appropriate order in accordance with law expeditiously preferably, within a period of two months from the date of filing of the said objections alongwith certified copy of this order before him.

7. For a period of three months or till the disposal of the objections of the petitioner by the respondent No. 2, whichever is earlier, proceedings pursuant to the Recovery Certificate dated January 21, 2008 (Annexure 1 to the writ petition) will remain stayed.

8. In the event of default on the part of the petitioner in filing the objections alongwith certified copy of this order before the respondent No. 21 within the period aforementioned, the interim order granted above will stand automatically vacated.

9. The writ petition is, accordingly, disposed of with the above directions.

It is made clear that this Court has not adjudicated upon the claim of the petitioner on merits.