

**G. Sukumar Vs. the Competent Authority Under Minimum Wages Act Cum Deputy Commissioner of Labour li,**

**G. Sukumar Vs. the Competent Authority Under Minimum Wages Act Cum Deputy Commissioner of Labour li,**

**SooperKanoon Citation :** [sooperkanoon.com/848383](http://sooperkanoon.com/848383)

**Court :** Chennai

**Decided On :** Mar-31-2010

**Judge :** K. Chandru, J.

**Acts :** [Minimum Wages Act, 1948](#) - Sections 20, 22B(1) and 22B(2)

**Appeal No. :** W.P. No. 19024 of 2001

**Appellant :** G. Sukumar

**Respondent :** The Competent Authority Under Minimum Wages Act Cum Deputy Commissioner of Labour li,; the Labour as

**Advocate for Def. :** Murali, Government Adv. for Respondents 1 and 2

**Advocate for Pet/Ap. :** A.L. Ganthimathi, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**K. Chandru, J.**

1. The petitioner is carrying on photostat copy business by name 'Deepika Xerox' at Cuddalore. He employed the third respondent as a part-time employee in the said shop. On an inspection, the Assistant Inspector of Labour, Cuddalore filed an application before the first respondent under Section 20 of the [Minimum Wages Act, 1948](#) (for brevity, 'the Act'). The Authority held that the petitioner has not been paying minimum wages to the third respondent and is liable to pay the difference of minimum wages of a sum of Rs. 5,702.70 and since the minimum wages are not paid in time, he also imposed two times penalty of Rs. 11,405.40. The petitioner was directed to pay the said amount by the authority vide order dated 1.6.2001. Aggrieved by the same, the petitioner has filed this writ petition.

2. The writ petition was admitted on 11.10.2001. Pending the writ petition, interim stay was granted which was subsequently made absolute on 15.9.2003. Though the third respondent has been served privately, she has not appeared before this Court either personally or through counsel.

3. The defence taken by the petitioner was that subsequent to the order passed by the authority, he had paid the amount to the third respondent and she had executed a stamped receipt on 26.7.2001. When this fact was intimated to the first respondent, he has sent the impugned communication dated 3.8.2001 stating that such mode of payment is not acceptable and since the petitioner had not paid the minimum wages as directed by the authorities, the petitioner was asked to show cause as to why criminal prosecution should not be launched against him.

4. When the petitioner has been asked to show cause as to why prosecution should not be launched, the petitioner should have very well satisfied the authority about the payment of the amount to the third respondent. Even otherwise, under Section 22B(2) of the Act, no court can take cognizance of an offence unless an application is filed within one month from the grant of sanction and in case of sanction under Section 22B(1) of the Act, it has to be done by the State Government or the authority nominated for this purpose. Therefore, it is not as if the petitioner has no defence in case any proper complaint is lodged after getting sanction from the appropriate authorities. Until such time, the petitioner cannot stall the show cause notice and it is open for him to make his explanation. Even

otherwise, if at all any criminal case is lodged, the petitioner can put forth all the defence. This Court is not inclined to entertain a writ petition at the stage of show cause notice, as no right of the petitioner has been infringed by such notice.

In the result, this writ petition is dismissed. No costs.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**