



IN THE HIGH COURT OF JUDICATURE AT JABALPÜR (M.P.)

W.P. No. 5199 /2000

(14)

PETITIONER :

Dilip Singh Bhuval; S/o.
late Shri Lakhan Singh
Bhuval, aged 42 years,
Occupation Business, C/o.
Bhuval Bricks, Village
Balodi, Dist. Durg (M.P.)

V E R S U S

RESPONDENTS :

1. State of Madhya Pradesh,
Through Secretary,
Department of Labour,
Vallabh Bhawan, Bhopal
2. Assistant Labour Commissioner
Durg-cum-Inspector, Child
Labour (Prohibition and
Regulation) Act, 1986,
Durg, Dist. Durg (M.P.)
3. Collector,
Durg, Dist. Durg (M.P.)
4. Tehsildar,
Durg (M.P.)

PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF AN
APPROPRIATE WRIT OF MANDAMUS, CERTIORARI,

(101)

मामला क्रमांक W.P.No. 5199/2000 सन् 200

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
13-12-2000	<p>Shri Manindra Shrivastava, learned counsel for the petitioner.</p> <p>Shri Ranveer Singh, learned counsel for the State.</p> <p>As the return has already been filed by respondent No.2 who had issued the demand notices, the petition is finally heard.</p> <p>Taking shelter under the orders issued by the Supreme Court relating to prohibition on the employment of child-labour, respondent No.2 issued notices to the petitioner that he is required to deposit a sum of Rs.4,20,000/- as he had employed as many as 21 child labourers, contrary to the Prohibition Act. This Court required respondent No.2 to state on oath as to before issuance of the demand notices, any enquiry on the said allegation was made or not. Respondent No.2 in his reply-affidavit, had simply stated that ^{before} he issuing the demand notices, a survey was made and it was found that 21 child labourers were employed in the establishment of petitioner. In the reply-affidavit, it is not stated that any enquiry was made or any show-cause ^{issued} notice was/even to the petitioner. Respondent No.2, however, submits that on 29-7-1997, he had issued a show-cause notice to the petitioner and as no reply</p>	

मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p>was received from the petitioner, he had issued the demand notices.</p> <p>A perusal of Annexure R-2(1) dated 29-7-1997 would show that the same is not a show cause notice. In the said notice, it is clearly observed that the petitioner had employed certain child workers in his establishment in contravention of the directions of the Supreme Court, therefore, he must deposit a sum of Rs.20,000/- for each breach. Under Annexure R-2(1) the petitioner was required to deposit the amount and was not required to say anything in his defence.</p> <p>The demand notices dated 06-12-1997 reiterate the demand in relation to each breach for depositing the said amount in the welfare fund.</p> <p>A simple question which could be answered by respondent No.2 has not been answered. He was required to say whether any enquiry was made before issuing the demand notices or not. Instead of submitting the reply in terms of the query, he simply stated that he had issued some notices.</p> <p>As there is no assertion on the part of the</p>	

उच्च न्यायालय, मध्यप्रदेश, जबलपुर

W.P.No.5199/2000

मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p>respondents especially respondent No.2, that any enquiry before was made by respondent No.2/he issuing the demand notices or raising the demand, the principle of natural justice has been positively violated. When an order of demand leads to ^{civil} severe consequence, xx a person is entitled to be heard. In the least, it is expected of respondent No.2 that before taking an action, he would give some opportunity to the petitioner to submit his case before the said authority. The survey appears to be lopsided. With the reply nothing has been filed to show or suggest that certain statements were recorded or certain information was sought from the petitioner even on the spot.</p> <p>/Rao/</p> <p>The demand raised by the respondents is prima-facie illegal. It deserves to and is accordingly quashed. The respondents are free to take any action in accordance with law.</p> <p>Petition is allowed. No costs.</p>	<p>Sd/- R.S. Garg Judge</p>