



GAHC010003952013

Page No.# 1/9



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/613/2013

THE DIRECTOR and ANR.
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE KASARAGOD,
KERALA, PIN-671124

2: THE SCIENTIST - IN - CHARGE
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE RESEARCH
CENTRE
KAHIKUCHI
GHY-17
DIST- KAMRUP
ASSAM

3:

VERSUS

JITEN DAS and 15 ORS
VILL. MATIA AZARA, P.O. AZARA, DIST- KAMRUP, ASSAM, PIN-781017,
CASE NO. GIR 96/2010

2:TAPAN BAISHYA
VILL. AGCHIA
P.O. PALASHBARI
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 97/2010

3:BISHNU MEDHI
VILL. AZARA
AZAPARA
P.O. AZARA
DIST- KAMRUP
ASSAM



PIN-781017
CASE NO.G/R 98/2010

4:BRAJEN SHARMA
VILL. MAJIR GAON
P.O. PALASHBARI
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 99/2010

5:DIGANTA MEDHI
VILL. MEDHIPARA
AZARA
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 100/2010

6:RANJIT CH. DAS
VILL. MIRZAPUR
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 101/2010

7:NAGENDRA MEDHI
VILL. OZAPARA
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 102/2010

8:BIJAY CH. DAS
VILL. MIRZAPUR
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 103/2010

9:TUKU BAISHYA
VILL. KALITA PARA
P.O. AZARA
DIST- KAMRUP



ASSAM
PIN-781017
CASE NO.G/R 104/2010

10:FARID ALI
VILL. LOWER MIRZAPUR
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 105/2010

11:BIPUL BORUAH
VILL. OZAPARA
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 106/2010

12:SUSHIL KALITA
VILL. KALITAPARA
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 107/2010

13:NIZAM ALI
VILL. BARBARI
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 108/2010

14:KAN DAS
VILL. KAHIKUCHI
P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 109/2010

15:SONABAR DAS
VILL. KEOTPARA
VILL. AZARA
OZAPAR



P.O. AZARA
DIST- KAMRUP
ASSAM
PIN-781017
CASE NO.G/R 110/2010

16:THE REGIONAL LABOUR COMMISSIONER CENTRAL
RAM KRISHNA MISSION ROAD
ULUBARI
GHY-7
DIST- KAMRUPM
ASSA

Advocate for the Petitioner : MR.B C PATHAK

Advocate for the Respondent : MS.P GOGOI

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

Date : 05-01-2023

JUDGMENT & ORDER (ORAL)

Heard Ms. RB Bora, learned counsel for the petitioners. We have also requested Mr. UK Nair, learned senior counsel for his views on interpreting the provisions of Part II Schedule 1 of the Minimum Wages Act 1948 (for short, the Act of 1948). Mr. MK Sarma, learned counsel for the respondent workmen and Mr. SS Roy, learned CGC for respondent 16 being the Regional Labour Commissioner (Central) Ram Krishna Mission Road, Ulubari Guwahati.

2. The respondents No.1 to 15 herein are engaged as skilled labourers by the writ petitioners being the Central Plantation Crops Research Institute Kerala who also have their research centre at Kahikuchi, Guwahati and in fact the



petitioners are employed at the Research Center at Kahikuchi.

3. The respondents No.1 to 15 instituted a proceeding before the Regional Labour Commissioner (Central), Guwahati under the Act of 1948. Prior to instituting a proceeding before the Regional Labour Commissioner (Central), Guwahati, the petitioner also approached the Central Administrative Tribunal (for short, the CAT) for regularization of their services as well as for payment of minimum wages by way of Original Application No.53/2006, which stood rejected by the order dated 20.03.2007 by providing that as a separate authority is constituted under the Act of 1948, therefore, the jurisdiction of the CAT would not be available. In the resultant situation, the order dated 12.04.2011 was passed by the authority under the Act of 1948 and being aggrieved by the said order the present petitioners instituted WP(C)No.4085/2011 by raising the issue that the authority under the Act of 1948 had not given an opportunity to the writ petitioners to make their stand as to whether the respondents No.1 to 15 were in a scheduled employment as specified in the Schedule II to the Act of 1948. In the circumstance, the order dated 19.12.2011 was passed in WP(C)No.4085/2011 by which the matter was remanded back to the authority under the Act of 1948 for an adjudication under the Act as to whether the respondents No.1 to 15 were engaged in a scheduled employment. Consequent thereto, the order dated 28.09.2012 was passed by the authority under the Act of 1948 wherein the petitioners were required to deposit an amount of Rs.18,49,335.78/- and an amount of Rs.36,98,671.56/- and a further amount of Rs.55,48,007.34/- in the form of a demand draft in favour of the authority under the Act of 1948 for payment of wages to the respondents No.1 to 15 as was determined in the said order.



4. The grievance raised by the petitioners in the present writ petition is that the activities undertaken by the respondents No.1 to 15 are not covered by the provisions of Part II to Schedule 1 of the Act of 1948 and therefore the authority under the Act of 1948 did not have the jurisdiction to award the minimum wages to respondents No.1 to 15.

5. Ms. RB Bora, learned counsel for the petitioners refers to the provisions of Part II to Schedule 1 of the Act of 1948 to point out that there is also a requirement for preparation of market and delivery to storage or to market or to carriage for transportation to market of farm produce in order to include the activities of the petitioner within the Part II to Schedule 1 of the Act of 1948.

6. Ms. RB Bora, learned counsel for the petitioners based upon the materials on record makes a statement that the activities of the petitioners Central Plantation Crops Research Institute is only research based and whatever products are raised are not taken to the market for commercial purpose and as such do not satisfy the requirement of Part II to Schedule 1 of the Act of 1948 that the products are also required to be prepared for market, delivered to storage and further transported to the market of farm produce. In order to appreciate the contention of the petitioners, we refer to the Part II to Schedule 1 of the Act of 1948 which is extracted as below:

1. Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees, or poultry, and any practice performed by a farmer on a farm as incidental to or in



conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

7. A reading of the provisions of Part II Schedule 1 of the Act of 1948 makes it discernible that it includes employment in agriculture that is to say, in any form of farming, including the cultivation and tillage of the soil; dairy farming; the production, cultivation, growing and harvesting of any agricultural or horticultural commodity; the raising of live-stock, bees, or poultry; and any practice performed by a farmer on a farm as incidental to or in conjunction with farm operations including any forestry or timbering operations and the preparation for market and delivery to storage and for transportation to market of farm produce. A reading of the provisions makes it discernible that the provisions thereof is a wide based provision which includes many such activities as are stated in the provisions itself. It is the submission of Ms. RB Bora, learned counsel for the petitioners that all the provisions have to be read in conjunction with each other so as to include all such acts provided therein to be fulfilled in order to bring an organisation under the provisions of Part II to Schedule 1 of the Act of 1948. In other words, we are required to read the expression 'and' appearing in Part II to Schedule 1 of the Act of 1948 to be read as 'and' itself so that the entire provisions are conjunctive in nature. If the expression 'and' in a given provision is read to be 'and' and the result thereof leads to an absurdity, the expression 'and' can also be read to be as 'or'. By following the aforesaid principle of interpretation, if we read the expression 'and' in Part II Schedule 1 as conjunctive, it would have to be read that in order to bring the activities within the purview of Part II to Schedule 1 of the Act of 1948, there has to be

tillage of the soil, dairy farming, the production, cultivation, growing, harvesting of any agricultural or horticultural commodity along with raising of live-stock etc., which itself will lead to an absurdity. In other words, as a reading of the expression 'and' to be 'and' itself would lead to absurdity, we have to read the expression 'and' appearing in Part II to Schedule 1 of the Act of 1948 to be 'or'.

8. In order to understand the purport of the expression 'and', we further take note that the provision regarding any preparation for market and delivery to storage and for transportation to market of farm produce is provided within a bracket beginning with the expression 'including'. Any inclusive provision within a provision cannot give it a meaning that the said provision would have to be read independent to the main provision and isolate the same and be given its own meaning. If we read the inclusive provision of Part II to Schedule 1 of the Act of 1948, to understand that even the activities like preparation for market and delivery to storage and for transportation to market of farm produce related to an agricultural produce or raising of live-stock to be also an independent activity or a requirement for being included in Part II to Schedule 1 of the Act of 1948, it would mean that even if there is no such act of preparation for market and delivery to storage and for transportation to market of farm produce, the existence of the other provisions of Part II to Schedule 1 of the Act itself would satisfy the requirement of Part II to Schedule 1. In other words, a mere production of the agricultural, or dairy or horticultural products, without being prepared for market or transported to market would also bring it within the purview of Part II to Schedule 1 of the Act of 1948.

9. But as the provisions of Part II to Schedule 1 of the Act of 1948 is explicit



enough to indicate that the act of preparation for market and delivery to storage and for transportation to market of farm produce is inclusive in nature, any interpretation of an inclusive provision would be that such acts are also included in the main act and any exclusion of the inclusive acts would not render the main act to be ineffective.

10. In view of such conclusion being arrived, we are unable to accept the contention of the petitioners that as because the activities of the petitioners do not lead to any preparation for market and delivery to storage and for transportation to market for commercial purpose, therefore, their activities are not included under Part II to Schedule 1 of the Act of 1948. As it cannot be inferred that the activities of the petitioners being not leading to any preparation for market and delivery to storage and for transportation to market of farm produce would take them out of the purview of Part II to Schedule 1 of the Act of 1948, we do not find any merit in the writ petition and the same stands dismissed.

11. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant