

COURSE NAME - LAW
CLASS- B.A.LL.B-2ND SEM
SUBJECT- LABOUR AND INDUSTRIAL LAW-II
TOPIC- OBJECTS AND CONSTITUTIONAL
- VALIDITY OF THE M.W ACT 1948

By :-GURU DUTT
ASSISTANT PROFESSOR
SARASWATI INSTITUTE OF LAW
PALWAL

Introduction:

Our country is facing the problem of unemployment and this lead to work on wages which are even not able to fulfil the basic needs of workers and their family. Thus, the Minimum Wages Act, 1948 has been enacted to prevent exploitation of workers and to fix minimum wages in certain employments. The Minimum Wages Act, 1948 came into force on 15th March, 1948. The Act extends to whole of India.

Objects of Minimum Wages Act, 1948

The Minimum Wages Act has been passed for the benefits of workers. It came into existence to secure and for the welfare of workers in competitive market by providing minimum wages in certain employment. It empowers the Central And State Government to fix the minimum wage in certain employments to prevent the exploitation of labourers or unprivileged class of labours. The objectives of are:

To allot Fixed of minimum wages in schedule employment.

Empowers the Government to take steps regarding fixation of wages and to revise them in every five years.

To prevent exploitation of workers.

To provide appointment of Advisory Committee and boards

having equal number of representatives of both employers and workers.

To apply this law to the majority in organized sector.

The Constitutional Validity of The Minimum Wages Act,1948

India introduced the Minimum Wages Act in 1948, giving both the Central government and State government jurisdiction in fixing wages, The act is legally non-binding, but statutory. Payment of wages below the minimum wage rate amounts to forced labour. Wage Boards are set up to review the industry's capacity to pay and fix minimum wages such that they at least cover a family of four's requirements of calories, shelter, clothing, education, medical assistance, and entertainment. Under the law, wage rates in scheduled employments differ across states, sectors, skills, regions and occupations owing to difference in costs of living, regional industries' capacity to pay, consumption patterns, etc. Hence, there is no single uniform minimum wage rate across the country and the structure has become overly complex.

A. The act is not unreasonable

Individual employers might find it difficult to carry on the business on the basis of minimum wages fixed under the Act but this must not be the entire premise and reason to strike down the law itself as unreasonable.

Shamrao vs State of Bombay, (AIR 1962 Bom 97)

The restrictions, though they interfere to some extent with the freedom of trade or business guaranteed under Article 19(1)(g) of the constitution, are reasonable and, being imposed on the general interest of the general public, are protected by the terms of the clause (6) of the article 19.”

B. The Act doesn't violate Article 14 of the Indian Constitution

The article 14 of the Indian Constitution which relates to equality before the law, it must be noted that minimum wages are not fixed equally across the whole nation but they vary from occupation to occupation and industry to industry and from place to place.

The case of Uchinoy vs State of Kerala ,1962 SC12, further quotes the following , “ As regards to the procedure for fixing of the minimum wages, the ‘appropriate government’ has undoubtedly been given very large powers , but it has to take into consideration, before fixing wages, the advice of the committee if one is appointed on the representations on proposals made by persons who are likely to be affected thereby. The various provisions constitute an adequate safeguard against any hasty or capricious decision by the ‘appropriate government’.

Bhikusa Yamasa Kshatriya v. Sangamner Akola Bidi Kamgar Union ““On a careful examination of the various Acts and the machinery set up by this Act, Section 3(3)(iv) neither contravene Article 19(1) of the constitution nor does it infringe the equal protection clause of the constitution. the Courts have also held that the constitution of the committees and the Advisory Board did not contravene the statutory provisions in that behalf prescribed by the legislature”

C. Notification fixing different rates of minimum wages for different localities is not discriminatory.

“N.M.Wadia Charitable Hospital v. State of Maharashtra , 1993”

“ Fixing different minimum wages for different localities is permitted under the constitution and under labour laws, hence the question that any proviso of the Minimum Wages Act is in any way against the proviso of constitution is wrong.

As pointed out by one of the **India’s Union Labour and Employment Minister Shri Mallikarjuna Kharge**;; “The variation of minimum wages between the states is due to differences in socioeconomic and agro-climatic conditions, prices of essential commodities, paying capacity, productivity and local conditions influencing the wage rate. The regional disparity in minimum wages is also attributed to the fact that both the Central and the State Governments are the appropriate Governments to fix, revise and enforce minimum wages in Scheduled employments in their respective jurisdictions under the Act”. nst the proviso of constitution is wrong.

(D) Sanctity of The Minimum Wage Act

non payment of minimum wages is tantamount to 'forced labour' prohibited under Article 23 of the Constitution.

In the view of the Directive Principles of State Policy as contained in the Article 43 of the Indian Constitution, it is beyond doubt that securing of living wages to labourers which ensures not only bare physical subsistence but also the maintenance of health and decency, it is conducive to the general interest of the public.

public works ostensibly initiated by the government for the sole purpose of providing employment are subject to the Minimum Wage Act.

LEADING CASE

BIJAY COTTON MILLS LTD. Vs.

THE STATE OF AJMER. DATE OF JUDGMENT:

14/October /1954,

The Constitutional validity of this Act was attacked on the ground that it violates the guarantee of freedom of trade or business etc., envisaged by Article 19(1)(g) of the Indian Constitution, (Constitution of India, Article. 19(1)(g), 19(6)-Minimum Wages Act (XI of 1948), sections. 3,4 and 5-Appropriate

Government-Fixing minimum rate of wages-Whether offends fundamental rights guaranteed under Art. 19(1)(g.)

it was held that , the restrictions imposed upon the freedom of contract by the fixation of minimum rates of wages though they interfere to some extent with the freedom of trade or business guaranteed under Art. 19(1)(g) of the Constitution are not unreasonable and being imposed in the interest of general public and with a view to carry out one of the Directive Principles of State Policy as embodied in Art. 43 of the Constitution are protected by the terms of cl. (6) of Art. 19. It can thus be said that the provisions of the Act are bound to affect harshly and even oppressively a particular class of employers, who for purely economic reasons are unable to pay the minimum rate of wages fixed by the authorities , but have absolutely dishonest intention of exploiting their workers.

The fact that employer might find it difficult to carry on business on settled principle cannot be a sufficient reason for striking down the law itself as unreasonable. The poverty of labourers is also a factor to be taken into consideration while determining the question whether a particular provision is in the interest of the general public

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