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Industrial Disputes Act and Article 19(1)(g): Supreme Court Upholds Right to Close Business

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The Supreme Court of India recently delivered a significant judgment in the case of Harinagar Sugar Mills Ltd. (Biscuit Division) versus the State of Maharashtra. This case, which has its roots in a long-standing business relationship and subsequent disputes over the closure of an industrial unit, provides important insights into the legal framework governing industrial closures under the Industrial Disputes Act, 1947, and the constitutional right to shut down a business under Article 19(1)(g).

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The Background of the Case

Harinagar Sugar Mills Limited (HSML) had been engaged in biscuit manufacturing for Britannia Industries Limited (BIL) for over three decades. This arrangement was formalized under Job Work Agreements (JWA) that were periodically renewed. However, in May 2019, BIL terminated the JWA, citing a 180-day notice period as mandated by the agreement. This termination left HSML with no alternative but to close its biscuit division, as it had no other manufacturing avenues.

HSML applied for closure of its business, to the competent authorities on 26th August 2019, informing its workers via closure notices dated 28th August 2019. The application was made in accordance with the Industrial Disputes Act, 1947, which requires employers to seek prior permission from the appropriate government before closing an industrial establishment employing 100 or more workers.

The Government's Response and Subsequent Disputes

The Deputy Secretary of the Government of Maharashtra responded to HSML's application on 25th September 2019, stating that the application was lacking in details and requesting additional information. HSML provided further particulars on 10th October 2019, explaining the efforts made to prevent closure and the reasons for the proposed shutdown. However, the authorities again found the response lacking and asked for resubmission on 4th November 2019.

HSML contended that by 22nd November 2019, the permission for closure was deemed granted under Section 25-O(3) of the Industrial Disputes Act, 1947, as the appropriate government had failed to communicate its order within the stipulated 60-day period. This contention led to a series of legal proceedings, culminating in the Bombay High Court dismissing the writ petitions filed by HSML.

The High Court's Judgment and the Appeal to the Supreme Court

The Bombay High Court held that the letter dated 25th September 2019 was not an order but a request for additional information. It concluded that the application for closure was incomplete and that the deeming fiction under Section 25-O(3) did not apply. The High Court relied on internal file notings to support its conclusion that the application was deficient.

Dissatisfied with the High Court's decision, HSML appealed to the Supreme Court, arguing that the High Court had erred in relying on the wrong form (Form XXIV-B instead of XXIV-C) and that the application for closure was complete. HSML also contended that the deeming fiction under Section 25-O(3) should apply, and the closure should be deemed granted. They highlighted that the Deputy Secretary lacked the authority to ask for resubmission of the application.

The Supreme Court's Analysis and Decision

The Supreme Court, in its detailed judgment, held that the letter dated 25th September 2019 was not an order but a request for additional information. The Court emphasized that the Deputy Secretary lacked the authority to ask for resubmission of the application, as the appropriate authority vested solely with the Minister for Labour. The Court concluded that the application for closure was complete and that the deeming fiction under Section 25-O(3) applied.

The Court also made important observations regarding the right to carry on a business under Article 19(1)(g) of the Constitution. It noted that the right to close down a business is an integral part of the right to carry on a business, as guaranteed under Article 19(1)(g). This means that once a business is established, the owner has the fundamental right to decide whether to continue or cease operations. The Court cited its earlier judgment in Excel Wear v. Union of India (1978), where it was held that the right to close down a business is embedded in the right to carry on any business under Article 19(1)(g).

However, the Court acknowledged that while the right to close down a business is a fundamental right, it is not absolute. The state can impose reasonable restrictions on this right in the interest of the general public, as provided under Article 19(6). The Court referred to the Orissa Textile and Steel v. State of Orissa (2002) case, where it was held that the restrictions imposed by Section 25-O of the Industrial Disputes Act, 1947, are reasonable and in the interest of the general public.

The Supreme Court emphasized the need to balance the rights of the employer with the interests of the workers and the general public. The Industrial Disputes Act, 1947, provides a detailed framework for the closure of industrial undertakings to ensure a fair and regulated process. Employers intending to close an industrial establishment employing 100 or more workers must apply for prior permission from the appropriate government at least 90 days before the intended closure date. The application must clearly state the reasons for the intended closure and be served simultaneously on the representatives of the workmen. The appropriate government must conduct an enquiry and provide a reasonable opportunity for the employer, workmen, and other interested parties to be heard. Based on the genuineness and adequacy of the reasons provided, the interests of the general public, and other relevant factors, the appropriate government will pass a reasoned order granting or refusing permission. If the appropriate government does not communicate its order within 60 days of receiving the application, the permission for closure is deemed to be granted.

The Final Outcome and Compensation

The Supreme Court allowed the appeals, holding that the application dated 28th August 2019 was complete in all respects. The Court concluded that the 60-day period for deemed closure should be calculated from that date. The Court also directed HSML to pay an additional Rs. 15 crores as compensation to the employees, in addition to the gratuity they were entitled to. This compensation was intended to provide some measure of relief to the workers who were losing their jobs due to the closure of the biscuit division.

Conclusion

The Supreme Court's judgment in this case highlights the importance of adhering to the legal framework for industrial closures under the Industrial Disputes Act, 1947, and the constitutional right to carry on a business under Article 19(1)(g). The Court emphasized the need to balance the rights of employers with the interests of workers and the general public. This case shows the need for following prescribed procedures and respecting the rights of all stakeholders in industrial disputes.

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