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LABOUR INSPECTOR, CENTRAL

v.

THE CHITTAPORE STONE QUARRYING CO. (P) LTD. & ORS.

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April 5, 1972

[C. A. VAIDIALINGAM, D. G. PALEKAR AND K. K. MATHEW, JJ.]

Minimum Wages Act 1948, Item 8 of Part No. 1 of Schedule—Stone-breaking and stone crushing, meaning of—Shahabad stone, quarrying of—Whether employment in stone breaking and stone crushing.

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The Minimum Wages Act 1948 was enacted to provide minimum rates of wages in certain employment mentioned in the Schedule. Item No. 8 of part No. 1 of the Schedule refers to employment in stone-breaking or stone crushing. By notification under the Act minimum wages was fixed for those employed in stone breaking or stone crushing in Gulbarga District, Mysore State. The appellant Inspector was of the view that respondent No. 1 which was quarrying a variety of stone called Shahabad stone in Gulbarga District was engaged

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in the activity of stone breaking and stone crushing and since respondent No. 1 was in breach of some of the provisions of the Act and the rules made thereunder he adopted proceedings to enforce the provisions in the court of the Munsif Magistrate. Respondent No. 1 filed a writ petition in the High Court for quashing the said proceedings contending that its activity was not one of stone breaking or stone crushing but of mining limestone slabs. According to him after removing the layers of earth and the thick layers of limestone thin layers of limestone were brought out and these were then cut up into regular sizes and this did not amount to stone breaking or stone crushing. The High Court held that removing Shahabad stone involved breaking and crushing but on the view that what was broken or crushed was not 'stone' but in the nature of a mineral quashed the proceedings. In appeal by certificate,

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HELD: *Per Vaidialingam and Palekar, JJ.* Stone breaking and stone crushing in relation to limestone is that activity in which non-stratified limestone, recognised as rock, is broken or crushed into irregular fragments or sizes and then marketed or otherwise used. The more valuable and rarer stratified limestone which is suitable for use as dimension stone is not the stone commercially exploited for breaking and crushing. Hence the employment of quarrying Shahabad stone is not the same as the scheduled employment of stone breaking or stone crushing referred to in item 8 of the Schedule to the Minimum Wages Act. The High Court was, therefore right in quashing the proceedings. [87A-C]

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Madhya Pradesh Mineral Industry Association v. The Regional Labour Commissioner Jabalpur and Ors., [1960] 3 S.C.R. 476, applied.

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Per Mathew, J. (dissenting) There is no distinction between stone obtained by crushing or breaking of non-stratified rock and that obtained by cutting stratified rock, for the purpose of construing the word 'stone' in item No. 8 as stone obtained in both the cases is a piece of rock.

[88H]

In Venkataramanias Law Lexicon and in the Shorter Oxford Dictionary quarrying is defined to include cutting. When this Court in the cases of *Mohanlal Devichand Shah* and *Madhya Pradesh Mineral Industry*

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Association said that employment in stone-breaking or stone-crushing refer to "quarry operation" this Court was fully alive to the process involved in quarry operation. [90F-H]

It must therefore be held that employment in quarrying operation for extraction of Shahabad stone is employment within the ambit of item 8 of Part I of the Schedule. [91B]

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Madhya Pradesh Mining Industry Association v. The Regional Labour Commissioner, Jabalpur and Ors., [1960] 3 S.C.R. 476, *Ray Limestone and Co. v. Sub-Divisional Officer, Ranchi*, A.I.R. 1968 Patna 39 and *State of Maharashtra v. Mohanlal Devichand Shah*, [1965] 3 S.C.R. 461, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 40 of 1968.

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Appeal from the judgment and order dated July 25, 1967 of the Mysore High Court in Writ Petition No. 1860 of 1965.

R. H. Dhebar, for the appellant.

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K. Srinivasamurthy and *Naunit Lal*, for respondent No. 1.

R. B. Datar, for respondent No. 2.

The Judgment of Vaidialingam and Palekar, JJ. was delivered by Palekar, J. Mathew, J. delivered a dissenting opinion.

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Palekar, J. This appeal by certificate granted by the High Court of Mysore raises an interesting point as to whether quarrying of Shahabad stone is an activity which could be properly described as "stone breaking or stone crushing" mentioned in the Schedule to The Minimum Wages, Act, 1948.

By notification issued by the Appropriate Government under the Minimum Wages Act, 1948 minimum wages were fixed for those employed in stone breaking or stone crushing in Gulbarga District. The appellant Inspector was of the view that respondent no. 1 Chittapure Stonequarrying Company (Pvt.) Ltd., Chittapur which was quarrying a variety of stone called Shahabad Stone in Chittapur, District Gulbarga, was engaged in the activity of stone breaking and stone crushing, and since respondent no. 1 was in breach of some of the provisions of the Minimum Wages Act, 1948 and the rules made thereunder he adopted proceedings to enforce the provisions in the court of the Munsif Magistrate, Chittapur, respondent no. 3. Respondent no. 1 thereupon filed a writ petition for quashing the proceedings (Writ Petition No. 1860 of 1965) in the Mysore High Court alleging, *inter alia*, that the provisions of the Minimum Wages Act did not apply to the particular activity in which it was engaged because, in its submission, the activity was not one of stone breaking or stone crushing

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(Palekar, J.)

A but of mining limestone slabs. The High Court held that the process of removing Shahabad stone involved breaking and crushing but it was also of the view that what was broken or crushed was not really 'stone' but a substance which very nearly approximated to a mineral. In that view it quashed the proceedings before the Munsif Magistrate.

B The activity in which respondent no. 1 is engaged is described as follows :

“The earth which varies in depth from place to place over the limestone layers is removed by manual labour. This work of removing the soil is known as earth-work. The thin limestone layers from which the flooring stones are cut into regular sizes and which is the main object of mining by us are reached after removing some thick layer of limestone over these thin layers. The removal of the overburden of earth and thick layers of limestone is incidental to the mining operations conducted by us. The main operation of our mining is to bare open the thin layers of limestone and cut them into regular sizes. It is submitted that no stone breaking or stone crushing operations are carried on in our mines.”

The question is whether the operation described above can be appropriately described as stone breaking or stone crushing.

E The object of the Minimum Wages Act, 1948, as is well-known, is to provide minimum rates of wages in certain employments. Section 2(g) defines “scheduled employment” as “an employment specified in the Schedule, or any process or branch of work forming part of such employment”. The Schedule has two parts and item no. 8 in part no. 1 refers to employment in stone breaking or stone crushing. The Act, therefore, provides

F that where the appropriate Government fixes by notification a minimum wage to be paid to those who are employed on stone-breaking or stone-crushing the employees will have to be paid the minimum wage so fixed. It was the appellant's case that such a notification is in operation in Gulbarga District of Mysore State and since the respondent no. 1 was engaged in the activity of

G stone-breaking and stone-crushing in which workers have been employed the respondent was liable to pay minimum wages, as fixed.

H There is no definition of stone-breaking or stone-crushing in the Act. But we know what that activity is in the common parlance of the business and commercial world. It appears to us that it will be a futile exercise in semantics to try to explore what the content of a stone is—whether it is a mineral or not, or

whether it is so called when it is obtained in open quarries or subterranean mines or whether breaking or crushing would also include cutting in dimensional forms. In the common acceptance of the business and commercial world, stone-breaking and stone-crushing is a commercial activity in which stone, in the sense of common rock, is reduced to fragments by mechanical means such fragments being marketed or used for profit. In this connection reference may be made to *Madhya Pradesh Mineral Industry Association v. The Regional Labour Commissioner Jabalpur and others*⁽¹⁾ and to the following observations therein at page 485.

"The word "stone" as popularly understood in ordinary parlance particularly when it is coupled with the word "breaking" or "crushing" would exclude manganese. When we speak of stone-breaking or stone-crushing normally we refer to stone in the sense of "piece of rock," and that would exclude manganese. Employment in stone-breaking or stone-crushing in this sense would refer to quarry operations."

Information extracted from the Encyclopaedia Britannica under the words "stone" and "quarrying", shows that common rock which is commercially exploited falls broadly two categories, one igneous, like granite, and the other sedimentary, like limestone. These rocks undergo a qualitative change under tremendous mountain pressures and then they are known as metamorphic. Limestone, for example, becomes marble.

All the above categories of rocks are generally found in two varieties—stratified and nonstratified. When rock is found in thin layers one over the other, it is known as stratified. Where it is not so found, it is non-stratified. Commercial exploitation of these two varieties is distinct. Non-stratified rock, which is found in abundance in quarries or otherwise, yields to profitable exploitation by breaking and crushing into smaller irregular fragments. The rarer stratified stone is much more valuable as it is found in layers which are skilfully removed to give large dimensional slabs. In the first case there is generally blasting with the help of explosives. In the second blasting is avoided as it will cause damage to the layers. The end product in both is used for construction mostly in buildings and roads. In limestone, as in all stone, suitable stratified layers are commercially exploited for dimensional quarrying by a very skilful process. The product namely the slab after being polished is used for flooring, facing and the like. Quarrying of Shahabad stone with which we are concerned is of this type. The other kind of limestone, that is to say, non-stratified limestone is suitable for being broken and crushed into smaller fragments and it has its commercial use in building construction.

(1) [1960] 3 S.C.R. 476.

(Mathew, J.)

A manufacture of cement and the like. Stone-breaking and stone-crushing in relation to limestone is, therefore, that activity in which non-stratified limestone, recognised as rock, is broken or crushed into irregular fragments or sizes and then marketed or otherwise used. The more valuable and rarer stratified limestone which is suitable for use as dimension stone is not the stone commercially exploited for breaking and crushing. Hence the employment of quarrying Shahabad stone is not the same as the scheduled employment of stone breaking or stone crushing referred to in item 8 of the Schedule to the Minimum Wages Act. Consequently the minimum wages fixed for the employment of stone-breaking and stone-crushing will not apply to the operation of quarrying Shahabad stone which is the main activity of respondent no. 1.

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C The High Court was, therefore, right in quashing the proceedings under the Minimum Wages Act and the appeal must be dismissed. The appellant shall pay the costs of respondent no. 1.

D **Mathew, J.** The facts have already been stated. It is, therefore, unnecessary to rehearse them.

E The question for consideration is whether Shahabad stone is 'stone' within the meaning of that expression in item No. 8 in part 1 of the schedule and whether employment in quarrying Shahabad stone is "employment in stone-breaking or stone-crushing" within the meaning of the said item No. 8.

In the affidavit in support of the writ petition, the nature of the work involved in quarrying Shahabad stone is described as follows :—

F "The earth which varies in depth from place to place over the limestone layers is removed by manual labour. . . . The thin limestone layers from which the flooring stones are cut into regular sizes and which is the main object of mining by us, are reached after removing some thick layers of limestone over these thin layers. The removal of the overburden of earth and thick layers of limestone is incidental to the mining operations conducted by us. The main operation of our mining is to bare open the thin layers of limestone and to cut them into regular sizes. . . ."

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H The High Court was of the view that the word 'stone' occurring in item No. 8 has to be understood as a piece of ordinary rock and that Shahabad stone cannot be regarded as the ordinary rock of the district but an exceptional substance with exceptional quality about it and, therefore, it is not 'stone' within the meaning of item No. 8 of the schedule.

In *Madhya Pradesh Mining Industry Association v. The Regional Labour Commissioner, Jabalpur and Others*⁽¹⁾ this Court said :

"In a chemical or geological sense stones may include manganese and that is one of the meanings given to the word in the Shorter Oxford Dictionary. On the other hand, the word 'stone' as popularly understood in ordinary parlance, particularly when it is coupled with the word "breaking" or "crushing" would exclude manganese. When we speak of stone-breaking or stone-crushing normally we refer to stone in the sense of 'piece of rock' and that would exclude manganese. Employment in stone-breaking or stone-crushing in this sense would refer to quarry operations. . ."

Therefore, the word 'stone' in item No. 8 must be taken as used in the sense of a piece of rock; the question then is whether Shahabad stone is 'stone' in that sense for the purpose of item No. 8. Shahabad stone is nothing but limestone. The companies which have been quarrying and selling these limestone slabs manufacture 4 different varieties which are used as building material for flooring, roofing, etc. (see B. Rama Rao, *Mineral Resources of Bidar, Gulbarga and Raichur Districts*, published in Bulletin No. 23 of Department of Mines and Geology, Bangalore, 1964, p. 51).

Rocks are of three kinds; igneous, sedimentary and metamorphic. Limestone is a principal kind of sedimentary rock (see *Encyclopaedia Britannica*, Vol. 10, pp. 163-165). 'Stone' for the purpose of item No. 8 will include limestone :

"Stone, as the word is most generally used, is a piece of rock or of the solid crust of the earth, and hence of natural origin and generally of inorganic composition. . . . Kinds of stones or rocks are distinguished by prefixes e.g., limestone, sandstone,"

(See *Encyclopaedia Britannica*, Vol. 21, p. 436).

But it is said that rocks are generally found in two varieties—stratified and non-stratified—, that when rock is found in thin layers one over the other, it is known as stratified and where it is not so found, it is non-stratified. It is also said that non-stratified rock which is found in abundance in quarries or otherwise, yields to profitable exploitation by breaking and crushing into smaller irregular fragments and that stratified stone is much more valuable as it is found in layers which are skilfully removed to give large dimensional slabs. I am unable to see any distinction between stone obtained by crushing or breaking of non-stratified rock and

(1) [1960] 3 S.C.F. 476 at p. 485.

(Mathew, J.)

A that obtained by cutting stratified rock, for the purpose of constructing the word 'stone' in item No. 8 as stone obtained in both the cases is a piece of rock.

B In *Madhya Pradesh Mining Industry Association v. The Regional Labour Commissioner, Jabalpur*⁽¹⁾, the mining operation was for extraction of manganese ore and the process consisted of removal of over-burden, breaking of big mineral stones like boulder to get at manganese. On these facts, the Court held that stone-breaking or crushing was incidental to the extraction of manganese. The Court further said that the operation of stone-breaking or stone-crushing referred to in item No. 8 of part I of the schedule must refer to the main operation in the process and not to the incidental operation. The question whether a particular operation is main or incidental, therefore, arose for consideration in respect of the mining operation itself. It is obvious that the paragraph in the affidavit in support of the writ petition which has already been extracted was inserted with an eye to bring the case within the ambit of this ruling. But here, the limestone itself is extracted for the purpose of being used as building material for flooring and roofing. The operation of quarrying limestone, therefore, is not an incidental purpose but the main purpose itself.

C In *Ray Limestone and Co. & another v. Sub-Divisional Officer Ranchi*⁽²⁾, the Court was concerned with the question whether quarrying operation for extracting limestone would involve employment in stone-breaking and stone-crushing within the meaning of item 8. The Court held that quarrying of limestone involved stone-breaking or stone-crushing and that employment in the quarry would attract item No. 8 of the schedule.

F But counsel for the 1st respondent contended that quarrying operation in extracting limestone does not involve stone-breaking or stone-crushing. He contended that only a restricted meaning can be given to the word "stone-breaking", that breaking a piece according to size from a large block of rock by a sharp weapon would not be "stone-breaking" or "stone-crushing", and that it is only when rock is blown up by a dynamite or broken by a sledge hammer or other blunt instrument that the process can be called "stone-breaking" or "stone-crushing". In other words, the contention was, if rock is broken to pieces by cutting with a sharp weapon, that would not involve "stone-breaking" or "stone-crushing". This, I think, is too metaphysical a distinction to be imported in the construction of item 8 of the schedule. Looking at the object of the Act, I do not think that the distinction between cutting rock into pieces by a sharp instrument and breaking it into

(1) [1960] 3 S.C.R. 476.

(2) A.I.R. 1968 Patna 39.

pieces by an instrument like a hammer, though fine from a meticulous linguistic stand-point would be rational from the purposive approach. Both processes involve "stone-breaking". I agree with the High Court when it said :

" we do not see why stripping open thin layers of Shahabad stone and cutting them to regular sizes, which are the main operations, should not be regarded as stone-breaking or stone-crushing in a quarry so as to bring it within the ambit of item 8 in the schedule. Consequently, we are unable to accept the contention of Mr. Breenivasa Murty that no stone-breaking or stone-crushing operations are involved in quarrying of Shahabad stones or that such operations are incidental and not the main operations . . . "

In *State of Maharashtra v. Mohanlal Devichand Shah*⁽¹⁾ Sikri J. as he then was, speaking for the Court, quoted with approval the following passage from *Madhya Pradesh Mineral Industry Association v. The Regional Labour Commissioner, Jabalpur*⁽²⁾.

"When we speak of stone-breaking or stone-crushing normally we refer to stone in the sense of "piece of rock" and that would exclude manganese. *Employment in stone-breaking or stone-crushing in this sense would refer to quarry operations.*"

and said that :

"This Court thus read Entry 8 (item 8) to refer to quarry operations . . ."

"Quarry" is defined in Venkataramaiya's Law Lexicon, Vol. II, 1971 Ed., p. 1322, as follows :—

"As a noun the term 'quarry' has been defined as the spot where rock is quarried . . . an excavation or other place from which stone is taken by *cutting*, blasting or the like . . . It is open excavation usually for obtaining building stone, slate or limestone . . ."

In Shorter Oxford English Dictionary, 3rd edition, p. 1636, the meaning of 'quarry' is given as hereunder :—

"An excavation from which stone for building, etc., is obtained by *cutting*, blasting or the like".

When this Court said that employment in stone-breaking or stone-crushing would refer to "quarry operation" this Court was fully alive to the process involved in quarrying operation. That

(1) [1965] 3 S.C.R. 461, at p. 465-6.

(2) [1960] 3 S.C.R. 476.

(Mathew, J.)

A the operation involves the extraction of limestone by cutting also is clear from the definition of quarry.

B I, therefore, come to the conclusion that employment in quarrying operation for extraction of Shahabad stone is employment within the ambit of item 8 of Part I of the Schedule. I would allow the appeal and dismiss the writ petition without any order as to costs.

ORDER

In accordance with the judgment of the majority, the appeal is dismissed. The appellant shall pay the costs of respondent No. 1.

C G.C.

Appeal dismissed.