

2022 LiveLaw (SC) 178

IN THE SUPREME COURT OF INDIA

L. NAGESWARA RAO; PAMIDIGHANTAM SRI NARASIMHA, JJ.

Special Leave to Appeal (C) No(s).1917/2022; 17-02-2022

STATE OF HARYANA VERSUS FARIDABAD INDUSTRIES ASSOCIATION & ANR.

Practice and Procedure - Stay of legislation - Stay of legislation can only be when the Court is of the opinion that it is manifestly unjust or glaringly unconstitutional - Sufficient reasons should be given for staying legislations.

Haryana State Employment of Local Candidates Act, 2020 - Constitutional Validity - Interim order passed by Punjab & Haryana High Court staying the implementation of the Act set aside - Stay of legislation can only be when the Court is of the opinion that it is manifestly unjust or glaringly unconstitutional - Sufficient reasons should be given for staying legislations.

(Arising out of impugned Interim order dated 03-02-2022 in CWP No.24967/2021 passed by the High Court Of Punjab & Haryana At Chandigarh)

For Petitioner(s) Mr. Tushar Mehta, Ld. SG Mr. B.K. Satija, AAG/AOR Mr. Rajat Nair, Adv Mr. Jagbir Malik, AAG Mr. Madhav Sinhal, Adv Mr. Shekhar Raj Sharma, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv., Mr. Shyam Divan, Sr. Adv. Mr. Chetan Mittal, Sr. Adv. Mr. Malak Manish Bhatt, AOR Mr. Tushar Sharma, Adv Ms. Neeha Nagpal, Adv. Mr. Himanshu Gupta, Adv Mr. Rajat Bector, Adv. Mr. Udbhav Nanda, Adv. Mr. S HariHaran, Adv Mr. Tushar Sharma, Adv Ms. Jaikriti S. Jadeja, AOR Ms. Prapti Allagh, Adv Mr. Dushyant Dave, Sr. Adv. Ms. Neha Sangwan, Adv. Mr. Shiv Vinayak Gupta, Adv. Mr. Jeetender Gupta, AOR Mr. Puneet Sharma, AOR Mr. Sidharth Dias, Adv. Mr. Vishal Sharma, Adv Mr. Mahesh Kumar, Adv. Mr. Dhawesh Pahuja, Adv. Mr. Umrao Singh Rawat, Adv. Ms. Devika Khanna, Adv. Mrs. V D Khanna, AOR Mr. VMZ Chambers, AOR

ORDER

The constitutional validity of Haryana State Employment of Local Candidates Act, 2020 ('the Act') has been challenged by the Respondent – Faridabad Industries Association and others before the Punjab and Haryana High Court. On 3rd February, 2022, the High Court stayed the implementation of the Act. Aggrieved by the said Order, State of Haryana is before us by filing this special leave petition.

The learned Solicitor General of India appearing for the State of Haryana, submitted that the impugned order staying the legislation is contrary to the law laid down by this Court. He relied upon several judgments of this Court in which it has been held that there is a presumption of legality in favour of the legislation and it is ordinarily not stayed unless the legislation is prima facie unconstitutional or manifestly illegal. He further submitted that no reasons have been given by the High Court while staying the impugned legislation.

Mr. Dushyant Dave, learned senior counsel appearing for respondent no.1, took us through the order passed by the High Court to argue that impugned order cannot be said to be vitiated due to non application of mind. The High Court was *prima facie* satisfied that the legislation is unconstitutional for which reason the interim order was passed. He stated that over 48,000 companies which are registered in the State of Haryana, would face immense hardship as they cannot employ anybody from outside the State from the date of commencement of the Act. He submitted that, if this Court feels that reasons have to be given by the High Court, the order passed by the High Court should be continued and the High Court may be requested to decide the matter finally.

Mr. Shyam Divan, learned senior counsel appearing for Manesar Industrial Welfare Association adopted the arguments of Mr. Dushyant Dave. In case, this Court is setting aside the Order passed by the High Court, Mr. Shyam Divan submitted that the impugned order should be treated as an ad interim order and the High Court can be requested to decide the Interlocutory Application within a time frame. In the alternative, he submitted that a direction can be given by this Court to the State Government not to take coercive steps against the employers while requesting the High Court to decide the Writ Petition at the earliest.

Courts are reluctant to pass interim orders staying legislations. Stay of legislation can only be when the Court is of the opinion that it is manifestly unjust or glaringly unconstitutional. No reasons are given by the High Court in support of the impugned order by which a legislation is stayed. Therefore, the impugned order is set aside.

The impugned order dated 03rd February, 2022 passed by the High Court is set aside as the High Court has not given the sufficient reasons for staying the legislation.

We do not intend to deal with the merits of the matter as we propose to request the High Court to decide the Writ Petition expeditiously and not later than a period of four weeks from today. The parties are directed to be present before the High Court on 22nd February, 2022 for fixing the schedule of hearing. The parties are directed not to seek adjournment.

In the meanwhile, the State of Haryana is directed not to take any coercive steps against the employers.

The Special Leave Petition is disposed of.

I.A. Nos. 20323 and 20178 of 2022 - Applications for intervention are allowed. Pending application(s), if any, shall stands disposed of.