

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

(DIST: AHMEDABAD)

Special Civil Application No. 8642 of 1989

The Self Employed Women's Association
and others.

...Petitioners

V/s.

The Regional Provident Fund Commissioner
and others.

...Respondents

I N D E X

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IN THE HIGH COURT OF GUJARAT,
DISTRICT AHMEDABAD.

SPECIAL CIVIL APPLICATION NO. 8642 of 1989.

In the matter of Constitution of
India Articles 226 and 227; and
in the matter of the Employees'
Provident Fund Act, 1952; and
in the matter between

1. The Self Employed Women's Association
(SEWA) through its Secretary for and
on behalf of its Union Members - Hand
Bidi Workers.
2. Balamma Coraiya (50 years)
Pathan ni chali,
Saraspur, Ahmedabad-21.
3. Kalawati Saina (40 years)
Pili Chal, Opp. Vijay Petrol Pump,
Rakhial, Ahmedabad. Petitioners.

versus.

1. The Regional Provident Fund Commissioner,
" Bhavishyanidhi Bhavan ",
Near Reserve Bank of India, Income Tax
Circle, Ashrafi Road,
Ahmedabad-380 014.
2. M/s. Jivraj Bidi Works,
Gomatipur, Ahmedabad . . . Respondents.

MOST RESPECTFULLY SHEWETH :-

The humble petition of the abovenamed petitioners most respectfully sheweth; that the petitioners being aggrieved by the order of the Regional Provident Fund Commissioner, Respondent No. 1 herein dated 18th August 1989, seek to file the present petition challenging the aforesaid order as being violative of the fundamental guarantees and constitutional rights under Articles 14 and 21 of the Constitution and particularly Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as " the Act ").

The facts leading to the present petition are as follows :-

(1) The petitioners respectfully submit that almost 200 members of the petitioner No. 1 Union have been Home Bidi Rollers for the Respondent No. 2, namely, M/s. Jivraj Bidi Works, Gomatipur, Ahmedabad, for the last 25 years, depending upon the facts and circumstances of each of the members. The petitioners were all are rolling Bidis ranging from 500 to 2,000 Bidis per day for the Respondent No. 2 Since 1962, The petitioners respectfully submit that despite being regularly employed by the respondent No. 2 and working uninterruptedly for the Respondent No. 2, they have been unjustly

and illegally denied the benefits of the various Labour Welfare Legislations including the benefits ~~afforded~~ under the said Act, which denial by the Respondent No.1 and 2 has been challenged in the present petition. A copy of the impugned order passed by the Respondent No.1 on 18th August 1989, is marked and annexed herewith as ANNEXURE 'A'.

(2) The petitioners respectfully submit that by a deliberate strategy and deception the present petitioners have been denied the benefits of Section 7A of the said Act and the other benefits by the Respondent No.2 herein. In consequence whereof the members of the petitioner No.1 Union through SEWA raised a dispute with the Respondent No.2 as early as in 1980. However, since the dispute could not be satisfactorily resolved, the petitioners through SEWA filed a dispute before the Respondent No.1 authority to determine as to whether the members of the petitioner Union were entitled to the benefits under the said Act and ^{the consequential} ~~its~~ consequences. *reliefs.*

(3) The petitioners respectfully submit that consequent to the filing of the dispute, the Regional Provident Fund Commissioner, Respondent No.1 herein, was pleased to depute Enforcement Officers to examine the situation personally and on the spot by examining and

(5) The Petitioners respectfully submit that in fact the said report of the Enforcement Officers specifically made a finding on the above facts that the benefits of the Provident Fund may be extended to the home Bidi workers. A copy of the said report of the Enforcement Officers dated 12-8-1988, referred to in the impugned order is an integral part of the impugned order at ANNEXURE 'A'. The Petitioners seek leave to refer to and rely upon the same at the relevant time.

(6) The Petitioners respectfully submit that in view of the specific findings mentioned hereinabove by the Enforcement Officers, the Respondent No.1 could not have reasonably and logically concluded that the home Bidi workers were not entitled to the benefits of the said Act. In fact, it is respectfully submitted that no reasonable person could have ^{arrived} right at such a unjust and unfounded decision as is under challenge in the present petition, at ANNEXURE 'A'. The Petitioners respectfully submit that in view of the specific findings of the Enforcement Officers in their said report dated 12-8-1988, the Respondent No.1 authority could have arrived that only one specific finding, namely, that the home Bidi workers and members of the present petitioner Union were the employees of the Respondent No.2 and were therefore entitled to all the