

[MHA Notification on Full Wages] SC Says 'Interim Order Restraining Coercive Action against Employers in Jute Mills Case to Continue'; Adjourns Other Connected Matters

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The Supreme Court on Tuesday adjourned a batch of petitions challenging the direction passed by the Union Ministry of Home Affairs on March 29 directing employers to pay full wages to workers without deduction during lockdown. Court also directed the Centre to file reply and listed the matters after two weeks.

"Treat with urgency, File a response" the Bench told the Centre.

Furthermore, in the Jute Mills Association case the same bench of Justices Ashok Bhushan, Sanjay Kishan Kaul & MR Shah directed that the interim order passed on May 15 restraining coercive action against the employer for non-payment of wages as per MHA direction shall continue.

Attorney General KK Venugopal appeared for the Centre and informed the bench that a new notification had now been passed by the Government on 17 May which superseded the earlier 29 March notification.

In light of this, court granted more time to the Centre to file reply and listed the matter after two weeks.

Subsequently, in the other two cases, Senior Advocate Mukul Rohatgi (appearing for Jute Mills Association) argued that under the "jute control order", all employers have to pay fixed amount.

"This case cannot be tagged with others. This is a peculiar one. Though during lockdown we were granted exemption but still we carried on as we are essential commodity" – Rohatgi Court at this juncture, directed that the May 15 interim order shall continue to operate as applicable.

Background

On May 15, the bench had not passed any interim order and issued notices returnable within a week in the petitions filed by Ficus Pax Private Ltd, Ludhiana Hand Tools Association, The Twin City Industrial Employers Association, Rajasthan Steel Chamber, Instruments and Chemicals Private Ltd and others, Chamber of Small Industry Association and others, Kerala State Small Industries Association, Federation of Industries and

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Association, All India Federation of Master Printers, Teknomin Construction Limited and Garments Exports Manufacturing Association and others.

The petition(s) filed by Hand Tools Manufacturers Association and Jute Mills Association was also listed on May 19 in which interim orders were passed.

All the above mentioned petitions challenge the order issued by Home Secretary on March 29 invoking powers under Section 10(2)(l) of the Disaster Management Act 2005, which directed as follows :

"All the employees, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown"

The MHA direction was challenged as unreasonable and arbitrary and as violative of the fundamental right to trade and business of the employers. Since operations are completely shut down during the lockdown, it is impossible for the employers to continue to bear the burden of full salary of employees, the petitioners submitted.

The petitioner(s) have also raised the argument that the impugned direction was beyond the scope of powers conferred under the Disaster Management Act.

"Interpreting Section 10(2)(l) of the Disaster Management Act 2005 as conferring power on the Central Government to direct Private Establishment to make full payment of wages to the employees during the lockdown period is arbitrary and violative of Articles 14, 19(1)(g) and 300A of the Constitution of India", said one of the pleas.