
**CASE ANALYSIS: HUSSAIN BHAI CALICUT V. ALATH
FACTORY THOZHILALI UNION, AIR 1978, 1978 AIR 1410,
1978 SCR (3)1073**

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INTRODUCTION

With the huge number of legislations that have resulted from it, Indian labour laws appear to be extremely protective of its unorganised sector, but the truth speaks for itself, with labour being a topic of Concurrent List. Although legislation such as the Industrial Disputes Act (1947) changed labour reform in India, other characteristics, such as the one discussed in this case, remain. Even with specific legislations such as the Contract Labour (Regulation and Abolition) Act of 1970, many issues remain unsolved. The case established one of the most important concepts of labour law, namely, the regular employment of industrial employees who were first hired through an intermediary, in this case, independent contractors, when the intermediaries shied away from the obligation of providing them with work.

FACTS

In this case, the petitioner was the proprietor of a rope-making enterprise. He'd recruited some contractors to help him find workers for his plant. Some of the workers were turned down for work because they were engaged by contractors rather than the plant.

The respondent brought the case to the Industrial Court because they were denied employment. The Industrial Court ruled in favour of the workers' union, and the appellant's position was affirmed by the Kerala High Court on appeal.

The owner of the business filed an appeal with the Supreme Court, claiming that he and the workers had no employer-employee connection because they were hired by the contractors.

ISSUE

Is it true that employees employed by independent contractors to work in an employer's factory fall under the definition of "workman" under Section 2(s) of the Industrial Disputes Act 1947?

JUDGMENT

RATIO DECIDENTI

The Court affirmed the lower court's findings and denied the leave petition, deciding in the Respondent Union's favour. The causes behind this were as follows:

The fact that employees were refused employment, that they contributed significantly to the industry, that raw materials for the job were supplied by the management, that factory facilities and equipment belonged to the management, and that the completed product belonged to the management is undeniable. The labourers were mostly under the management's supervision, and defective items were ordered to be repaired by the management. The combination of all the factors proves that an employer-employee relationship was formed.

To be brief and clear, it was mentioned once again that when a person or group of employees labours to create goods or services for the benefit of another's business, that other is the employer. He has financial influence over the workers' sustenance, skill, and ability to continue working. The real-life link between the employer and employee cannot be thrown out simply because there is no direct interaction due to shady middlemen. When labour law that demands the welfare of the workers on the employer, in light of Articles 38, 39, 42, 43, and 43-A of the Constitution, various tools, wrapped up in layers of many authorities as needed by the circumstances, the local conditions, and so on, may be turned to. To keep a safe distance from evil and achieve the purpose of the law, the Court must be razor-sharp.

OBITER DICTA

The Court stated that in a capitalist system with strong market rivalry and under the Contract Act written according to English Common Law, the petitioner's argument would be unarguable. However, there has been a century-long gap between those rigid theories and today's social equity-driven industrial jurisprudence, which upholds the substance of the Constitution's Preamble. The Court emphasised that contracts alone cannot be used to make final decisions; rather, all of the facts that surround them must be considered. 'All human beings have certain basic rights, and while the sophisticated polities of the West may recognise a far broader and deeper variety of them than anyplace else, liberals owe it to the rest of mankind to develop and protect the most basic human rights.' to strike down those who would deny them everywhere, and to strike down those who would reject them'. The rule of law, which supports the rule of life, is governed by Indian justice. The concept of traditional contract rules and specific branches tends to cause misunderstandings, rendering it open to circumstances like these. 'Raw social realities, not fine-spun legal niceties, not competitive market economics, but complicated

protective principles, form the law when the weaker, working-class sector needs succour for life via labour,' writes the erudite Judge Krishna Iyer.

CONCLUSION

This case sets a high bar when it comes to integrating contract labour as regular workers of the primary employer, and when the requirements of the Contract Labour (Regulation and Abolition) Act, 1970 are overturned and no longer apply. There have been numerous cases, such as Haryana State Electricity Board v. Suresh and others and Bharat Heavy Electricals v. the State of Uttar Pradesh, where the judgement was cited to overturn and go beyond the provisions of existing laws so that social justice reigns supreme, reinforcing equality as enshrined in the constitution, which promises a utopian society, and as a result of which legislations Acts such as the Contract Labor (Regulation and Abolition) Act of 1970 were enacted. However, these pieces of law are increasingly misunderstood, particularly in this new millennium, and are not read with the true intent in mind. As a result of situations like these, the democratic polity continues to exist in order to preserve the socialist status stated in the Constitution.