

104 CM-936-CWP-2022 in/and CWP-24967-2021
CM-935-CWP-2022 in/and CWP-26573-2021
CM-739-CWP-2022 in/and CWP-25539-2021
107 CWP-1698-2022
221 CWP-25037-2021, CWP-25988-2021, CWP-584-2022

FARIDABAD INDUSTRIES ASSOCIATION
VS
STATE OF HARYANA AND ANOTHER

Present :- Mr. Akshay Bhan, Senior Advocate with
Mr. Hires Choudhary, Advocate
Ms. Surbhi Sharma, Advocate
Mr. Ivan Singh Khosa, Advocate
Mr. Shivam Grover, Advocate and
Mr. Amandeep Singh, Advocate
for the petitioner (CWP-24967-2021)

Mr. Anupam Gupta, Senior Advocate with
Mr. Tushar Sharma, Advocate
Mr. Gautam Pathania, Advocate
Mr. Sukhpal Singh, Advocate
Mr. Shekhran Singh Virk, Advocate for the petitioner
(CWP-26573-2021 and CWP-1698-2022).

Mr. Chetan Mittal, Senior Advocate with
Mr. Vishal Sharma, Advocate and
Mr. O.P.Sharma, Advocate
Mr. Himanshu Gupta, Advocate
for the petitioner (CWP-25037-2021 & 25539-2021).

Mr. Rahul Gautam, Advocate for the petitioner (CWP-25988-2021)

Mr. Vishal Sharma, Advocate
Ms. Reena Chaudhary, Advocate and
Mr. Satywan Kandal, Advocate
for the petitioner (CWP-25539-2021 & CWP-25037-2021)

Mr. Siddharth Dias, Advocate and
Mr. Gursher Bhandal, Advocate for the petitioner (CWP-584-2022)

Mr. Tushar Mehta, SGI assisted by
Mr. Jagbir Malik, Addl. A.G., Haryana
Mr. Rajat Nair, Advocate and
Mr. Madhav Sinhal, Advocate
for the respondent-State.

In this batch of writ petitions written statements have only been filed in CWP Nos.24967, 25037 and 25539 of 2021 by the State of Haryana. Four weeks time is granted to the respondents to file written statements in the other connected matters. The petitioners may file replications, if any, within a period of three weeks thereafter.

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Admitted. It is, however, directed that these writ petitions be listed for regular hearing high up in the list on 18.04.2022.

Learned counsel for the petitioners pray for interim relief.

On the question of stay the learned Solicitor General of India has candidly conceded that the writ petitions involve substantial questions but has vehemently opposed the prayer for interim relief. He has pointed out three factors which as per him would have a material bearing.

The first argument of the learned Solicitor General of India is that there is always a presumption of constitutionality of a statutory provision and though the writ Court has ample jurisdiction to ultimately hold that a statutory provision is unconstitutional yet interim orders should not be granted. His second argument is that there is an insinuation that this law would affect even existing employees which is incorrect. The law is prospective and it saves all the existing staff. The third argument is that about 38,000 registered domicile workers and about 900 establishments have registered under this Act and this itself shows that it is only a handful of people who are opposed to the implementation of the Act.

We have considered these arguments but the core issue is whether any State can restrict employment (even in the private Sector) on the basis of domicile.

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In these circumstances, we are constrained to stay the implementation of the Act. Ordered accordingly.

A photocopy of this order be placed on the files of connected cases.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

February 03, 2022
Pooja sharma-I