

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
CHIEF JUSTICE AND SACHIN SHANKAR MAGADUM	WP 7276/2020	29/05/2020	<p data-bbox="651 271 1390 304">Heard learned counsel appearing for the petitioner.</p> <p data-bbox="651 524 1474 640">Issue notice to the respondent returnable on 5th June 2020. The learned Additional Government Advocate takes notice for the respondent.</p> <p data-bbox="651 775 1474 972">Before the next date, the State Government will file objections. The original file or photocopy of all the original documents in the original file recording the decision on the basis of which the notification is issued shall be produced before the Court.</p> <p data-bbox="651 1111 1474 1393">The State will have to explain how the power under Section 5 of the Factories Act, 1948 (for short, “the said Act of 1948”) could be exercised in a blanket manner by granting exemption to all the factories. Section 5 of the said Act of 1948 contemplates exercise of the power to grant exemption in respect of any factory or class or description of factories.</p> <p data-bbox="651 1447 1474 1895">Prima facie, Section 5 of the said Act of 1948 does not contemplate grant of a blanket exemption in favour of all the factories. Secondly, the State Government will have to justify whether a public emergency as contemplated by Section 5 of the said Act of 1948 exists. Thirdly, we find that no direction has been issued by the State Government to the factories covered by the Factories Act, 1948, to ensure that all norms regarding COVID-19 such as use of masks, maintaining social distancing, making provision for adequate sanitizers, gloves etc. should be made.</p> <p data-bbox="651 2029 1474 2145">Our attention is invited to order passed by the Government of Rajasthan on 24th May, 2020 in exercise of the power conferred under Section 5 of the said Act of</p>

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			<p data-bbox="651 197 1479 521">1948, wherein certain conditions have been imposed to ensure that corona virus is not spread while the factories work. Moreover, a notification issued by the Government of Gujarath in exercise of the powers under Section 5 of the said Act of 1948 ensures that no worker is forced to work continuously over six hours and if he is forced to work for more than six hours, an interval for rest of at least half hour should be kept.</p> <p data-bbox="651 658 1479 775">The State Government must also deal with the objection of the petitioner that there is no provision made for payment of additional wages.</p> <p data-bbox="651 911 1479 1066">The learned counsel appearing for the petitioner prays for interim relief. We will consider the prayer for interim relief after the State Government files the statement of objections.</p>

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