

**WP No. 18020 of 2023
C/W WP No. 14466 of 2023
WP No. 17959 of 2023
AND 1 OTHER**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

R

DATED THIS THE 3RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 18020 OF 2023 (L-MW)

C/W

WRIT PETITION NO. 14466 OF 2023 (L-MW)

WRIT PETITION NO. 17959 OF 2023 (L-RES)

WRIT PETITION NO. 17984 OF 2023 (L-MW)

IN WP No. 18020/2023

BETWEEN:

GARMENT AND TEXTILE WORKERS UNION (R)
AFFILIATED TO THE ALL INDIA
CENTRAL COUNCIL OF TRADE UNIONS(AICTU),
HAVING ITS OFFICE AT NO.17/1, 1ST FLOOR,
NEAR BMTC BUS STOP, NEW GUDDADAHALLI
MYSORE ROAD, BENGALURU-560026,
REPRESENTED BY ITS PRESIDENT SMT PRATHIBHA R
REGISTERED UNDER INDIAN TRADE UNION ACT 1926

...PETITIONER

(BY SRI CLIFTON D'ROZARIO, ADVOCATE FOR
SRI/SMT MAITREYI KRISHNAN, ADVOCATE)

AND:

1. CHIEF SECRETARY,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA, BENGALURU-560001.
2. THE SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU-560001.



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3. THE UNDER SECRETARY DEPARTMENT OF LABOUR
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU-560001.
4. THE LABOUR COMMISSIONER,
GOVERNMENT OF KARNATAKA,
KARMIKA BHAVANA, BANNERGHATTA ROAD,
BENGALURU-560029.
5. KARNATAKA TEXTILE MILLS ASSOCIATION,
NO.64, VASTRA BHAVAN,
4TH FLOOR, 4TH MAIN, NEAR 18TH CROSS,
MALLESHWARAM, BENGALURU - 560 055,
REPRESENTED BY SECRETARY MR. V SUBASH.
(R5 IMPEADED AS PER THE ORDER OF HON'BLE
COURT DATED 03.02.2025)

...RESPONDENTS

(BY SRI M RAJAKUMAR, AGA FOR R1 TO R4,
SRI S S NAGANAND, SENIOR COUNSEL A/W
SRI PRAVEENKUMAR HIREMATH, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED NOTIFICATION ISSUED BY THE R-2 BEARING NO. KE2 LWA 2023 DTD 17.01.2023 (PLACED AS ANNEX-E) AS INSUFFICIENT AND DIRECT THAT THE WORKERS ARE ENTITLED TO WAGES AT THE RATE FIXED FOR ALL OTHER INDUSTRIES VIDE NOTIFICATION NO. KAE 34 LW A2022 DTD 28.07.2022 (PLACED AS ANNEX-F) FROM THE PERIOD 17.01.2023 AND ETC.

IN WP NO. 14466/2023

BETWEEN:

GARMENT AND TEXTILE WORKERS UNION (R) (GATWU),
(AFFILIATED TO THE ALL INDIA CENTRAL
COUNCIL OF TRADE UNIONS (AICCTU),
HAVING ITS OFFICE AT
NO 17/1, 1ST FLOOR, NEAR BMTc BUS STOP,
NEW GUDDADAHALLI, MYSORE ROAD,

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AND 1 OTHER**

BENGALURU - 560026,
REP. BY ITS PRESIDENT SMT PRATHIBHA R.

...PETITIONER

(BY SRI CLIFTON D'ROZARIO, ADVOCATE FOR
SMT MAITREYI KRISHNAN, ADVOCATE)

AND:

1. CHIEF SECRETARY,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA BENGALURU - 560001.
2. THE SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU - 560001.
3. THE UNDER SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU - 560001.
4. THE LABOUR COMMISSIONER,
GOVERNMENT OF KARNATAKA,
KARMIKA BHAVANA, BANNERGHATTA ROAD,
BENGALURU - 560029.
5. KARNATAKA TEXTILE MILLS ASSOCIATION,
NO.64, VASTRA BHAVAN,
4TH FLOOR, 4TH MAIN, NEAR 18TH CROSS,
MALLESHWARAM, BENGALURU - 560 055,
REPRESENTED BY SECRETARY MR. V SUBASH.
6. THE CLOTHING MANUFACTURERS
ASSOCIATION OF INDIA, NO.33, SWISS COMPLEX,
RACE COURSE ROAD, BENGALURU - 560 001,
REPRESENTED BY REGIONAL SECRETARY,
MR BALAJI R.

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AND 1 OTHER**

(R5 AND R6 IMPEADED AS PER THE ORDER
OF THE HON'BLE HIGH COURT DT 13.01.2025)

...RESPONDENTS

(BY SRI M RAJAKUMAR, AGA FOR R1 TO R4,
SRI S S NAGANAND, SENIOR COUNSEL A/W
SRI PRAVEENKUMAR HIREMATH, ADVOCATE
FOR R5 AND R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT
HOLDING THAT THE MINIMUM WAGES NOTIFIED AS PER
THE IMPUGNED NOTIFICATION ISSUED BY THE R2
BEARING NO. KE 1 LWA 2023 DT. 17.01.2023 (PLACED AS
ANNX-A) IS INSUFFICIENT AND THAT THE WORKERS ARE
ENTITLED TO WAGES AT THE RATE FIXED FOR THE PERIOD
01.04.2018 TO 31.03.2023 AT THE RATE FIXED AS PER THE
DRAFT NOTIFICATION BEARING NO. KAAE 76 LMW 2017
DT. 22.02.2018 RETROSPECTIVELY FROM 01.04.2018
(PLACED AS ANNX-J) AND ETC.

IN WP NO. 17959/2023

BETWEEN:

GARMENT AND TEXTILE WORKERS UNION (R)
(AFFILIATED TO THE ALL INDIA CENTRAL COUNCIL OF
TRADE UNIONS (AICCTU), HAVING ITS OFFICE AT
NO. 17/1, 1ST FLOOR, NEAR BMTc BUS STOP, NEW
GUDDADAHALLI, MYSORE ROAD, BENGALURU-560 026,
REPRESENTED BY ITS PRESIDENT SMT. PRATHIBHA. R,
REGISTERED UNDER INDIAN TRADE UNION ACT 1926.

...PETITIONER

(BY SRI CLIFTON D'ROZARIO, ADVOCATE FOR
SMT MAITREYI KRISHNAN, ADVOCATE)

AND:

1. CHIEF SECRETARY,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA, BENGALURU-560 001.

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C/W WP No. 14466 of 2023
WP No. 17959 of 2023
AND 1 OTHER**

2. THE SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU-560 001.
3. THE UNDER SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU-560 001.
4. THE LABOUR COMMISSIONER,
GOVERNMENT OF KARNATAKA,
KARMIKA BHAVANA,
BANNERGHATTA ROAD,
BENGALURU - 560 029.
5. KARNATAKA TEXTILE MILLS ASSOCIATION,
NO.64, VASTRA BHAVAN,
4TH FLOOR, 4TH MAIN, NEAR 18TH CROSS,
MALLESHWARAM, BENGALURU - 560 055,
REPRESENTED BY SECRETARY MR. V SUBASH.
(R5 IMPEADED AS PER THE ORDER OF
HON'BLE COURT DATED 03.02.2025)

...RESPONDENTS

(BY SRI M RAJAKUMAR, AGA FOR R1 TO R4,
SRI S S NAGANAND, SENIOR COUNSEL A/W
SRI PRAVEENKUMAR HIREMATH, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO 1. QUASHING THE IMPUGNED NOTIFICATION ISSUED BY THE R2 BEARING NO. KE 2 LWA 2023 DATED 17/01/2023 (PLACED AS ANNEXURE-E) AS INSUFFICIENT AND DIRECT THAT THE WORKERS ARE ENTITLED TO WAGES AT THE RATE FIXED FOR ALL OTHER INDUSTRIES VIDE NOTIFICATION NO. KAE 34 LW A 2022 DATED 28/07/2022 (PLACED AS ANNEXURE-F) FROM THE PERIOD 17/01/2023 AND ETC.

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WP No. 17959 of 2023
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IN WP NO. 17984/2023

BETWEEN:

GARMENT AND TEXTILE WORKERS UNION (R),
(AFFILIATED TO THE ALL INDIA CENTRAL
COUNCIL OF TRADE UNIONS (AICCTU),
HAVING ITS OFFICE AT NO. 17/1,
1ST FLOOR, NEAR BMTC BUS STOP,
NEW GUDDADAHALLI, MYSORE ROAD,
BENGALURU-560 026,
REPRESENTED BY ITS PRESIDENT
SMT. PRATHIBHA. R,
REGISTERED UNDER INDIAN TRADE UNION ACT 1926.

...PETITIONER

(BY SRI CLIFTON D'ROZARIO, ADVOCATE FOR
SMT MAITREYI KRISHNAN,ADVOCATE)

AND:

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VIDHANA SOUDHA, BENGALURU-560 001.
2. THE SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA, BENGALURU-560 001.
3. THE UNDER SECRETARY
DEPARTMENT OF LABOUR,
GOVERNMENT OF KARNATAKA,
VIKASA SOUDHA,
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GOVERNMENT OF KARNATAKA,
KARMIKA BHAVANA,
BANNERGHATTA ROAD,
BENGALURU-560 029.
5. KARNATAKA TEXTILE MILLS ASSOCIATION,
NO.64, VASTRA BHAVAN,

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4TH FLOOR, 4TH MAIN, NEAR 18TH CROSS,
MALLESHWARAM, BENGALURU - 560 055,
REPRESENTED BY SECRETARY MR. V SUBASH.
(R5 IMPEADED AS PER THE ORDER OF HON'BLE
COURT DATED 03.02.2025)

...RESPONDENTS

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THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17TH APRIL, 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

In addition to adjudicating the validity of the notifications issued under ***The Payment Of Wages Act, 1948***, ("Act, 1948") in view of the repeal of the said Act, 1948, and post commencement of ***Code on Wages, 2019***, ("Code, 2019") which came into effect on 21.11.2025, i.e., during the pendency of this batch of Writ Petitions, the Court has to consider *the effect of repeal of the Act, 1948 on the pending litigations, and the interplay of Section 69(2)(3) of the Code, 2019, and Section 6 of the General Clauses Act, 1897, ("Act, 1897")*.

2. The petitioner-**Garments and Textile Workers Union** is a registered Trade Union. In these petitions the petitioner-Union is representing workers in (a) **Cloth Dyeing and Printing Industry**, (b) **Textile (Silk) Industry**, (c) **Spinning Mills Industries** (d) **Garment, Costumes and Tailoring Establishments**.

3. The petitioner, in this batch of petitions is challenging the four final notifications dated 17.01.2023, issued under Section 5 of the Minimum Wages Act, 1948 (Act, 1948)

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revising the minimum wages of workers in the above said industries.

4. W.P. No.18020/2023, W.P.No.17959/2023 and W.P.No.17984/2023 are filed to quash the notifications dated 17.01.2023, bearing No. KE 2 LWA 2023, pertaining to fixation of minimum wages in (a) Cloth, Dyeing and Printing Industry, (b) Textile (Silk) Industry and (c) Spinning Mills Industry respectively.

5. In addition, the petitioner-Union in the above referred three petitions, (except W.P. No. 14466/2023), has also sought to fix the wages as per Notification No. KAE 34 LW A 2022 dated 28.07.2022, for the period commencing from 17.01.2023.

6. The further prayer is to direct the respondents to ensure that workers working in Cloth Dyeing and Printing Industry, Textile (Silk) Industry, and Spinning Mills Industry are paid wages as per the respective notifications dated 30.12.2017 applicable to such industries, for the period commencing from 30.12.2017 to 17.01.2023.

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7. The petitioner-Union in each of the four petitions (including W.P. No. 14466/2023) has also sought fixation of minimum wages for unskilled workers at the rate of Rs.29,090.91/- and proportionate increase for semi-skilled, skilled and highly skilled workers.

W.P. No. 14466/2023

8. W.P. No.14466/2023 is filed to quash the Notification bearing No.KE 1 LWA 2023 dated 17.01.2023 pertaining to Garment, Costumes and Tailoring Establishments, and to fix wages as per Notification No.KaEe 76 LMW 2017 dated 22.02.2018, from 01.04.2018 to 31.03.2023.

9. In addition, the petitioner has also sought to fix the wages as per Notification No.KAE 34 LW A 2022 dated 28.07.2022, from 01.04.2023.

10. Certain admitted facts are as follows:

- a. The minimum wages for the industries in question were revised in 2014. Thereafter, the appropriate Government undertook the exercise to revise the minimum wages under the Act, 1948. Consequently, on 30.12.2017, three

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final notifications fixing minimum wages for Cloth Dyeing and Printing Industry, Textile (Silk) Industry, and Spinning Mills Industry were published.

- b. On 22.02.2018, a draft notification proposing revision of minimum wages under the Act, 1948, for Garments, Costumes, and Tailoring establishments was issued.
- c. Before wages could be paid as per the three notifications dated 30.12.2017, and before the final notification pursuant to the draft notification dated 22.02.2018 referred to above was issued, the Government on 22.03.2018, withdrew all the three final notifications dated 30.12.2017 and also the draft notification dated 22.02.2018. The Government stated that a fresh exercise to revise the wages would be taken by following the procedure under Section 5(1)(a) of the Act, 1948. Government also claimed that on 13.03.2018, a tripartite committee was constituted to revise the wages.
- d. Workers' Unions filed Writ Petitions challenging the order dated 22.03.2018 by which earlier notifications dated 30.12.2017 and 22.02.2018 were withdrawn. Said Writ

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Petitions challenging the order dated 22.03.2018 were dismissed.

- e. The writ petitions were filed by the Employers' Associations challenging some of the 37 notifications fixing/revising wages. Those petitions were allowed in part.
- f. The Learned Single Judge, upheld the notification dated 22.03.2018, on the premise that it is a step-in-aid to the revision of wages under the Act, 1948 and also directed payment of interest at 6% per annum on the unpaid revised wages. Learned single Judge permitted the revision of wages with retrospective effect from the date when the minimum wages became payable.
- g. The Workers' Union filed Writ Appeal No.1520/2019 challenging the order of the learned Single Judge dismissing their Writ Petitions. Other appeals are filed by employers/Associations of Employers and Writ Appeal No.1520/2019 is clubbed with Writ Appeal No. 1611/2019 and connected matters. The Division Bench allowed the said Writ Appeal No.1520/2019 and held that the order

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dated 22.03.2018 withdrawing the earlier three notifications dated 30.12.2017 and draft notification 22.02.2018 was *ultra vires* the Act, 1948.

- h. The Division Bench revived/restored the three final notifications dated 30.12.2017 and the draft notification dated 22.02.2018 and permitted the aggrieved parties to challenge the notifications dated 30.12.2017.
- i. In addition, the Division Bench also directed the Government to take further steps pursuant to the draft notification dated 22.02.2018. The Division Bench also held that the Government is at liberty to revise the wages fixed under the three notifications dated 30.12.2017 as per the provisions of the Act, 1948.
- j. The Division Bench in the aforesaid Writ Appeals held that the notification dated 31.10.2019, fixing/revising the minimum wages, pursuant to the order dated 22.03.2018, is inoperative.
- k. The order of the learned Single Judge directing payment of interest at 6% per annum on the wages payable is upheld by the Division Bench.

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- l. The Karnataka Textile Mills Associations filed Writ Petition No.9268/2020 challenging the notifications dated 30.12.2017. A writ of mandamus was also sought directing consideration of the said petitioners' representation relating to revision of wages.
- m. The said W.P. No.9268/2020 was disposed of vide order dated 09.02.2021 with a direction to the Government to consider the representation dated 25.05.2020 filed by the petitioner-Association of Industries.
- n. In W.P. No.9268/2020, Karnataka Textile Mills Associations did not press its challenge to the three notifications dated 30.12.2017. In the said case, vide order dated 09.02.2021, the Co-ordinate Bench of the Court also directed payment of interest on unpaid wages, as directed by the Division Bench. The order dated 09.02.2021 has attained finality.
- o. The Government vide impugned four notifications dated 17.01.2023 revised the minimum wages for the workers of above named 4 industries. It is stated that wages are

revised and hiked by 14% over the wages fixed under notification dated 31.10.2019.

11. The petitioner- Union has filed the present four Writ Petitions assailing the four notifications dated 17.01.2023 referred to above.

12. The respondent/State has filed statement of objections, and the Associations of Industries which are impleaded later, have also filed their statement of objections.

13. The learned counsel for the petitioners raised following contentions:

- (a) The procedures contemplated under Section 5(1)(b) of the Act, 1948 are not followed.
- (b) The wages fixed under the notifications dated 17.01.2023 are lower than the minimum wages fixed under the notification dated 30.12.2017.
- (c) The impugned notifications have been made applicable retrospectively from 30.12.2017 to bypass the directions of the Division Bench in Writ Appeal No.1520/2019 and connected matters. The Division Bench had directed

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payment of back wages as per the notification dated 30.12.2017 along with interest at 6%, and the retrospective application of the impugned notifications is in the teeth of the order in Writ Appeal No.1520/2019.

- (d) The State has ignored the mandate of the Apex Court in ***Workmen represented by its Secretary v. Management of Reptakos Brett and Co. Ltd.***¹
- (e) The garment industry employs approximately 7 lakh workers, of whom more than 90% are women belonging to socially and economically backward sections. While other industries such as Clay, Pottery and Ceramics were granted a basic rate of Rs.615.07 in 2022, the garment industry has been unfairly restricted to a basic rate of Rs.401.07, thereby demonstrating a discriminatory approach.
- (f) The revision of wages must always be an upward revision, and the impugned notifications have reduced the minimum wages payable to the workmen. The Government has discriminated against the workmen of the industries represented by the petitioner, as the revisions of wages

¹ AIR 1992 SC 504

relating to other industries (Clay, Ceramics, Stoneware, etc.) vide notification dated 28.07.2022 is almost double the wages of the workers in the Textile Industry.

14. Learned counsel for the petitioner placed reliance on the following judgments:

- (a) *Private Hospital & Nursing Homes Association and others v. State of Karnataka and others along with connected matters*²
- (b) *Gujarat Mazdoor Sabha and Others v. State of Gujarat*³
- (c) *Narinder Chand Hem Raj and others v. Governor, Administrator, Union Territory, Himachal Pradesh and Others*⁴
- (d) *A.P.S.R.T.C. and others v. G. Srinivasa Reddy and others*⁵
- (e) *Vishaka and others v. State of Rajasthan and others*⁶
- (f) *Charu Khurana and others v. Union of India and others*⁷

² Writ Appeal Nos. 1611/2019 with connected matters

³ (2020) 10 SCC 459

⁴ (1971) 2 SCC 747

⁵ (2006) 3 SCC 674

⁶ (1997) 6 SCC 241

⁷ (2015) 1 SCC 192

(g) *Lieutenant Colonel Nitisha and others v. Union of India and others*⁸.

15. Learned Additional Government Advocate appearing for the respondent-State urged the following contentions:

- (a) In terms of the order dated 13.04.2019, passed in Writ Appeal No.1520/2019 and connected matters, the State was directed to undertake further action to fix/revise the minimum wages pursuant to the draft notification dated 22.03.2018 and was permitted to revise the minimum wages fixed under the notifications dated 30.12.2017.
- (b) A tripartite committee was also constituted vide order dated 13.08.2018 comprising 27 members representing all the stakeholders. Meetings were held, the claims were considered, and an appropriate decision was taken keeping in mind all relevant factors.
- (c) The Advisory Committee was constituted to advise on the issue. Objections were invited from the stakeholders. On 16.11.2021, the Advisory Board held a meeting of all stakeholders and another meeting was held on 06.09.2022. Since no consensus was arrived at in the said

⁸ (2021) 15 SCC 125

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meetings, the matter was placed before the Government for appropriate decision. The notification dated 17.01.2023 reflects due consideration of all relevant factors.

- (d) In a petition under Article 226 of the Constitution of India, the Court will not substitute its wisdom to that of the Government, which has taken into consideration the views and opinions of experts in the field.
- (e) The Karnataka State Minimum Wages Advisory Board constituted under Sections 7 and 9 of the Act, 1948 is strictly an advisory body. The Government is not legally bound to adopt its recommendations, and the ultimate power to revise wages rests solely with the State.
- (f) During the meeting held on 11.01.2022 involving the Advisory Board, employers, Trade Unions and the State, none of the Unions, including the petitioner-Union, raised any objection for not issuing a draft notification.

16. In support of the contentions, the learned Government Advocate for the State placed reliance on the following judgments:

- (a) *Chakradharpur Biri and Tobacco Merchants' Association and others v. State of Bihar and others*⁹
- (b) *Champak Lal H. Thakkar and others v. State of Gujarat and another*¹⁰
- (c) *Chandra Bhavan Boarding and Lodging, Bengaluru v. State of Mysore and another*¹¹
- (d) *Rasid Javed and others v. State of Uttar Pradesh and another*¹²
- (e) *M/s. Bhikusa Yamasa Kshatriya and another v. Sangamner Akola Taluka Bidi Kamgar Union and others*¹³.

17. Learned Senior Counsel appearing for respondents No.5 and 6 urged the following contentions:

- (a) The Court cannot hold that the wages are insufficient in exercise of jurisdiction under Articles 226 of the Constitution of India because the Appropriate Government has exercised its quasi-legislative and executive powers under Section 5 of the Act, 1948 after considering all the relevant factors.

⁹ (1997) 77 FLR 339

¹⁰ (1980) 4 SCC 329

¹¹ (1969) 3 SCC 84

¹² (2010) 7 SCC 781

¹³ (1959) 2 LLJ 578

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- (b) The Appropriate Government issued a draft notification dated 22.02.2018 and, only after following due procedure, issued the impugned notifications dated 17.01.2023. Sufficient opportunity was granted to the Union and workmen to file objections. Only after due consideration and multiple discussions before the Tripartite Committee, the final notifications are issued.
- (c) The petitioner-Union, Government of Karnataka and Technical Consultancy Services Organization of India ("TECSOK") were members of the Tripartite Committee constituted under Section 5(1)(a) of the Act, 1948. TECSOK, being an expert body, conducted a detailed study regarding the nature of work and conditions prevailing in the industry and submitted its report. The wages were fixed based on the expert committee's report.
- (d) The draft notification was only tentative in nature and culminated in the final notification dated 17.01.2023. Revision need not always be upward because the notifications issued on 30.12.2017 were withdrawn and

were under litigation; therefore, the said notifications never came into operation.

18. The Court has considered the contentions raised, perused the records and examined the judgments cited on behalf of both sides. The Court has taken note of the scope and width of the jurisdiction of the Court in petitions of this nature. The Court has also noticed the ratio laid down by the Apex Court on the consequences of the Repeal and Savings of the enactments.

19. In a petition of this nature, the Court does not ordinarily dwell deep into the merits of the decision taken by the appropriate Government in exercise of the statutory powers conferred, if it is found that the prescribed procedures are duly complied. Because the Court is more concerned with the decision-making process rather than the decision.

20. If the decision-making process complies with the requirements of law, the Court would not ordinarily interfere with the decision. However, this is not an absolute rule. If the decision-making process complies with the prescribed procedure, but the final decision is vitiated by malafides,

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manifest arbitrariness, absurdity, or if the decision is unconscionable, Court would step in and interfere with such decision.

21. Keeping above principles in mind, enunciated in the judgments cited at the Bar, the Court would proceed further.

On the validity of the notifications dated 17.01.2023 impugned in Writ Petitions No.18020/2023, 17959/2023 and 17984/2023

22. As could be seen from the three final notifications dated 30.12.2017, the wages were revised allegedly under Section 5(1)(b) of the Act, 1948. Admittedly, vide order dated 22.03.2018, the appropriate Government withdrew the three final notifications dated 30.12.2017. The Division Bench in Writ Appeal No.1520/2019, held that the Government Order dated 22.03.2018 is *ultra vires* the Act, 1948. Consequently, the final notifications dated 30.12.2017, and the draft notification dated 22.02.2018 were revived. Liberty was also reserved to the aggrieved persons to challenge the notifications dated 30.12.2017. The Division Bench also directed the State

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Government to proceed further, in accordance with law, pursuant to the draft notification dated 22.02.2018.

23. At this juncture, it is necessary to refer the relevant operative portion of the judgment in Writ Appeal No.1611/2019 and connected matters.

"ORDER

XXXX

(iii) This order will not prevent the aggrieved parties from challenging the three revived final notifications dated 30th December, 2017 in accordance with law. Moreover, it will be always open for the State Government to undertake the revision of the rates of minimum wages fixed under the said three notifications dated 30th December, 2017 in accordance with the provisions of the Act, 1948.

XXXX"

(emphasis supplied)

24. In terms of the order passed in the Writ Appeals referred to above, the Government chose to exercise its power to revise the wages fixed under the three notifications dated 30.12.2017 by invoking Section 5 of the Act, 1948. The Division Bench of this Court in Writ Appeal No.1520/2019 has

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recognised and reiterated the power of the appropriate Government to revise the minimum wages under the Act, 1948. Thus, the Government was required to follow the procedure contemplated under Section 5 of the Act, 1948 before revising the wages. However, after disposal of the Writ Appeals, the Government neither complied the requirement of constituting the Committee or Sub-Committee under Section 5(1)(a) of Act, 1948, nor requirement of publishing proposals for revision of wages in the Official Gazette as mandated under Section 5(1)(b) of the Act, 1948.

25. The respondents attempted to justify the impugned notifications dated 17.01.2023, on the premise that the Division Bench had not set aside the proceedings/actions/procedures preceding the notifications dated 30.12.2017. The respondents contend that the Division Bench has only invalidated the order dated 22.03.2018 and the final wage fixation notification dated 31.10.2019 and not the publication of proposal and constitution of Committee before issuing the notifications dated 30.12.2017 and 22.02.2018.

26. At this juncture, it is also necessary to refer the observations made in paragraph No.57 of the judgment of the Division Bench in Writ Appeals:

"57. As can be seen from sub-section (2) of Section 5, it confers on the appropriate Government, a power to fix the rates of minimum wages in respect of the scheduled employment and power to revise such rates of minimum wages. In the case on hand, the statute has itself conferred a power on the appropriate Government to review/revise the rates of minimum wages and such power also includes power to increase or reduce the rates of minimum wages. xxxxx There is a power to revise the rates of minimum wages even by reducing the same by exercise of power conferred under Sub-section (2) of Section 5, after following the procedure under Sub-section (1) of Section 5."

(emphasis supplied)

27. From the aforementioned observations and also the operative portion of the order in Writ Appeal No. 1520/2019 and connected matters, it is apparent that the Division Bench did not permit/direct the Government to undertake wage fixation/revision bypassing the procedure contemplated under the Act, 1948. *On the contrary, the Division Bench emphasised compliance with the procedure prescribed under the Act, 1948*

in the event of revision of wages fixed under the notification dated 30.12.2017. The expression "in accordance with the provisions of the said Act, 1948" occurring in paragraph (iii) of the operative portion and the expression "after following the procedure under sub-section (1) of Section 5." support such interpretation.

28. Before issuing the final notifications dated 30.12.2017, the Government published the proposal in the Official Gazette as required under Section 5(1)(b) of the Act, 1948. As already noticed, the Division Bench has upheld the said notifications dated 30.12.2017. However, recognised the Government's power to revise the minimum wages under the provisions of the Act, 1948. This means, the Division Bench has only recognised and reiterated the statutory power under the Act, 1948 to revise the wages fixed under the notification dated 30.12.2017. *Thus, the exercise to revise the minimum wages fixed under the notifications dated 30.12.2017 must be preceded by a further action either under Section 5(1)(a) of under Section 5(1)(b) of Act, 1948.*

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29. The respondent/State does not claim that the exercise is undertaken under Section 5(1)(a). However, it is stated that exercise is undertaken under Section 5(1)(b) of the Act, 1948. If that is the case, the proposal for revision of wages should have been published in the Official Gazette post 13.04.2020, the date on which the judgment of the Division Bench was rendered in Writ Appeal No.1611/2019 and connected matters. That is not done.

30. The respondents tried to justify the impugned notifications by referring to the order dated 09.02.2021 in Writ Petition No.9268/2020. The said order does not come to the aid of the respondents to contend that Gazette notification is not required as contemplated under Section 5(1)(b) of the Act, 1948. The reason is simple and obvious, if the context in which the said order dated 09.02.2021 is passed, is taken note of.

31. In the said Writ Petition No. 9268/2020 the Karnataka Textile Mills Association challenged the validity of the notifications dated 30.12.2017 and also sought writ of mandamus to consider their representation dated 25.05.2020.

32. During the course of hearing, the prayer in W.P. No. 9268/2020 challenging the validity of the notifications dated 30.12.2017 was not pressed. The petitioner in the said petition restricted his prayer for a direction to consider the representation dated 25.05.2020. Said representation was submitted in the light of the order passed in Writ Appeal No.1611/2019 and connected matters as the Division Bench had permitted the appropriate Government to revise the minimum wages fixed by following the procedure contemplated under the Act, 1948. Thus, it is obvious that the petitioner in Writ Petition No.9268/2020 chose to approach the Government to take steps for revising the minimum wages.

33. In the aforesaid context, the Court directed the respondent/State in the said Writ Petition No.9268/2020 to consider the representation said to have been submitted by the petitioner therein. The said order is not a positive direction to bypass the procedural requirements under Section 5 of the Act, 1948.

34. It is evident that no notification is published in Official Gazette, post 13.04.2020, as required under Section

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5(1)(b) of the Act, 1948. For the aforementioned reasons, the Court is of the view that the entire exercise preceding the issuance of respective notifications dated 17.01.2023 impugned in Writ Petitions No.18020/2023, 17959/2023 and 17984/2023 are contrary to the Legislative mandate under Section 5(1)(b) of the Act, 1948, and also the order passed by the Division Bench order dated 13.04.2020 in Writ Appeal No.1520/2019 and connected matters.

35. Accordingly, the three impugned notifications dated 17.01.2023 in Writ Petitions No.18020/2023, 17959/2023 and 17984/2023 are to be quashed.

**On the validity of the notification dated 17.01.2023
impugned in Writ Petition No.14466/2023**

36. Admittedly, in relation to Garments, Costume and Tailoring Establishments the final notification under the Act, 1948, was issued in the year 2014 as the subsequent notification under the said Act, 1948 fixing minimum wages issued on 31.10.2019 was held to be inoperative in terms of the judgment of the Division Bench of this Court in Writ Appeals No.1611/2019 and connected matters.

37. As already noticed, in Writ Appeal No.1611/2019 the Division Bench of this Court by setting-aside the final notification dated 31.10.2019, revived the draft notification dated 22.02.2018. The Division Bench also directed the Government to proceed further to finalise the wages and to issue final notification as provided the Act, 1948.

38. It is also necessary to refer to the paragraph (ii) of the operative portion of the order in the said Writ Appeals which reads as under:

"(ii) The State Government shall take further steps on the basis of the draft notification dated 22nd February, 2018 in accordance with Section 5 of the said Act of 1948 as expeditiously as possible."

39. Thus, the respondent/State must establish that further steps have been taken in compliance with the requirement of Section 5 of the Act, 1948.

40. On perusal of the draft notification dated 22.02.2018, it is apparent that the Government has proceeded to issue the draft notification by invoking Section 5(1)(b) of the Act, 1948. Section 5(1)(b) mandates publication of such

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notification in the *Official Gazette* providing not less than two months time for consideration of the proposals.

41. The notification dated 22.02.2018 reveals that two months time is granted to file objections if any, to the proposed revision of wages, from the date of the publication in the official gazette. However, Official Gazette is not placed on record to hold that publication is made in the Official Gazette as required under Section 5(1)(b) of the Act, 1948. On the other hand, the draft notification dated 22.02.2018 was withdrawn vide order dated 22.03.2018, i.e. within two months from the date of notification dated 22.02.2018. Later, the Division Bench has set-aside the order dated 22.03.2018 directing the Government to proceed further on the basis of the draft notification dated 22.02.2018 by reviving the said draft notification dated. Since, the draft notification dated 22.02.2018 was not published in the Official Gazette, the Government should have proceeded to issue a publication in the Official Gazette, post its revival, providing two months time to file objections, if any. However, that is not done. The Division Bench of this Court did not hold that there is no need to publish the proposal in the Official

Gazette. Thus, there is clear breach of the Section 5(1)(b) of the Act, 1948.

42. Thus, the violation of the mandatory procedures in the decision making process, before publishing the notification dated 17.01.2023 impugned in Writ Petition No.14466/2023 stands established. Hence, the said notification dated 17.01.2023 has to be quashed.

43. The Government claims to have conducted meetings of the Advisory Board in the presence of representatives of the stakeholders on 06.09.2022 and 23.01.2022. It is an admitted factual position that no consensus was arrived at in the meeting held on 06.09.2022 and thereafter the Government issued the impugned notifications. For the reasons already recorded where the Court has held that the mandatory provisions of Act, 1948 are violated, the stand taken by the Government that meetings have been held and stake holders have been consulted before issuing notifications dated 17.01.2023 does not merit consideration to hold that procedural volitions of not complying

with the mandatory provisions of Section 5 of the Act, 1948 have to be ignored.

44. Apart from the glaring violation of mandatory requirements of Section 5 of the Act, 1948, the impugned notifications base their wage fixation under the notification dated 31.10.2019. It is evident that the impugned notification reveals that wage is enhanced by 14% over and above the wage fixed under the notification dated 31.10.2019. The Division Bench had held that the notification dated 31.10.2019 is inoperative in the Writ Appeals discussed *supra*. It appears that appropriate Government has taken the wages fixed under the notification dated 31.10.2019 as the yardstick to revise the wages. The wages fixed or revised under the notification dated 31.10.2019, cannot be the yardstick for any purpose as it was held to be inoperative in Writ Appeal No.1611/2019.

45. In addition, the wages fixed under the notification dated 17.01.2023 appear to be lower than the wages fixed under the notification dated 30.12.2017. The Court does not take a view that the appropriate Government cannot lower the minimum wages fixed under earlier notification at any cost or

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under any circumstances. If there is or are *strong compelling reason/s* for such a downward revision, the Government may reduce the wages. However, such compelling reason/s is/are not forthcoming in the impugned notifications. The wages in some States, being lower cannot necessarily be the criterion for downward revision of wages, in all circumstances. On that score also the revision of wages does not appear to be logical and justifiable.

46. The Court need not and will not dwell much into reasons for downward revision, as the notifications are struck down for violation of Section 5 of the Act, 1948. The appropriate Government must carry out the fresh exercise for revision of wages, at least in respect of Garments, Costumes and Tailoring Establishments as the Division Bench in W.A. No. 1611/2019 has directed to take further steps pursuant to the notification dated 22.02.2018. And for other three industries covered under notifications dated 31.12.2017 referred to above, the Government has the option of carrying out fresh wage revision exercise, again as held in Writ Appeal No.1520/2019 and connected matters.

On the question of interest payable.

47. Though there is no specific prayer in the petitions seeking direction to pay interest on the unpaid wages, the issue needs to be addressed as there is reference to order relating to payment of interest in the pleading, documents and the written submissions. More so, because the said issue has attained finality in respect of notifications dated 30.12.2017 (subject to review petition said to be pending in this behalf and admittedly there is no stay order in the said review petition).

48. Under the Act, 1948, wage revision ideally should take place before five years. The records placed before the Court indicate that the last wage revision for the industries in question took place in 2014, before the three final notifications dated 30.12.2017 which were subject matter of dispute referred to above.

49. It is submitted at the Bar that the wages payable under the notifications dated 30.12.2017 are not paid.

50. The learned Single Judge in Writ Petition Nos.8388-8417/2017 and connected matters directed payment of 6% interest per annum on the unpaid wages from the date from

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which the wages became due. It appears that the learned Single Judge referred to the notifications dated 30.12.2017.

51. The said part of the order in the Writ Petition No. 8388-8417/2017 is also assailed before the Division Bench in Writ Appeal No.1611/2019 and connected matters. The Division Bench in terms of order dated 13.04.2020 has upheld the order directing payment of interest. Paragraph No.90 of the order in Writ Appeal No.1520/2019 and connected matters reads as under.

"90. Another criticism is made about the direction of the learned Single Judge to pay interest at the rate of 6% per annum on the minimum wages fixed from 30th December 2017. The learned Single Judge has given the reasons for the said direction. The impugned minimum wages notifications were not implemented on account of interim relief granted in the petitions filed by the employers. After finding that there was no illegality in the rates of minimum wages fixed under the impugned notifications, for compensating the employees, this reasonable direction of payment of interest at the rate of 6% has been issued. The employees became entitled to wages at the revised rates from 30th December 2017. Hence, they are entitled to interest at the reasonable rate of 6% per annum."

(emphasis supplied)

52. The Co-ordinate Bench of this Court in Writ Petition No.9268/2020 in terms of order dated 09.02.2021 has held as under:

"It is further needless to observe that employees are entitled to the payment of wages with effect from 30.12.2017 along with interest @ 6% per annum as granted by the Hon'ble Division Bench which is also required to be paid by the petitioner-Union within three months from the date of receipt of the copy of this order".

53. It is relevant to note that order passed in the Division Bench has attained finality as the Special Leave Petition No.8240/2020 filed by the Employers' Association is dismissed by the Apex Court.

54. Though the learned Senior counsel appearing for respondents No.5 and 6 would urge that the direction to pay interest in the aforementioned Writ Petitions and Writ Appeals cannot be made applicable to the industries covered under the impugned notifications dated 17.01.2023, the Court is unable to accept the said contention.

55. The validity of the order dated 22.03.2018 which recalled notifications dated 30.12.2017 and 22.02.2018 was

under challenge in the Writ Appeal No.1520/2019. After reviving the notifications dated 30.12.2017 and 22.02.2018, the Court held that the employees are entitled to interest on the unpaid wages in terms of the notifications dated 30.12.2017. The observations in paragraph No. 90 extracted above leaves no doubt about the entitlement of interest. Hence, the employees covered under the three notifications dated 30.12.2017 in respect of the industries which are subject matter of the present writ petitions, are entitled to interest on unpaid wages in terms of the notifications dated 30.12.2017.

56. The interest is payable from the date when the wages became payable under the said notifications dated 30.12.2017. If no such date is fixed under the notifications, then the interest is payable immediately after expiry of three months from the date of issuance of notifications dated 30.12.2017 as same is the requirement under Section 5(2) of the Act, 1948.

57. For the aforementioned reasons, the Court is of the view that the employers are liable to pay interest on the unpaid

wages in terms of the three notifications dated 30.12.2017 referred to above.

On the effect of repeal of the Minimum Wages Act, 1948, in terms of the Code on Wages, 2019 (Code, 2019).

58. Learned Senior counsel appearing for respondents No.5 and 6 also urged that the present Writ Petitions seeking actions and reliefs under the provisions of the Act, 1948 are not maintainable in view of the repeal of Act, 1948 on commencement of the Code, 2019 which came into effect from 21.11.2025.

59. Elaborating, the learned Senior Counsel made following points.

- (a) Section 69 of the Code, 2019, establishes a two-tier saving mechanism: Primary saving under Section 69(2) (specific, transitional, deeming), and Supplementary saving under Section 6 of the General Clauses Act (general).
- (b) Section 6 of the Act, 1897 operates subject to the legislative intention expressed in Section 69(2); it cannot override or expand it.

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60. It is also urged that Section 69(2) of the Code, 2019 does not:

- a. preserve the repealed Act as a source of power
- b. preserve repealed procedures under the repealed Act
- c. authorise re-exercise of powers under the repealed statute;

as a result, the repeal of the Act, 1948, by the Code, 2019 closes the chapter on the Minimum Wages Act, 1948 as an operational law.

61. It is further urged that, Section 6, of the Act, 1897, as applied by Section 69(3) of Code, 2019, preserves:

- a. the previous operation of the repealed Act, and
- b. rights, obligations, or liabilities already accrued, and
- c. legal proceedings in respect of such accrued rights or liabilities.

62. In addition it is also urged that Section 6 of the Act, 1897 does not save:

- a. mere right to invoke a statutory procedure,
- b. right to insist upon re-exercise of statutory power, or

- c. the statutory competence itself as a source of power under the repealed Act, 1948

63. Learned Senior Counsel summed up his submissions on the effect of Section 69 of the Code, 2019, as under:

- a. Accrued consequences namely, wages fixed, liabilities incurred, enforcement proceedings survive.
- b. Statutory power to fix or re-fix wages under the Act, 1948 does not survive and same stands extinguished.
- c. Proceedings may continue, but relief is limited - Courts may examine past actions,- but cannot issue directions requiring compliance with repealed provisions.
- d. All future action must be under the Code - including wage fixation, revision, or procedural exercise.
- e. Section 69 of the Code, 2019, saves outcomes, not authority; Section 6 of the Act,1897 saves accrued rights, not repealed powers.

64. In support of his contentions, learned Senior Counsel for the employers placed reliance on the following judgments:

- (a) *Gajraj Singh and others v. The State Transport Appellate Tribunal and others*¹⁴
- (b) *M/s. P.V. Mohammad Barmay Sons v. Directorate of Enforcement*¹⁵
- (c) *Tarak Chandra Mukherjee and others v. Ratan Lal Ghosal and others*¹⁶
- (d) *Pernod Ricard India Private Limited v. State of Madhya Pradesh and others*¹⁷
- (e) *State of U.P. and others v. Hirendra Pal Singh and others*¹⁸

Consideration on the effect of Section 69 of the Code, 2019.

65. Section 69 of the Code, 2019 reads as under:

"69. Repeal and savings:

- 1) *The Payment of Wages Act, 1936 (4 of 1936), the Minimum Wages Act, 1948 (11 of 1948), the*

¹⁴ AIR 1997 SC 412

¹⁵ 1993 Supp (2) SCC 724

¹⁶ AIR 1957 Cal 257

¹⁷ (2024) 8 SCC 742

¹⁸ MANU/SC/1030/2010

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Payment of Bonus Act, 1965 (21 of 1965) and the Equal Remuneration Act, 1976 (25 of 1976) are hereby repealed.

2) Notwithstanding such repeal, anything done or any action taken under the enactments so repealed including any notification, nomination, appointment, order or direction made there under or any amount of wages provided in any provision of such enactments for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code till they are repealed under the corresponding provisions of this Code or by the notification to that effect by the Central Government.

3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to the repeal of such enactments."

66. Admittedly Section 69(1) of Code, 2019 repealed the Act, 1948 with effect from 21.11.2025. Sub-sections (2) and (3) of Section 69 of the Code, 2019 deal with savings in respect of certain things done and actions taken under the repealed Act, 1948.

67. Sub-Clause (2) of Section 69 of the Code, 2019 aims at ***maintaining continuity*** under the provisions of the Code, 2019, relating to anything done or actions taken under the repealed Act, 1948, ***as if such certain actions taken or done are under the corresponding provisions of the Code 2019***. However, such continuity is qualified. *Only those actions taken or anything done, including any orders, directions, appointments, notifications, under the Act, 1948 which are not inconsistent with the Code 2019, will be deemed to have been done under the Code, 2019, and will be put in to operation under the Code 2019.*

68. As a logical corollary, and also because of the expression ***"shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the to the provisions of this Code till they are repealed under the corresponding provisions of this Code or by the notification to that effect by the Central Government"*** found in Section 69(2) of the Code 2019, may also mean *that the anything done which is inconsistent with the provisions of the Code 2019 shall*

not be deemed to have been done or continued under the Code, 2019. Validity of such actions taken under the Act, 1948, which are contrary to the provisions of the Code, 2019 will dependent on the implication of Section 6 of the Act, 1897.

69. The same expression *in Section 69(2) of the Code, 2019*, culled out above in the preceding paragraph, also would mean that anything done or taken under the Act, 1948, which ***is not inconsistent*** with the provisions of the Code, 2019, ***shall be in force only till they are repealed under the Code 2019***. In other words such action taken, or anything done under the Act, 1948 can be repealed under the corresponding provisions of the Code, 2019.

70. Section 69(3) of the Code, 2019 starts with the expression ***"without prejudice to the provisions of sub-section (2), the provisions of Section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to the repeal of such enactments"***. Thus, it is evident that the Section 6 of the Act, 1897 will have to yield to Section 69(2) to some extent. This is also so because Section 6 of the Act, 1897 also uses the expression ***"unless a different intention appears,***

the repeal shall not:". Thus, Section 6 of the Act, 1897 does not override and nullify the effect of sub-section (2) of Section 69 of the Code, 2019. At the same time the Act, 1897 has a purpose to serve as Section 69(3) of the Code, 2019 refers to the Act, 1897.

71. At this juncture it is necessary to reproduce Section 6 of the Act, 1897 as Section 69 (3) of the Code, 2019, makes reference to the said Act, 1897.

"6. Effect of repeal

Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not:

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or*
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or*

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

(emphasis supplied)

72. Section 6 of the Act, 1897 under clauses (b) to (e) would specifically deal with anything done and suffered under the repealed Act, 1948 and also pending legal proceedings and investigations. Clause (e) of Section 6 of the Act, 1948 uses the expression "and any such investigation, legal proceeding or

remedy may be instituted, continued or enforced". It is explicit that the fresh legal proceedings can be instituted, pending proceedings can be continued and concluded proceedings resulting into an order, can be enforced under the repealed Act, 1948, subject to other conditions of Section 6 of the Act, 1897, and Section 69 (2) of the Code 2019.

73. At the same time, one has to notice that Section 69(2) of the Code 2019, speaks about the *notification, nomination, appointment, order or direction* made under the repealed Acts. Conspicuously, there is no reference to the orders passed in the legal proceedings which have determined the rights and liabilities of the parties and on the pending legal proceedings.

74. Thus, the Court is of the view that both Section 69(2) of the Code, 2019 and Section 6 of the Act, 1897 to some extent operate in a different field. The purpose of Section 69(2) of the Code, 2019 is to ensure smooth transition and continuity of the actions taken under the Act, 1948 as if the actions taken under the Act, 1948 are done under the

corresponding provisions of the Code, 2019, as long as there is no inconsistency.

75. Section 6 of the Act, 1897 saves the accrued rights and liabilities and provides for continuity of legal proceedings initiated under the Act, 1948 or to enforce the rights and liabilities accrued under the Act, 1948. There is no conflict between the two provisions. Both Section 69 (2) of the Code, 2019 and Section 6 of the Act, 1897 are supplemental to each other. Both provisions have to be read harmoniously to achieve the object of Section 69 of the Code, 2019 which aims at integrating and providing continuity of the actions under the repealed Act, 1948, in the new Code, 2019, and also preserving and enforcing the rights and liabilities accrued under the Act, 1948.

76. Now the Court has to consider how Section 69 of the Code, 2019, applies to the preset case. The answer to this question depends on whether any right has been crystallised in favour of the petitioners under the Act, 1948.

77. As already noticed, the wage revision has to take place within 5 years from the date of first fixation or previous

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revision. The earlier revision took place in the year 2014. The next revision which took place vide notifications dated 30.12.2017. Those notifications (and other notifications as well) were withdrawn vide order dated 22.03.2018. The order dated 22.03.2018 was set aside in W.A.No.1520/2019 and connected matters, and the Apex Court did not entertain the challenge to the order passed in Writ Appeal. *As a consequence, the workers covered under the said three notifications dated 30.12.2017 are entitled to the benefit the under the said notifications, till they are revised in accordance with law.*

78. Thus, the rights of the parties to the proceedings have been crystallised in terms of the Court order in W.A. No1520/2019, in so far as three notifications dated 30.12.2017. This rights accrued under the order upholding the validity of the notifications dated 30.12.2017, are saved. At the same time the Government's right to revise the wages fixed under notifications dated 30.12.2017, reiterated in the same order is also saved. Both these savings are under Sections 6 (c) and (e) of the Act, 1897.

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79. Applying the same analogy the rights of the parties in W.P.No.14466/2023, to have the wages revised by proceeding further pursuant to the draft notification dated 22.02.2018 is crystallized in terms of the orders in Writ Appeal No.1611/2019 and connected matters. Hence, the appropriate Government has to now proceed pursuant to the draft notification dated 22.02.2018, to revise the wages in respect of the industries covered under the said notification, for such period as available under the Act, 1948, and further till 21.11.2025 on which date, the Act, 1948 is repealed.

80. This would be the consequence even applying the ratio laid down in ***Gajraj Singh, M/s. P.V. Mohammad Barmay Sons, Tarak Chandra Mukherjee, Pernod Ricard India Private Limited and State of U.P. and others,*** (*supra*) cited by the learned Senior Counsel for the respondents No. 5 and 6.

81. Thus, the Court is of the view that the Writ Petitions do not become infructuous and they survive for consideration on merits. Opposite view will run counter to the object of Section 69 of the Code, 2019.

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82. Since the notifications dated 17.01.2023, which revised the wages fixed earlier under the three notifications dated 30.12.2017 are quashed, the appropriate Government can revise the wages with effect from the date it undertook the wage revision exercise, post the order of the Division Bench in W.A.No.1520/2019 or any other date that can be fixed under the Act, 1948, and for the said purpose, has to follow the procedure prescribed under the Act, 1948 as such a course of action is saved under Section 6 (e) of the Act, 1897, which uses the expression "as if the repealing Act or Regulation had not been passed".

83. Applying the same analogy, the wage revision has to take place by taking draft notification dated 22.02.2018 to the logical end under the provisions of the Act, 1948, as that is the mandate of the order in Writ Appeal No.1611/2019 and connected matters and also the requirement under Section 69 of the Code, 2019 and Section 6 of the Act, 1897. The right of the workers to have the wage revision exercise pursuant to draft notification dated 22.02.2018 completed, and the obligation on the appropriate Government to conclude the proceeding pursuant to the very same draft notification, in

accordance with law, was crystallized in terms of the order passed in Writ Appeal No.1520/2019 and connected matters.

Conclusions on the interpretation of Section 69 of the Code, 2019.

84. The following principles emerge from the combined reading of Section 69 of the Code, 2019 and Section 6 of the Act, 1897.

- (a) *The Minimum Wages Act, 1948 stands repealed with effect from 21.11.2025 by operation of Section 69(1) of the Code on Wages, 2019.*
- (b) *The action taken or anything done under the Act, 1948, shall be deemed to have been done under the corresponding provisions of the Code, 2019 **if**, such orders or actions taken or notifications or directions issued **are not contrary** to the corresponding provisions of the Code on Wages, 2019.*
- (c) *Such orders, actions taken or notifications or directions issued under the Act, 1948, which are not contrary to the provisions of the Code, 2019 shall be*

valid till it is repealed in accordance with the provisions of the Code, 2019.

- (d) Such orders, actions taken or notifications or directions issued under the Act, 1948 can be repealed by notification by the Central Government under the corresponding provisions of the Code, 2019.*
- (e) The rights and liabilities accrued under the orders passed under the Act, 1948 are saved under Section 69(3) of the Code, 2019 read with Section 6 of the Act, 1897, and can be enforced as if the Act, 1948 has not been repealed.*
- (f) Section 69(2) and Section 69(3) of the Code, 2019 operate in a different field. Section 69(2) of the Code, 2019 provides for continuity of the actions, orders, directions, notifications issued under the Act, 1948, as if such actions, orders, directions, notifications are issued under the Code, 2019 as long as they are not contrary to the provisions of the Code, 2019 or till they are repealed by a notification by the Central Government.*

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- (g) *Section 69(3) of the Code, 2019, without prejudice to Section 69(2) recognizes the savings provided in Section 6 of the Act, 1897. Noticeably, Section 69 (2) of the Code 2019, does not refer to legal proceedings and orders passed in the legal proceedings. Section 69(3) of the Code, 2019 and Section 6 of the Act, 1897, which specifically refers to legal proceedings to be initiated, or pending saves all the rights and liabilities accrued under the Act, 1948 and such rights and liabilities are enforceable under the Act, 1948 as if the Act, 1948 is not repealed.*
- (h) *The exercise undertaken to revise the wages fixed under the Act, 1948, prior to 21.11.2025, **pursuant to a legal right or liability accrued, for such wage revision prior to 21.11.2025, or as consequence of an order in a legal proceeding commenced, pending or concluded prior to 21.11.2025,** shall be governed by provisions of the Act, 1948.*

On the remaining prayer in the writ petitions.

85. There is a prayer to direct fixation of wages in Writ Petition No.17959/2023, Writ Petition No.18020/2023 and Writ Petition No.17984/2023, in terms of notification dated 28.07.2022 marked at Annexure – F. The notification dated 28.07.2022 is in respect of a different industry. The Court is of the view that such a prayer may not be maintainable given the fact that the requirement of each industry may vary from one another.

86. It is for the appropriate Government to take such steps as advised in law, to fix or revise the minimum wages in respect of the industries under consideration in these petitions. Such exercise shall be by the authority under the Code, 2019 and the parameters to be taken into consideration to fix/revise the minimum wages till the commencement of the Code, 2019 shall be under the Act, 1948.

87. The petitioners in Writ Petition No.17959/2023, Writ Petition No.18020/2023 and Writ Petition No.17984/2023 have also prayed for a direction to pay wages in terms of the

notifications dated 30.12.2017 as applicable to respective industries for the period covering 30.12.2017 to 17.01.2023.

88. As already noticed the Division Bench of this Court has revived the notifications dated 30.12.2017 with an option to the Government to revisit the same and also reserved the liberty to the aggrieved party to challenge the same. The challenge to the said notifications dated 30.12.2017 in Writ Petition No.9268/2020 was not pursued and the petitioner-Union in the said Writ Petition sought a direction to consider the representation dated 20.05.2020.

89. The Government chose to revisit the fixation of minimum wages fixed under the notifications dated 30.12.2017. However, the said exercise was not carried out in accordance with law and in these petitions, the Court has struck down the notifications dated 17.01.2023. This being the position, the employees covered under the notifications dated 30.12.2017 as applicable to the industries under consideration in these petitions are entitled to wages fixed under the applicable notifications dated 30.12.2017 till the revision of wages takes place. However, it is made clear that in Writ

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Appeals referred to above, in terms of order dated 13.04.2020, the Court has held that the Government can revise the wages fixed under the notifications dated 30.12.2017 in accordance with the Act, 1948. Thus, such wage revision can be effective from the date to be fixed in such notification, and if no such date is fixed, then under Section 5(2) of the Act, 1948 it will be effective three months from the date of the notification. The expression from the date to be fixed in such notification, under Section 5(2) of the Act, 1948, would also mean that the revision of wages can be given retrospective effect.

90. In the instant case, the attempt to revise the wages by issuing notification dated 22.03.2018 is held to be *ultra vires* the Act, 1948 vide order dated 13.04.2020 in W.A.No.1520/2019. Post the said judgment, revision was notified on 17.01.2023 which is held to be in contravention of the Act, 1948 in this order. Under these circumstances, the Court is of the view that the wage revision in respect of the three notifications dated 30.12.2017 cannot be given retrospective effect earlier to the 13.04.2020, i.e., the date of the order in W.A.No.1520/2019. It can be any date thereafter

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to be specified in the notification, and in case not specified, shall come into effect three months after the notification.

91. As already held the workers eligible to the wages fixed under the three notifications dated 30.12.2017 referred to above, are also entitled to 6% interest per annum, from the due date, till actual payment, on the unpaid wages, under the said notifications and also difference unpaid wages payable, **if any**, under the new notifications to be issued pursuant to this order.

92. The prayer to fix Rs.29,090.91/- per month as minimum wage for unskilled worker is not tenable and it is for the appropriate Government to fix/revise the wages as required under law.

93. In Writ Petition No.14466/2023, the prayer is to direct payment of wages from 01.04.2018 to 31.03.2023 as per the wages fixed under the draft notification dated 22.02.2018.

94. As already noticed, the Division Bench in the aforesaid Writ Appeals has held that the Government has to take steps for fixation of wages pursuant to draft notification dated 22.02.2018. The exercise carried out thereafter

culminated in a notification dated 31.10.2019 and same was held to be inoperative and direction is given to fix the wages by following the procedure under the Act, 1948.

95. Since, the wages fixed under the draft notification are not final, the petitioner cannot seek a direction to fix wages as per the draft notification dated 22.02.2018.

Regarding interest payable on the unpaid difference of the wages, if any, post revision of wages pursuant to notification dated 22.02.2018.

96. It is stated that the employees of the industry covered under the draft notification dated 22.02.2018 are still covered under the final wage notification of the year 2014. Under the Act, 1948, the revision has to take place within five years. In the other three Writ Petitions referred to above, the final notifications were issued on 30.12.2017. This Court following the order dated 13.04.2020 in W.A. No.1520/2019 has held that the employees covered under the notifications dated 30.12.2017 in respect of the industries under consideration in these petitions are entitled to the interest on unpaid wages under notifications dated 30.12.2017, till the revision takes place in accordance with law.

97. Unfortunately for the Garments, Costumes and Tailoring establishments, there is no final revision of wages since 2014. The exercise undertaken on 22.02.2018, to revise the wages, has not attained finality and on two occasions (including this order) the Court has struck down the notifications revising the wages. If such workers are still paid the wages under the 2014 notifications, and in case, the wages are revised post 2019 (after expiry of 5 years from 2014 notification) and if the wage revision is upward, then it would be that the unpaid difference of wages (if there is an upward revision) is with the employer from the due date. In other words, the workers are deprived of their due wages to the extent of unpaid difference.

98. The situation calls for some equitable measure to award interest. The Court is taking this measure, though there no specific prayer in the petition to award interest. The order for payment of interest on the unpaid revised wages (if wages revised are higher than the existing wages) can be accommodated in prayer (d) in W.P.No.14466/2023, where the petitioner has prayed *for such other relief* in the interest of justice.

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99. In case, there is upward revision of wages, for the workers of the industries covered under the notification dated 22.02.2018, the date to be fixed for such revision shall be within 5 years from the previous revision dated 21.02.2014. In which event, it would mean that revised unpaid wages payable to the workers in the industries covered under the notification dated 22.02.2018 remained with the employers. Thus, it would be equitable to direct the employers of such industries to pay interest @ 6% p.a. on unpaid revised wages, from the date when the wages fell due, till payment, in case there is upward revision in wages.

100. The payment of interest as directed above for all the industries shall be subject to final revision of wages. If the final wages to be fixed are less than three notifications dated 30.12.2017 referred to above, and less than the wages now paid to the workers of the industries covered under the notification dated 22.02.2018, then the excess amount paid and interest paid on excess amount shall have to be adjusted in a staggered manner, in the future wages to be paid under the final notifications to be issued and such excess amount and the interest component on such excess amount shall be treated as

advance wage under the new final notifications to be issued post this order.

101. Hence, the following:

ORDER

- (i) Writ Petition No.18020/2023, Writ Petition No.17959/2023, Writ Petition No.17984/2023 are ***allowed-in-part***.
- (ii) Consequently, the impugned notification dated 17.01.2023 bearing No.KE 2 LWA 2023 in each petitions referred to in paragraph No.(i) is quashed.
- (iii) The appropriate Government if deems fit, may fix/revise the minimum wages fixed vide the notifications dated 30.12.2017 impugned in Writ Petitions referred to above in paragraph No.(i), for the applicable period up to five years from 30.12.2017.
- (iv) Till the minimum wages are fixed/revised for the workers of the industries referred to above

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in paragraph No.(iii), the workers working in such industries are entitled to minimum wages, for the period commencing from 30.12.2017 till it is revised under a new notification.

- (v) On the unpaid wages in terms of three notifications dated 30.12.2017, the workers are entitled to interest @ 6% p.a. from the date when such wages fell due, till actual payment.
- (vi) The order awarding interest is subject to such adjustments referred to in paragraph No.100 in respect of the industries covered under three notifications dated 30.12.2017.
- (vii) Writ Petition No.14466/2023 is ***allowed-in-part.***
- (viii) The appropriate Government shall fix/revise the minimum wages in respect of the industries referred to above in terms of the notifications dated 22.02.2018 for the applicable period, by taking further steps pursuant to the draft

notification dated 22.02.2018, as contemplated under the Act, 1948.

- (ix) The workers of the industries covered under the notification dated 22.02.2018 shall be entitled to interest @ 6% p.a. from the due date, in case the revised wages are in excess of existing wages in terms of the new notification to be issued, till actual payment.
- (x) The effective date for revision of wages under the notification to be issued for the industries covered under notification dated 22.02.2018, shall be a date within 5 years from 21.02.2014, i.e. the date of last revision for such industries in 2014.
- (xi) The order directing interest on wages to be notified for the industries covered under notification dated 22.02.2018 shall apply only in case there is upward revision.
- (xii) This order shall not be construed as an order mandating upward or downward revision of

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wages. It is for the appropriate Government to decide the appropriate wages by taking into consideration all the relevant factors.

(xiii) The exercise shall be completed under the provisions of the Payment of Wages Act, 1948 as the rights and liabilities for revision of wages having crystallised under the Act, 1948.

(xiv) The exercise shall be completed as expeditiously as possible, at any rate, within 6 months from the date of this order.

(xv) No order as to costs.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

BRN