

ITEM NO.55

COURT NO.7

SECTION XIV

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**Petition for Special Leave to Appeal (C) Nos.26185-26228/2018**

(Arising out of impugned final judgment and order dated 04-08-2018  
in WP(C) No.8125/2016, 04-08-2018 in WP(C) No.12088/2016 04-08-2018  
in WP(C) No.2658/2017, 04-08-2018 in WP(C) No.3360/2017, 04-08-2018  
in WP(C) No.3385/2017, 04-08-2018 in WP(C) No.3684/2017, 04-08-2018  
in WP(C) No.3792/2017, 04-08-2018 in WP(C) No.3987/2017, 04-08-2018  
in WP(C) No.4007/2017, 04-08-2018 in WP(C) No.4080/2017, 04-08-2018  
in WP(C) No.4102/2017, 04-08-2018 in WP(C) No.4103/2017, 04-08-2018  
in WP(C) No.4106/2017, 04-08-2018 in WP(C) No.4446/2017, 04-08-2018  
in WP(C) No.4493/2017, 04-08-2018 in WP(C) No.4867/2017, 04-08-2018  
in WP(C) No.4934/2017, 04-08-2018 in WP(C) No.4998/2017, 04-08-2018  
in WP(C) No.5013/2017, 04-08-2018 in WP(C) No.5026/2017, 04-08-2018  
in WP(C) No.5199/2017, 04-08-2018 in WP(C) No.5200/2017, 04-08-2018  
in WP(C) No.5214/2017, 04-08-2018 in WP(C) No.5217/2017, 04-08-2018  
in WP(C) No.5218/2017, 04-08-2018 in WP(C) No.5753/2017, 04-08-2018  
in WP(C) No.5779/2017, 04-08-2018 in WP(C) No.5933/2017, 04-08-2018  
in WP(C) No.6078/2017, 04-08-2018 in WP(C) No.6155/2017, 04-08-2018  
in WP(C) No.6794/2017, 04-08-2018 in WP(C) No.6815/2017, 04-08-2018  
in WP(C) No.6841/2017, 04-08-2018 in WP(C) No.6990/2017, 04-08-2018  
in WP(C) No.7012/2017, 04-08-2018 in WP(C) No.7141/2017, 04-08-2018  
in WP(C) No.7760/2017, 04-08-2018 in WP(C) No.8229/2017, 04-08-2018  
in WP(C) No.8622/2017, 04-08-2018 in WP(C) No.9099/2017, 04-08-2018  
in WP(C) No.9187/2017, 04-08-2018 in WP(C) No.9221/2017, 04-08-2018  
in WP(C) No.9446/2017, 04-08-2018 in WP(C) No.7495/2017 passed by  
the High Court Of Delhi At New Delhi)

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI** Petitioner(s)

**VERSUS**

**FLT LT. RAJAN DHALL CHARITABLE TRUST & ORS.** Respondent(s)

**Date : 14-10-2019** These matters were called on for hearing today.

**CORAM :**

**HON'BLE MR. JUSTICE UDAY UMESH LALIT**  
**HON'BLE MR. JUSTICE ANIRUDDHA BOSE**

**Counsel for the Parties:**

Mr. Dushyant Dave, Sr. Adv.  
Mr. Chirag M. Shroff, AOR  
Ms. Mahima C. Shroff, Adv.  
Ms. Yashika Verma, Adv.

Mr. V. Giri, Sr. Adv.  
Ms. Nandita Bajpai, Adv.  
Ms. Shreya Jad, Adv.  
Mr. M. R. Shamshad, AOR

Mr. Sunil Fernandes, AOR  
Mr. Bhuvanesh Sehgal, Adv.  
Ms. Nupur Kumar, Adv.  
Mr. Zeeshan Diwan, Adv.  
Ms. Priyansha Indra Sharma, Adv.

Mr. Manish Paliwal, Adv.  
Mr. Vikas Kumar, Adv.  
Mr. Ashutosh Kumar Sharma, Adv.  
M/s. Corporate Legal Partners, AOR

Mr. Abhigya, AOR  
Ms. Sunita Yadav, Adv.  
Mr. Pradeep Kumar Dubey, Adv.  
Ms. Sonia Arora, Adv.

Ms. Anushka Sharda, Adv.  
Ms. Raveen Rai, Adv.  
Ms. Smriti Nair, Adv.  
M/s. Khaitan & Co., AOR

Mr. Manu Beri, Adv.  
Mr. Varun Varma, Adv.  
Mrs. V. D. Khanna, AOR

Mr. Matrugupta Mishra, Adv.  
Mr. Omar Waziri, Adv.  
Ms. Divya Roy, AOR

Mr. S.K. Dubey, Adv.  
Mr. A.K. Haldhar, Adv.  
Mr. K. V. Mohan, AOR

Mr. Ashish Kothari, Adv.  
Mr. Vidushpat Singhania, Adv.  
Mr. Kush Chaturvedi, AOR

Mr. P.V. Surendranath, Sr. Adv.  
Ms. Resmitha R. Chandran, AOR  
Mr. Sawan Kumar Shukla, Adv.

Mr. Anand Shankar Jha, AOR  
Mr. Abhilash Gopinath, Adv.

Mr. Vipin Singhania, Adv.  
Ms. Manjula Gupta, AOR

Mr. Harvinder Singh, Adv.  
Mr. Gagan Gupta, AOR

Ms. Manjula Gupta, AOR

Mr. Abhishek Yadav, AOR

UPON hearing the counsel the Court made the following  
O R D E R

On 31.10.2018, following directions were issued by this Court

“Special leave petitions are kept pending.

During the pendency of the special leave petitions, the minimum wages fixed as per notification dated 03.03.2017 will hold the field. We make it clear that, at this stage, no arrears need be paid but the current wages will be as per the said notification dated 03.03.2017.

Without prejudice to the rights of the respective parties, we direct the petitioner to re-do the exercise of fixing the minimum wages for the scheduled employment afresh following the route prescribed either under Section 5(1)(a) or 5(1)(b) of the Minimum Wages Act, 1948 as the petitioner may opt to adopt.

Shri Dushyant Dave, learned senior counsel for the petitioner, has stated before the Court that the aforesaid exercise will be completed within a period of two months. Nonetheless, the Court is of the view that the petitioner should be given the benefit of another four weeks meaning thereby the exercise be completed at the end of three months from today and the result thereof i.e. notification that may be proposed to be issued be laid before the Court at the end of three months from today.

We also make it clear that the question of arrears under the notification dated 03.03.2017 will be governed by such wages as may be re-fixed pursuant to the fresh exercise ordered to be undertaken.

We also make it clear that no recovery of amount paid shall be made by employer(s).

Needless to say, in the *de novo* exercise ordered to be carried out will be open for all the stake-holders to raise all issues as may be relevant.”

In terms of said directions, the appropriate exercise was undertaken and the affidavit dated 26.08.2019 filed on behalf of the petitioner submits as under:

“5. In terms of Hon’ble Supreme Court order dated 31.10.2018, Labour Department opted for procedure for wage fixation/revision as provided u/s 5(1)(b) of the Minimum Wages Act, 1948.

6. Based on the average prices of food items and clothing component and other prescribed percentage of other components i.e. housing, light & fuel and Education/social obligation as laid down in ILC-1957 and upheld by Hon’ble Supreme court in civil appeal no.4336 of 1991 titles as The Workmen represented by Secretary Vs. The Management of Reptakos Brett & Co. Ltd. And Anr., following proposed rates of minimum wages for different caegories of workers, supervisory and clerical staff have been worked out in respect of all scheduled employments in Delhi, which are:

Schedule of Employment	Category of Workmen/ Employees	Minimum rates of wages in Rupees	
		Per Month (In Rs.)	Per Day (In Rs.)
All Schedule Employment	Unskilled	14,842/-	571/-
	Semi-Skilled	16,341/-	629/-
	Skilled	17,991/-	692/-
	Clerical and Supervisory Staff		
	Non Matriculates	16,341/-	629/-
	Matriculate but not Graduate	17,991/-	692/-
	Graduate and above	19,572/-	753/-

7. The said proposed minimum wages rates have been uploaded on the website of Labour Department i.e. [www.labour.delhigovt.nic.in](http://www.labour.delhigovt.nic.in) on 12.11.2018 for inviting suggestions/views/inputs/comments from all stakeholders. As per Section 5(1)(b) of Minimum Wages Act, 1948, suggestions/views/inputs/comments are invited on the proposed minimum rates of wages for different categories from public which includes workers, trade unions, employers of commerce, NGOs, members of civil society. The proposed minimum rates of wages were also published in various newspapers on 13.11.2018 and 14.11.2018.

8. Various Trade Unions and market associations/factory owners associations/employer associations were requested vide letter dated 14.11.2018 to recommend/suggest name of one member who would be nominated as a member of the Delhi Minimum Wages Advisory Board to be constituted under section 7 of the Minimum Wages Act, 1948. After receiving nomination/names from these organizations, the Minimum Wages Advisory Board was constituted on 09.01.2019 after getting approval of Hon’ble Lt. Governor, NCT of Delhi. The Board has 15 Employees’ representatives, 15 Employers representative and two independent Members namely Shri

Sanjay Bhatt, Professor, Delhi School of Social Work and Dr. Paramjit, Associate Professor, Delhi School of Economics.

9. The Minimum Wage Advisory Board held 4 meetings on 21.01.2019, 28.01.2019, 08.02.2019 and 15.02.2019 to deliberate on the subject of wage revision taking into account all the suggestions received from all the parties/stakeholders.

10. Pursuant to the fresh exercise carried out by the petitioner under Section 5(1)(b) of the Act as stated above, the petitioner has drafted the proposed notification as directed by this Hon'ble Court vide its order dated 31.10.2018 "... meaning thereby the exercise be completed at the end of three months from today and the result thereof i.e. notification that may be proposed to be issued be laid before the Court at the end of three months from today." A copy of the said draft Notification is marked and annexed as ANNEXURE A-1.

11. The present affidavit is being filed in compliance of the order passed by this Hon'ble Court."

Along with the affidavit, a copy of the Draft Notification has also been annexed.

Mr. Dushyant Dave, learned Senior Advocate appearing for the petitioner submits that since the exercise has been undertaken under Section 5(1)(b) of the Act, the petitioner State be permitted to give effect to the notification in a manner known to law.

Mr. V. Giri, learned Senior Advocate appearing for some of the contesting respondents submits that the issue as to the correctness of the view taken by the High Court would still be required to be gone into.

It may be stated that in terms of the order dated 31.10.2018, the minimum wages fixed as per the notification dated 03.03.2017 were directed to hold the field during the pendency of the matters.

Having considered the rival submissions, we allow the petitioner State to take the Draft Notification, as stated above, to the logical conclusion and direct that till said Notification comes into effect, the relationship shall be governed by and in terms of the Notification dated 03.03.2017 as directed in the order dated 31.10.2018. Once the Notification is issued, the appropriate legal consequence and sequitur shall follow. It goes without saying that if any person is aggrieved by the Notification, he shall be entitled to take recourse to legal remedies available in law.

The correctness of the decision of the High Court, which is presently under appeal shall be required to be considered.

We, therefore, grant special leave to appeal.

Let the hearing of the appeal be expedited.

(MUKESH NASA)  
COURT MASTER

(SUMAN JAIN)  
BRANCH OFFICER