

(2011) 12 MP CK 0040

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5963 of 2011 (S)

Gopal Chawala and others

APPELLANT

Vs

State of Madhya Pradesh and others

RESPONDENT

Date of Decision : 13-12-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 23, 37, 39, 43
Madhya Pradesh Panchayat Adhyapak Samvarg (Employment and Conditions of Service) Rules, 2008 — Rule 2
Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997 — Rule 5

Citation : (2012) ILR (MP) 424 : (2012) 2 JLJ 421 : (2012) 2 MPHT 215 : (2012) 2 MPLJ 605

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : S.K. Sharma, Gaurav Samadhiya and B.S. Dhakad, for the Appellant; M.P.S. Raghuvanshi, Additional Advocate General, for the Respondents/ State, for the Respondent

Judgement

Hon. Shri Justice Sujoy Paul

1. By this common judgment, following writ petitions are decided, as these matters were heard analogously with the consent of parties.

- (1) W.P. 7774/2011(s) Narayan Singh Karoriya Vs. State of MP
- (2) W.P. 5444/2011(s) Arun Kumar Shrivastava vs. State of MP
- (3) W.P. 5445/2011(s) Ranvir Singh Jat vs. State of M.P.
- (4) W.P. 5446/2011(s) Balvindar Singh Vs. State of M.P.
- (5) W.P. 5482/2011(s) Abhilash Sharma Vs. State of M.P.
- (6) W.P. 5483/2011(s) Shobharam Chaubey Vs. State of M.P.
- (7) W.P. 5515/2011(s) Harish Chandra Tiwari Vs. State of M.P.

- (8) W.P. 5516/2011(s) Shivpal Singh Yadav Vs. State of M.P.
- (9) W.P. 5517/2011(s) Hariom Bhargava Vs. State of M.P.
- (10) W.P. 5518/2011(s) Pappu Lal Mahore Vs. State of M.P.
- (11) W.P. 5564/2011(s) Mahesh Kumar Ahirwar Vs. State of M.P.
- (12) W.P. 5565/2011(s) Gautam Singh Vs. State of M.P.
- (13) W.P. 5566/2011(s) Smt. Manju Shrivastava Vs. State of M.P.
- (14) W.P. 5567/2011(s) Surat Singh Vs. State of M.P.
- (15) W.P. 5568/2011(s) Dinesh Singh Raghuwanshi Vs. State of M.P.
- (16) W.P. 5569/2011(s) Rambabu Sharma Vs. State of M.P.
- (17) W.P. 5627/2011(s) Santosh Kumar Sharma Vs. State of M.P.
- (18) W.P. 5628/2011(s) Smt. Saroj Soni Vs. State of M.P.
- (19) W.P. 5629/2011(s) Shivcharan Yadav Vs. State of M.P.
- (20) W.P. 5656/2011(s) Ramavtar Singh Gurjar Vs. State of M.P.
- (21) W.P. 5724/2011(s) Rakesh Singh Solanki Vs. State of M.P.
- (22) W.P. 5725/2011(s) Hari Krishan Dwedy Vs. State of M.P.
- (23) W.P. 5726/2011(s) Shaitan Singh Vs. State of M.P.
- (24) W.P. 5727/2011(s) Narbda Shankar Bhargava Vs. State of M.P.
- (25) W.P. 5728/2011(s) Girraj Soni Vs. State of M.P.
- (26) W.P. 5796/2011(s) Ravindra Singh Parihar Vs. State of M.P.
- (27) W.P. 5797/2011(s) Brijendra Singh Vs. State of M.P.
- (28) W.P. 5798/2011(s) Matadin Thakur Vs. State of M.P.
- (29) W.P. 5926/2011(s) Mohammad Hanif Vs. State of M.P.
- (30) W.P. 5927/2011(s) Manoj Kumar Sharma Vs. State of M.P.
- (31) W.P. 5945/2011(s) Kapil Dev Pathak Vs. State of M.P.
- (32) W.P. 5946/2011(s) Laxman Singh Chouhan Vs. State of M.P.
- (33) W.P. 5947/2011(s) Phool Singh Yadav Vs. State of M.P.
- (34) W.P. 5948/2011(s) Nirbhay Singh Parihar Vs. State of M.P.
- (35) W.P. 5949/2011(s) Virendra Singh Yadav Vs. State of M.P.
- (36) W.P. 5950/2011(s) Ashok Kumar Shrivastava Vs. State of M.P.
- (37) W.P. 5951/2011(s) Sundar Singh Rajput Vs. State of M.P.

- (38) W.P. 5952/2011(s) Yudhisthar Singh Vs. State of M.P.
- (39) W.P. 6039/2011(s) Rajesh Kumar Raghuwanshi Vs. State of M.P.
- (40) W.P. 6040/2011(s) Santosh Upadhyay Vs. State of M.P.
- (41) W.P. 6041/2011(s) Smt. Sarita Sharma Vs. State of M.P.
- (42) W.P. 6050/2011(s) Prakash Yadav Vs. State of M.P.
- (43) W.P. 6123/2011(s) Kishanlal Shivhare Vs. State of M.P.
- (44) W.P. 6172/2011(s) Radha Mohan Singh Vs. State of M.P.
- (45) W.P. 6200/2011(s) Shyamacharan Vs. State of M.P.
- (46) W.P. 6202/2011(s) Gopal Das Namdew Vs. State of M.P.
- (47) W.P. 6203/2011(s) Gyanendra Sharma Vs. State of M.P.
- (48) W.P. 6204/2011(s) Sujan Singh Vs. State of M.P.
- (49) W.P. 6218/2011(s) Parwat Singh Rawat Vs. State of M.P.
- (50) W.P. 6248/2011(s) Satish Kumar Sharma Vs. State of M.P.
- (51) W.P. 6274/2011(s) Rambabu Dubey Vs. State of M.P.
- (52) W.P. 6275/2011(s) Chhotelal Rathor Vs. State of M.P.
- (53) W.P. 6276/2011(s) Sudama Prasad Sharma Vs. State of M.P.
- (54) W.P. 6277/2011(s) Toran Singh Rajput Vs. State of M.P.
- (55) W.P. 6280/2011(s) Jagdish Prasad Jatav Vs. State of M.P.
- (56) W.P. 6281/2011(s) Vinod Kumar Lodhi Vs. State of M.P.
- (57) W.P. 6352/2011(s) Raj Bahadur Singh Yadav Vs. State of M.P.
- (58) W.P. 6353/2011(s) Ram Kirat Singh Kushwah Vs. State of M.P.
- (59) W.P. 6354/2011(s) Antram Banjaraa Vs. State of M.P.
- (60) W.P. 6702/2011(s) Rajesh Kumar Sharma Vs. State of M.P.
- (61) W.P. 6703/2011(s) Mukesh Kumar Gupta Vs. State of M.P.
- (62) W.P. 7178/2011(s) Vijay Kumar Shrivastava Vs. State of M.P.
- (63) W.P. 7203/2011(s) Kuber Singh Vs. State of M.P.
- (64) W.P. 7220/2011(s) Ram Datt Sharma Vs. State of M.P.
- (65) W.P. 7342/2011(s) Manoj Kumar Genda Vs. State of M.P.
- (66) W.P. 7345/2011(s) Ramroop Singh Tomar Vs. State of M.P.
- (67) W.P. 7448/2011(s) Jabar Singh Tomar Vs. State of M.P.

(68) W.P. 7624/2011(s) Shiv Kumar Shrivastava Vs. State of M.P.

(69) W.P. 5797/2011(s) Veer Singh Lodhi Vs. State of M.P.

The facts are taken from Writ Petition No. 5963/2011 (S) (Gopal Chawala and others vs. State of M.P. and others).

2. The petitioners have passed Higher Secondary Examination and some of them passed Certificate of Diploma in Education. It is stated that they are trained teachers. For making cent percent literacy in Madhya Pradesh, a special drive was initiated by State Government and to achieve that goal, a policy was introduced. The said policy is placed on record as Annexure P-R/14 with the rejoinder and called as "Education Guarantee Scheme" (EGS). It is stated that as per the EGS, in every village where there was no Government school, the EGS was introduced with the job to impart education to the pupil. The local authorities were required to invite applications from eligible candidates and then appoint them as Shikshakarmis/Teachers in the EGS. The petitioners have disclosed the names of their EGS in para 4 of the writ petition. The petitioners were imparting education to the children up to primary level. It is further stated by the petitioners that after coming into force of Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 (Adhiniyam), certain posts were created as Shikshakarmi, Samvidakarmi etc. They submit that except the designation of petitioners i.e., "Guruji", they are exactly similarly situated to the Assistant Teachers. The petitioners further submit that initially they were getting Rs.1000/- as honorarium, which was later on enhanced to Rs.2500/-. Their EGS centres were also later on converted into full-fledged Government Schools. They are performing similar nature of duties and possess similar qualification. Thus, by applying the doctrine of "equal pay for equal work", the petitioners prayed for following reliefs:

(i) That, the impugned order dated 12.8.2011 Annex.P/1 may kindly be quashed.

(ii) That, respondents may kindly be directed to grant all the benefit which petitioners availing on regularization and the whole action and orders issued adversely affecting the service conditions of the petitioners be declare illegal.

(iii) That, in the alternate it be declared that petitioners be paid minimum pay of the post of Assistant Teacher of which work they are performing by issuing suitable direction to the state to make the service condition better so that respectable salary of the teacher be paid to the petitioners.

(iv) That, any other relief which this Hon"ble High Court may deem fit, with cost of the petition.

3. Learned counsel appearing for the petitioners further submitted that to eradicate the anomaly amongst teachers, an expert body was constituted headed by Shri D.P. Dubey, IAS, who prepared the report and submitted before the Government for consideration. This document is placed on record as Annexure P/9. It is stated that the fairness is an integral part of a good administration. A

welfare State should ensure that similarly situated persons are given similar treatment. Thus, by placing reliance on various judgments, it is stated that the petitioners are infact entitled for equal pay for the work rendered by them as "Guruji" at par with Adhyapak.

4. Shri S.K. Sharma submits that the respondents have correctly passed the order, thereby petitioners were assimilated/absorbed as Asstt. Teachers, but without giving them opportunity the said order was cancelled by Annexure P/1.

5. Learned counsel for the petitioners relied on various judgments of Supreme Court, reported in Randhir Singh Vs. Union of India (UOI) and Others, Surinder Singh and Another Vs. Engineer-in-chief, C.P.W.D. and Others, ; Bhagwan Dass and Others Vs. State of Haryana and Others, ; Jaipal and Others Vs. State of Haryana and Others, Harnam Singh and Others Vs. Punjab State Electricity Board and Others, ; 2003 (98) FLR 625 (State of West Bengal and others vs. Pantha Chatterjee and others); Paresh Dey and Others Vs. State of West Bengal and Others, State of Karnataka and Others Vs. M.L. Kesari and Others, and, 2011 (3) SCT 357 (Jetha Ram Deora vs. India Telephones Industries Ltd. and others).

6. Per Contra, Shri M.P.S. Raghuvanshi, learned Additional Advocate General, submits that petition is misconceived. Certain "Gurujis" earlier also filed a petition before this Court for the same relief. Said writ petition was registered as W.P.No. 3810/2009(s). Relief was not granted by writ court. Against that order Gurujis preferred a Writ Appeal No.596/2010. The only contention put forth by Gurujis before the Division Bench was that they are serving on the post of Guruji and are getting only honorarium despite the fact that they are performing the work of Assistant Teacher/ Shikshakarmi/Samvida Shala Shikshak Class-3. The stand was that at least minimum of the scale of those post be given to the petitioners. The said writ appeal was disposed of with the direction to scrutinize the cases of petitioners and pass necessary orders in this regard. Shri Raghuvanshi submits that in turn, the respondents have passed a detailed order dated 28th November, 2011 which was filed along with a list of documents. Learned Additional Advocate General submits that each and every aspect of the matter was taken care of in this reasoned and speaking order. The claim of the petitioners was not tenable and, therefore, it is rejected by this order. Petitioners have not challenged the validity of this order and therefore, they are not entitled for any relief from this Court.

7. The stand of the State Government is that petitioners were not appointed pursuant to any statutory recruitment rules. They were appointed pursuant to a policy without subjecting them to any recruitment process. In the scheme itself it was mentioned that they will get honorarium and not the salary. The petitioners were imparting education in EGS whereas Adhyapak, Shikshakarmis and Samvida Shala Shikshak were imparting education in full-fledged Government schools. Shri Raghuvanshi stated that the first stage was introduction as EGS. Subsequently the statutory recruitment rules were made which were known as "Madhya Pradesh Panchayat Shiksha Karmis (Recruitment and Conditions of

Service) Rules, 1997". Rule 5 of these rules deals with classification. Selection method of Shiksha Karmis is also prescribed in the said rules. The stand of the Government is that the petitioners never underwent this selection process when they were appointed as "Guruji". Subsequently, "Madhya Pradesh Panchayat Samvida Shala Shikshak (Appointment and Conditions of Contract) Rules, 2001" came into being. Thereafter, yet another rules "Madhya Pradesh Panchayat Samvida Shala Shikshak (Employment and Conditions of Contract) Rules, 2005" were introduced followed by "Madhya Pradesh Panchayat Adhyapak Samvarg (Employment and Conditions of Service) Rules, 2008". To elaborate, Shri Raghuvanshi would submit that in all these rules a method of selection, eligibility, etc. is prescribed. The persons who were selected pursuant to a particular rule is required to possess a qualification and eligibility. In other words, the mode of selection in all the rules are different and, therefore, by no stretch of imagination, it can be said that the petitioners are similarly situated. By placing reliance on rule 2(f), 2(g) and 2(h) of 2008 Rules (supra), Shri Raghuvanshi submits that Adhyapak, Shiksha Karmi and Samvida Shala Shikshak are three different statutory posts under the relevant rules. "Guruji" is on different footing altogether.

8. In nutshell, the stand of Government is that the doctrine of "equal pay for equal work" cannot be pressed into service. The recruitment method, job nomenclature, extent of responsibility, place of working is different for the petitioners qua the post with whom parity is prayed for. Shri Raghuvanshi has relied on State of West Bengal and Others Vs. Monirujjaman Mullick and Others, ; Official Liquidator Vs. Dayanand and Others, ; M.P. Rural Agriculture Extension Officers Association Vs. State of M.P. and Another, ; State Bank of India and Another Vs. M.R. Ganesh Babu and Others, and State of Madhya Pradesh and Others Vs. Ramesh Chandra Bajpai,

9. I have heard the learned counsel for the parties at length and perused the record.

10. The doctrine of "equal pay for equal work" is flowing from Article 39(d) of the Constitution of India. This Article is under the directive principles in the Constitution. This principle can be pressed into service when it is read with Article 14 of the Constitution. However, for making it a reality, one has to prove the wholesome equality.

11. The Apex Court in Monirujjaman Mullick's case (supra) held as under:

We are of the view that the non-formal educational centres cannot be equated with the primary schools which are regularly run by the Education Department of the State Government. Apart from the basic qualitative differences between the two institutions even the nature of work of the non-formal instructors and the primary school teachers is not identical. The method of appointment, the source of recruitment, method of teaching, hours of the teaching and the mode of payment are entirely different. In the facts and circumstances of this case the

High Court fell into patent error in applying the principle of "equal pay for equal work.

12. The Apex Court in its latest judgment, reported in Steel Authority of India Ltd. and Others Vs. Dibyendu Bhattacharya, , held as under:

Parity of pay can be claimed by invoking the provisions of Articles 14 and 39(d) of the Constitution of India while establishing that the eligibility, mode of selection/recruitment, nature and quality of work and duties and effort, reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical. The functions may be same but the skills and the responsibilities may be really and substantially different. The other post may not require any higher qualification, seniority or other like factors granting parity in pay scales depends upon the comparative evaluation of job and equation of posts. The person claiming parity must plead necessary averments and prove that all things are equal between the posts concerned. Such a complex issue cannot be adjudicated by evaluating the affidavits filed by the parties. In other words, the equality clause can be invoked in the matter of pay scales only when there is wholesome/wholesale identity between the holders of two posts. The burden of establishing right and parity in employment is only on the person claiming such right.

The Apex Court while passing the said judgment has considered all the judgments delivered on this aspect on earlier occasion. Thus, it is not necessary for this Court to deal with each and every judgment relied upon by the parties. The Apex Court while summarizing has laid down the aforesaid legal principles.

13. Thus, the only question is whether the petitioners fulfill the requirement and were able to show the wholesome parity to succeed in the present matter.

14. In the opinion of this Court, the petitioners could not establish that their method of recruitment, nature of work, quantum of work, quality of work, nature of responsibility, place of work, etc. are identical. In other words, the wholesome equality could not be established by the petitioners.

15. Apart from this, their writ petition was already dismissed by this Court. In writ appeal the Division Bench has not quashed and set aside the order passed by the learned Single Judge in the earlier round of litigation. The Division Bench in Writ Appeal No. 596/2010 merely directed for consideration of their minimum of the scale. In turn, the respondents have passed the order dated 28th November, 2011. The petitioners have not chosen to challenge this order. In nutshell, the petitioners have failed to establish the wholesome parity with the post of Asstt. Teacher/Shiksha Karmi Grade-3. Thus, in absence of any such parity, relief claimed cannot be granted to the petitioners.

16. In this petition the benefit of assimilation/absorption was granted to the petitioners as Asstt. Teacher and was cancelled by Annexure P/1. Since this Court has already held that there is no such legal right in favour of the petitioner to get

automatically absorbed as Asstt. Teacher and get the similar pay scale or minimum of the pay, no fault can be found in Annexure P/1. Accordingly, Annexure P/1 is upheld.

17. However before parting with the matter it is relevant to refer to Article 23 of the Constitution of India, which reads as under:

Article 23. 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 23 was considered and interpreted by Supreme Court in catena of judgments. In People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, the Apex Court held as under:

It is difficult to imagine that the Constitution makers should have intended to strike only at certain forms of forced labour leaving it open to the socially or economically powerful sections of the community to exploit the poor and weaker sections by resorting to other forms of forced labour. Could there be any logic or reason in enacting that if a person is forced to give labour or service to another without receiving any remuneration at all it should be regarded as a pernicious practice sufficient to attract the condemnation of Article 23, but if some remuneration is paid for it, then it should be outside the inhibition of that Article? If this were the true interpretation, Article 23 would be reduced to a mere rope of sand, for it would then be the easiest thing in an exploitative society for a person belonging to a socially or economically dominant class to exact labour or service from a person belonging to the deprived and vulnerable section of the community by paying a negligible amount of remuneration and thus escape the rigour of Article 23.

The Apex Court in the same judgment again opined as under:

Moreover, in a country like India where there is so much poverty and unemployment and there is no equality of bargaining power, a contract of service may appear on its face voluntary but it may, in reality, be involuntary, because while entering into the contract, the employee, by reason of his economically helpless condition, may have been faced with Hobson's choice, either to starve or to submit to the exploitative terms dictated by the powerful employer. It would be a travesty of justice to hold the employee in such a case to the terms of the contract and to compel him to serve the employer even though he may not wish

to do so.

It is therefore clear that when the petitioners alleged that minimum wage was not paid to the workmen employed by the contractors, the complaint was really in effect and substance a complaint against violation of the fundamental right of the workmen under Article 23.

(Emphasis supplied)

18. If the aforesaid judgment of the Supreme Court is scanned in its totality and the principles scrutinized, it would be seen that the Supreme Court has laid stress to the fact about payment of atleast the minimum wages to an employee for working in the establishment as a fundamental right of the employee and anything done to deprive an employee of this right, would be nothing but an act amounting to "begar". In a welfare State the Government has to act as a model employer. The State is required to set an example by giving wages and salary sufficient enough to sustain an employee and his family. The State cannot be permitted to act like a private employer and exploit the working class doing duties for the State and citizens.

19. Article 43 of the Constitution, which is under directive principles, reads as under:

Living wage, etc., for workers.--The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

The purpose of directive principles and its implementation is considered in extenso by Supreme Court in the case of His Holiness Kesavananda Bharati Sripadagalvaru Vs. State of Kerala, The following findings from the said judgment are relevant:

While most cherished freedoms and rights have been guaranteed the government has been laid under a solemn duty to give effect to the Directive Principles. Both Parts III and IV which embody them have to be balanced and harmonised-then alone the dignity of the individual can be achieved. It was to give effect to the main objectives in the Preamble that Parts III and IV were enacted.

Parts III and IV essentially form a basic element of the Constitution without which its identity will completely change. A number of provision in Parts III and IV are fashioned of the U.N. Declaration of Human Rights.

Article 39(b) and (c) together with the other provisions of the Constitution contain one of the main objectives, namely, the building of a welfare State and an egalitarian social order in our country. While the Constitution-makers

envisaged development in the social, economic and political fields, they did not desire that it should be a society where a citizen will not have the dignity of the individual. Part III of the Constitution shows that the founding fathers were equally anxious that it should be a society where the citizen will enjoy the various freedoms and such rights as are the basic elements of those freedoms without which there can be no dignity of the individual. Our Constitution-makers did not contemplate any disharmony between the Fundamental Rights and the Directive Principles. They were meant to supplement one another. It can well be said that the Directive Principles prescribed the goal to be attained and the Fundamental Rights laid down the means by which that goal was to be achieved.

The Directive Principles embodied in Part IV of the Constitution or at any rate most of them are as important as the rights of individuals. The Directive Principles and the Fundamental Rights mainly proceed on the basis of Human Rights. Freedom is nothing else but a chance to be better. It is this liberty to do better that is the theme of the Directive Principles of State Policy in Part IV of the Constitution.

The Fundamental Rights and the Directive Principles constitute the "conscience" of our Constitution. The purpose of the Fundamental Rights is to create an egalitarian society, to free all citizens from coercion or restriction by society and to make liberty available for all. The purpose of the Directive Principles is to fix certain social and economic goals for immediate attainment by bringing about a non-violent social revolution. Through such a social revolution the Constitution seeks to fulfill the basic needs of the common man and to change the structure of our society. It aims at making the Indian masses free in the positive sense. Without faithfully implementing the Directive Principles, it is not possible to achieve the Welfare State contemplated by the Constitution.

What is implicit in the Constitution is that there is a duty on the Courts to interpret the Constitution and the laws to further the Directive Principles which under Article 37, are fundamental in the governance of the country.

I think there are rights which inhere in human beings because they are human beings-whether you call them natural rights or by some other appellation is immaterial. As the amble indicates, it was to secure the basic human rights like liberty and equality that the people gave unto themselves the Constitution and these basic rights are an essential feature of the Constitution; the Constitution was also enacted by the people to secure justice, political, social and economic. Therefore, the moral rights embodied in Part IV of the Constitution are equally an essential feature of it, the only difference being that the moral rights embodied in Part IV are not specifically enforceable as against the State by a citizen in a Court of law in case the State fails to implement its duty but, nevertheless, they are fundamental in the governance of the country and all the organs of the State, including the judiciary, are bound to enforce those directives.

The Nation stands today at the cross-roads of history and exchanging the time-

honoured place of the phrase, may I say that the Directive Principles of State Policy should not be permitted to become "a mere rope of sand". If the State fails to create conditions in which the Fundamental freedoms could be enjoyed by all, the freedom of the few will be at the mercy of the many and then all freedoms will vanish. In order, therefore, to preserve their freedom, the privileged few must part with a portion of it.

20. True it is that the respondents are giving the payment in the name of "honorarium" to the Gurujis. As per settled legal position, "honorarium" is not salary. However, without entering into this debate any further, I would only like to observe that whatever emoluments in the name of honorarium is being paid to the Gurujis is used by them for the purpose of keeping their body and soul together. In other words, the payment in the shape of "honorarium" is their livelihood which is used by them to sustain their family in the present days of price hike. To run the cart of their family, legitimate expectation is that payment should be at least that much which can provide them a dignified life of a human being.

21. Pausing here for a moment, it is relevant to refer the recent notification issued by the State Government introducing the rates of minimum wages for unskilled, semi-skilled and skilled workers. This Court is conscious of this fact that Minimum Wages Act as such is not applicable on Gurujis. By no stretch of imagination Gurujis can be brought within the ambit of the said Act. However, the said notification is referred only with a view to show that on the one hand the Government is fixing the rates for the skilled, unskilled and semi-skilled categories in Government and private employment, which is much higher than what has been paid to the Gurujis. On the cost of repetition, it can be said that the petitioners cannot claim the minimum wages under the said Act. However, the minimum wages are determined by a scientific method which includes the factor of inflation/price index and other relevant factors to ensure that such workers can live in human condition. These wages show the bottom line and "minimum" amount necessary for a dignified human life. The "minimum" amount of wages so determined under the said Act, when examined in juxtaposition with Honorarium of "Gurujis", it clearly shows that present amount of Honorarium is grossly inadequate. In the notification dated 24.9.2011 the State Government has introduced the minimum wages. Schedule "A" is reproduced here as under:

This Schedule governs 35 scheduled employments which are given in Annexure "A" of this notification. It includes in item 35 "an employment in private educational institution including coaching centre".

Reading this notification in totality would show that the persons working in private educational institutions in the capacity of Laboratory Technician, Librarian, Laboratory Assistant, Chemist etc. are treated as skilled workers and for them minimum wages were Rs.180/-per day prior to 1.10.2011 and after 1.10.2011 it is Rs.186/-. Multiplying this amount by 30 makes it much more than what a Guruji is getting per month, i.e., Rs.2500/-. The same notification in

another Schedule-I deals with the similar workers working in the State Government departments. For them per day wages are fixed before 1.11.2011 as Rs.156/-and after 1.11.2011 as Rs.161/-. Multiplying this amount by 30 also makes it much more than what Guruji gets. The aforesaid notification issued under the Minimum Wages Act shows that the wages payable to an unskilled employee in private and Government employment is also much higher than the honorarium of a Guruji. Honorarium of Rs.2500/-is shockingly inadequate in the present scenario.

22. The purpose of quoting this example is only to show that the minimum wages are derived by a scientific method to ensure that the workers may sustain themselves in the era of inflation and price hike.

23. Thus, merely because petitioners are not getting "salary" and payment made to them is termed as "honorarium", should not deprive them from getting adequate amount which is in consonance with the constitutional mandate flowing from Articles 23 & 43 of the Constitution of India.

24. In totality, I am unable to hold that the petitioners are either entitled for equal pay for equal work or for even minimum of the scale because there is no wholesome parity demonstrated by them. I am also unable to hold that the petitioners are entitled to get minimum wages. However, on the basis of aforesaid analysis, I am inclined to direct the respondents to reconsider the amount of "honorarium" which is being paid to the petitioner in the present days of price hike. If necessary, the respondents may appoint an expert body for the said purpose. However, the entire exercise should be done keeping in view the principles flowing from Articles 23 & 43 of the Constitution of India.

25. Thus, in the interest of justice, I deem it proper to direct the respondents to reconsider the adequacy of amount of "honorarium" payable to the Gurujis. This exercise be completed within four months and appropriate orders be passed.

26. With the aforesaid, petitions stand disposed of.