(2016) 07 MAD CK 0032

In the Madras High Court

Case No : W.A. No. 867 of 2015, W.P. Nos. 34161, 34162, 34164, 34186, 34163, 34187, 34188, 34346, 34435, 34444 of 2014, W.P. Nos. 15451, 117 to 124, 198 to 200, 262, 346 to 361, 4239, 639 to 654, 681, 1245, 1246, 1844, 2196 to 2206, 2219, 2228 to 2237, 2514 to 2518

State of Tamil Nadu APPELLANT

Vs

M/s. Sri Renga Apparels (India) Pvt. Ltd. RESPONDENT

Date of Decision : 13-07-2016

Acts Referred:

Citation : (2016) 5 CTC 1 : (2016) 3 LLJ 409 : (2016) 3 LLN 430

Hon'ble Judges : Mr. Huluvadi G. Ramesh and Mr. M.V. Muralidaran, JJ.

Bench : Division Bench

Advocate : Mr. A.L. Somayaji, AG, assisted by Mr. S.T.S. Murthy, Govt. Pleader, Mr. R. Krishnamurthy, SC, and Mr. Vijay Narayan, SC, for Mr. A. Devanarendran Mr. Ravindran, Advocates, for the Appellant; Mr. A.L. Somayaji, AG, assisted by Mr. S.T.S. Murthi, Govt. Ple

Final Decision : Allowed

Judgement

Huluvadi G. Ramesh, J.—The present batch of petitions have been filed by the respective petitioners to quash the Government Order in G.O. (2D) No.59, Labour & Employment (J1) Department dated 10.10.2014 and published in Part-II ? Section 2 of the Tamil Nadu Government Gazette dated 3.12.2014, whereby revision has been made to the minimum rates of wages for employment in respect of tailoring trade in export garments manufacturing industry, hosiery industry, etc. The writ appeal has been filed by the State against the interim order passed by the learned single Judge.

2. The petitioners in all these petitions are either belong to export garment industry or hosiery industry, where tailoring activity is being carried on. They are challenging the revision of minimum wages fixed in respect of tailoring activity in the above industries. The facts, not in dispute and which are necessary for the

disposal of this batch of petitions and the writ appeal, are as hereunder :-

(i) Vide G.O. Ms. No.1484, Labour & Employment, dated 12.11.1978, the Government of Tamil Nadu, by virtue of powers conferred under Section 27 of the Minimum Wages Act, 1940 (for short ''the Act''), included tailoring as a scheduled employment for the purpose of the Act, which was followed by G.O. Ms. No.1229, Labour & Employment, dated 9.6.1981, wherein the minimum rates of wages for employment for tailoring was notified. The said Government Order was challenged before this Court in W.P. Nos.5027 to 5033 of 1981 and this Court upheld the validity of the said Government Order.

(ii) Thereafter, G.O. Ms. No.40 dated 25.9.1986 was issued revising the minimum wages for the persons employed in tailoring activity in export garment industry and hosiery industry, which Government Order was also put under challenge in W.P. Nos.10126 and 10127 of 1994 challenging the validity of the said revision and the said writ petitions were also dismissed by this Court vide order dated 12.12.1999.

(iii) Once again, in the year 2004, G.O. Ms. No.74 dated 10.12.2004 was issued by the Government once again revising the minimum wages for tailoring activity in the said industries, which was again challenged in a batch of writ petitions in W.P. Nos.9319/05 and 4239/06 and the same were dismissed by this Court on 22.01.08. Similar writ petitions challenging the above said Government Orders were also dismissed by this Court on 19.09.2011 and 12.06.2012.

(iv) Since the previous revision of the year 2004 was under challenge before this Court and stay had been obtained, the Government had not taken any steps for revising the minimum wages at regular intervals after 2004. After dismissal of the petitions finally in the year 2012, Government took steps for revising the minimum wages which were fixed in the year 2004.

(v) In the year 2012, G.O. Ms. No.306 was issued by the Government reconstituting the advisory board for the purpose of co-ordinating the work of the committees and sub-committees for aiding the Government in the matter of revising and fixing minimum wages. G.O. Ms. No.229 dated 13.6.2013 was issued making amendments to G.O. Ms. No.306 for the purpose of reconstituting the advisory board by including representatives of employers and employees. In pursuant to the constitution of the advisory board, preliminary notification was issued by the Government proposing to revise the minimum wages and calling for objections/remarks from all concerned. However, no representations were received from the tailoring industry. However, representations were received from the workers Union. Finally, the impugned G.O. Ms. No.59, Labour & Employment (J1) Department dated 10.10.2014 and published in Part-II ? Section 2 of the Tamil Nadu Government Gazette dated 3.12.2014 was issued by the Government revising the minimum wages for persons employed in tailoring activity in export garment industry and hosiery industry. Aggrieved by the said revision of minimum wages, the present writ petitions have been filed challenging the said Government Order as arbitrary, unconstitutional and in violation of principles of natural justice.

3. Mr. R. Krishnamurthy, learned senior counsel representing some of the writ petitioners submitted that while Section 3 of the Act clothes the Government with power to fix minimum rates of wages, Section 5 of the Act prescribes the procedure for fixing and revision of minimum rates of wages. It is the submission of the learned senior counsel that Section 5 (2) provides that before revising the wages, after publication of the proposal to revise the wages as provided under Section 5 (1) (b), the Government should consider all the representations received before the prescribed date before issuing any notification. Proviso to Section 5 (2) imposes a condition on the Government to have consultation with the Advisory Board before revising the wages. In a nutshell, it is the submission of the learned senior counsel that as provided under proviso to Section 5 (2), it is the bounden duty of the Government to forward the proposal for revision of wages along with representations received within the prescribed time to the Board for its advice and after consultation with the Advisory Board, the Government shall take steps for notification of the revision in wages. It is contended by the learned senior counsel for the petitioners that there is no whisper in the impugned order as to whether the representations were considered, barring a vague reference about the publishing of the draft of the Government Order previously. It is the contention of the learned senior counsel for the petitioners that in the absence of any reference in the Government Order about the consideration of the objections/representations before the revision of minimum wages, the principles of natural justice stands violated, in that Section 5 (1) (b) has not been complied with. This shows the haste and arbitrariness with which the Government had acted ignoring the mandatory provisions of the Act.

4. It is further submitted by the learned senior counsel for the petitioners that while Section 5 (1) (a) of the Act empowers the Government to appoint Committees and Sub-Committees to hold enquiries and to advise the Government, sub-section (2) to Section 5 mandates that in addition to taking into consideration all the representations, the advice of the Committee should be taken into consideration before passing any order. It is the submission of the learned senior counsel for the petitioners that there is no whisper about the Government consulting with the Committees, though a reference to consulting the Advisory Board is made in the impugned order. It is further pointed out that as per Section 7 of the Act, the Advisory Board is constituted to co-ordinate with the Committees and Sub-committees before advising the Government on fixation/ revision of minimum wages. However, there being no reference about the constitution of a Committee or consultation with the Committee, the impugned order is irrational and illegal and is liable to be interfered with. It is further submitted by the learned senior counsel that though Section 9 of the Act contemplates the composition of the committees, the sub-committees and the Advisory Board, however, proper representation has not been made in the

composition of the Advisory Board by inducting persons representing the employers in the scheduled employment and, thereby, the provisions of Section 9 have been given a go-by, which is impermissible and, therefore, in the absence of proper representation for the employers in the Advisory Board, the revision that is sought to be enforced by the Government through the above order cannot stand the test of legal scrutiny.

5. It is further submitted by the learned senior counsel that Production Managers and Trainees/Apprentices have also been brought within the ambit of Minimum Wages Act, which act totally reflects the non-application of mind of the Government as neither of those categories of persons directly involve themselves in production work and, therefore, cannot be equated with other category of workers, who directly involve themselves in production activities.

6. Mr. Vijay Narayan, learned senior counsel appearing for the petitioners in some of the writ petitions, while concurring with the submissions made by Mr. R. Krishnamurthy, learned senior counsel, further placed before the Court a comparative statement of analysis between persons employed in tailoring activity in export garment industry and hosiery industry and submitted that though the trade of tailoring is carried on in both the industries, however, the minimum wages fixed for the persons employed in the two industries is different. It is therefore submitted that though persons are engaged in similar activities in both the industries, however, the wages fixed for the persons engaged in the export garment industry is much more than the wages fixed for persons similarly employed in hosiery industry, which clearly is a violation of treating two equals as unequals. It is also further contended that the rates fixed in the neighbouring States like Andhra Pradesh and Karnataka are on the lower side as compared to the wages in Tamil Nadu and as such it impacts the interests of workers in Tamil Nadu.

7. It is further submitted by the learned senior counsel for the petitioners that though the Act prescribes two methods of revising the minimum rates, the Government has adopted one method for one industry and another method for another industry. This procedure, according to the learned senior counsel, is unjust and not fair, as two equals cannot be treated unequally and adoption of different methods while fixing the minimum rates of wages is arbitrary and unfair.

8. Finally, it is contended by the learned senior counsel that the petitioners have booked export orders much earlier to the revision of minimum wages based on the wages prevailing then and the present fixation/revision in the wages would highly impact the industry as the industry is a highly competitive one and the profit margin is very narrow and any revision, as fixed by the Government would lead to the winding up of the business of many industries and, therefore, for the smooth functioning of the business as also taking into consideration the welfare of the workers, the impugned order is liable to be interfered with.

9. Mr. Ravindran, learned counsel appearing for the petitioners in W.P. No.117 of

2015 submitted that the percentage of wages fixed by the Government is erroneous as it has been arrived at taking a wrong figure into account and that the percentage increase at 64% is incorrect and exorbitant and no reason has been given by the Government for fixing 8% increase every year and in the absence of any proper justification, the revision sought to be enforced through the above notification is liable to be struck down.

10. On behalf of the petitioners, reliance was placed on the following decisions :-

(i) Shangrila Food Products Ltd. & Anr. v. LIC of India & Anr., 1996 (5) SCC 54;

(ii) Justice Y. Venkatachalam v. Union of India, 2005 (2) MLJ 465;

(iii) Dharampal Satyapal Ltd. v. Deputy Commissioner of Central Excise, Gauhati & Anr., 2015 (8) SCC 519;

(iv) Aspinwal & Co. Ltd. & Ors. v. State of Karnataka & Ors., ILR 1985 Kar 688;

(v) Chandra Bhavan Boarding & Lodging v. State of Mysore & Anr., 1969 (3) SCC 84

11. Per contra, refuting the above arguments, learned Advocate General appearing for the State submitted that the Minimum Wages Act is a social welfare legislation, which was enacted with the object of providing sustenance and maintenance of the workers and his family and preserving his efficiency as a worker. The State Government has so far added 92 employments to the schedule of the Act and for 73 employments, minimum rates of wages has been fixed. It is further submitted by the learned Advocate General that the minimum rates of wages for tailoring trade was last revised vide G.O. (2D) No.74, Labour & Employment Dept., dated 10.12.2004. The Act provides revision of wages every five years. Since the last revision was challenged before this Court the wages were not revised due to stay orders passed by this Court. Immediately on the writ petitions being dismissed by this Court, the Government took steps to revise the minimum rates of wages in exercise of power vested under Section 5 of the Act. Accordingly, by virtue of powers conferred under Section 5 (1) (b) of the Act, preliminary notification in G.O. (2D) No.92, Labour & Employment (J1) Dept., dated 12.12.2013 was issued and the same was published in the Tamil Nadu Government Gazette dated 5.2.14 calling for objections/suggestions, if any, from interested persons. On receipt of the suggestions/objections, the same were placed before the Advisory Board in its 68th meeting held on 10.6.14. The recommendations/views of the Board were communicated to the Government, where-in-after confirmation notification in G.O. (2D) No.59, Labour & Employment (J1) Dept., dated 10.10.2014 revising the minimum rates of wages for employees in tailoring trade in various industries were notified and published in the Government Gazettee dated 3.12.2014.

12. Learned Advocate General drew the attention of the Court to the three rounds of litigation starting with the challenge to the constitutional validity of the Minimum Wages Act and further challenge to the revisions in the minimum

wages, which were dismissed by this Court and submitted that the petitioners having suppressed the above facts and having approached this Court with unclean hands, these writ petitions have to be dismissed in limini.

13. Learned Advocate General submitted that Section 3 (3) (a) of the Act empowers the State Government to fix different minimum rates of wages for different classes of work in the same scheduled employment, different scheduled employment, different localities and different types of persons, viz., adults, adolescents, children and apprentices, etc. Therefore, the stand of the petitioners that different wages being fixed for similar work being done is arbitrary is wholly unjustified, which has been upheld by the Supreme Court as well as other High Courts in a catena of decisions.

14. Learned Advocate General further submitted that five years is the interval period for revision of minimum wages and the last of which was done in the year 2004. More than 10 years having passed, raise in the revision benefit should be commensurate with the period and, therefore, at the rate of 8% per year, the Government having revised the rates by 64% (8 years X 8%) is justified, which is based on the cost of living index and which method of calculation has been uniformly adopted in all the 73 schedule employments and, therefore, there is no arbitrariness in the action of the State.

15. Learned Advocate General further contended that while fixing/revising the minimum rates of wages, the Stage Government is empowered to choose any one of the methods prescribed either under Section 5 (1) (a) or 5 (1) (b) of the Act, i.e., committee method or notification method. Learned Advocate General stressed that the State Government is well within its powers to choose any one of the method as it deems fit and discretion is vested with the Government. To drive home this point, learned Advocate General placed reliance on the judgment of the Supreme Court in Chandra Bhavan Boarding & Lodging v. State of Mysore & Anr. (1970 (2) LLJ 403), wherein the Supreme Court has held that the discretion to choose the method depends upon the nature of employment and the information the Government has in its possession. The Government, in exercise of its discretionary powers, thought it fit to adopt the notification method and after proper notification and considering the recommendations made by the Advisory Board, had issued the final notification and, therefore, it is factually incorrect to contend that the advice given by the Advisory Board have not been taken into consideration.

16. It is further submitted that the Government having decided to adopt notification method to revise the minimum rates of wages, no committee or subcommittee need be constituted to advice the Government as the Government was in possession of data to enable it to revise the minimum wages. Further, in compliance of the mandatory requirement as laid down under Section 5 of the Act, the Government had consulted the Advisory Board by forwarding the representations for consideration of the Advisory Board. Therefore, the contention of the petitioners is totally incorrect and erroneous.

17. Learned Advocate General further submitted that non-inclusion of member from the tailoring trade in the Advisory Board will not vitiate the composition of the Board. In this context, learned Advocate General brought to the notice of the Court that the Chamber of Commerce had represented the petitioners, which effectively means that proper representation has been given to the tailoring trade as well, as the tailoring trade also forms part of the Chamber of Commerce. In this regard, reliance was placed on the decision of the Supreme Court in Ministry of Labour & Rehabilitation v. Tiffin''s Barytes Asbestos & Paints Ltd. (AIR 1985 SC 1391).

18. Learned Advocate General further submitted that Rule 5 (1) (b) of the Act has been duly complied with by the State, in that, the representations/objections that were received from the various bodies, pursuant to the draft notification were duly communicated to the Board and after receiving the recommendations of the Board, the same was considered and, thereafter, final notification was published in the gazette. Therefore, Section 5 (1) (b) of the Act having been followed, the notification issued is binding and the petitioners cannot, at this point of time, plead that their representations have not been considered. Whatever the representations received by the Government, the same were forwarded to the Advisory Board. Not having sent any representation and not having participated in the meeting of the Advisory Board, the petitioners cannot now take a plea that they were not party to the Advisory Board''s proceedings and they could not put forth their objections/suggestions.

19. It is further submitted by the learned Advocate General that the contention that Section 2 (i) of the Act excludes "Production Managers" and "Trainees/ Apprentices" from the category of employees for fixation of minimum wages, is not correct as a bare reading of the above definition would make it clear that the said definition does not exclude any category, except members of Armed Forces. Further, by virtue of Section 3 (3) (a) (iii) of the Act, Government is empowered to fix/revise the minimum rates of wages of different categories of employees and the contention of the petitioners that ''Production Managers'' and ''Trainees/ Apprentices'' are not linked with production activities and, therefore, cannot be equated with other category of workers is liable to be rejected.

20. Insofar as the contention of the petitioners that different rates of wages cannot be fixed for different industry engaged in similar nature of activity, learned Advocate General relied on the judgment of the Supreme Court in Chandra Bhavan Boarding & Lodging v. State of Mysore & Anr. (1970 (2) LLJ 403), and submitted that the Supreme Court has held that the Government can fix different minimum rates of wages for different industries, as the minimum rates of wages depends on the prevailing economic conditions, the cost of living in a place, the nature of work to be performed, etc. Therefore, it is by the learned Advocate General that the contention of the petitioners have got to be negatived.

21. Learned Advocate General refuted the stand of the petitioners in ground (q)

of the additional grounds raised, wherein it is stated that the Commissioner of Labour has addressed the Tirupur Exporters Association wherein it is stated that the wages that has been fixed for tailoring itrade in export garment industry is applicable for tailoring trade in hosiery industry as well. However, the said ground raised by the petitioner is per se incorrect as their own typed set reveals the letter addressed by the Commissioner of Labour dated 4.2.2015, wherein it is mentioned that a separate committee to fix the minimum wages for employment in hosiery manufactory was formed, which is being treated as a sub-entity of the export garment sector and till such time the committee gives a recommendation, the minimum wages applicable for tailors in hosiery will be as per G.O. (2D) No.59, Labour & Employment (J1) Dept., dated 10.10.2014 fixed for tailoring industry. Therefore, it is submitted that their own document reveals that the Government is conscious of the status of different industries and is considering the matter and, therefore, it cannot be said that their representations/objections were not considered.

22. It is further submitted by the learned Advocate General that the reliance placed on Aspinwal & Co. Ltd. & Ors. v. State of Karnataka & Ors. (ILR 1985 Kar 688) is erroneous as the judgment in Chandra Bhavan''s case (supra) has not been considered by the learned single Judge, who has placed reliance on a judgment of the Division Bench, which judgment has been reversed by the Supreme Court.

23. Learned Advocate General concluded his submissions contending that the petitioners having approached this Court with unclean hands, having not paid the minimum wages to its employees since 1978, when the Act was enacted followed by the subsequent revisions, it is too late in the day for the petitioners to harp on technicalities to contend that the Government Order issued revising the minimum wages for the tailoring industry is not in compliance of Sections 7 and 9 of the Act and that Section 5 of the Act also has not been duly complied with are all last ditch efforts of the petitioners to clutch at the straws and, therefore, the petitions are liable to be dismissed. It is further submitted by the learned Advocate General that the petitioners having not paid the minimum wages since the enactment of the Act, the petitioners should be fastened with the liability of paying interest along with penal interest for their act of trying to dislodge a social welfare legislation.

24. Learned Advocate General placed reliance on the following decisions :-

(i) Chandra Bhavan Boarding & Lodging v. State of Mysore & Anr., 1970 (2) LLJ 403 : 1969 (3) SCC 84;

(ii) Tamil Nadu Spinning Mills Association v. State of Tamil Nadu & Ors.;

(iii) Pharmaceutical Manufacturers'' Association of Tamil Nadu v. Govt. of Tamil Nadu;

(iv) M/s. Allahabad Canning Company v. State of U.P. & Ors.; and

(v) Mangalore Ganesh Beedi Works v. The Government of Tamil Nadu.

25. Mr. N.G.R. Prasad, learned counsel representing the workers in some of the writ petitions, while concurring and adopting the arguments of the learned Advocate General submitted that the writ petitioners are feathering their nest at the cost of the employees, who are even being denied their minimum wages as notified by the Government. Mr. Prasad submitted that the industries of the petitioners is export oriented and definitely the returns on the same would be substantial and, therefore, they cannot plead that if the notification for revision of wages is implemented, most of the industries would be closed. Reliance was placed on the judgment of the Supreme Court in M/s. Bhikusa Yamasa Kshatriya & Anr. v. Sangamner Akola Taluka Bidi Kamgar Union & Ors. (AIR 1963 SC 806), wherein the Supreme Court has upheld the constitutional validity of Section 3 (3) (iv) of the Act. Further, it is submitted that since 1978, the petitioners have not been paying the minimum wages and are relishing the fruits of the hard labour of the workers for which they should be penalised by imposing substantial interest on the delayed payments. The fixation of minimum wages as also the further revisions have not been granted to the workers and, therefore, for the lapse on the part of the petitioners, they should be asked to compensate the workers by means of payment of interest. To substantiate the said contention, learned counsel placed reliance on the judgment of the Supreme Court in Rajangam, Secretary, District Beedi Workers Union v. State of Tamil Nadu & Ors. (1992 (1) SCC 221), wherein the Supreme Court held that the implementation of the scheme in an effective manner requires supervision from an independent agency and, therefore, the Tamil Nadu State Legal Aid and Advice Board was entrusted with the responsibility to oversee the operation and the State Government was directed to co-ordinate with the Board in the implementation of the scheme. Therefore, learned counsel submitted that a similar direction be issued in this matter as well so that the scheme is implemented which would benefit more than 4 lakh employees employed in this trade and the petitioners may not be given an opportunity to thwart the social welfare legislation.

26. Heard the learned senior counsel appearing for the petitioners, the learned Advocate General appearing for the State Government and the learned counsel appearing for the workmen and perused the relevant Sections of the Act on which reliance was placed as also the decisions relied on by the learned counsel for the parties.

27. Before we advert to the legal issues raised in these petitions, it would be useful to refer to the different Sections of the Act on which reliance was placed to impress upon the Court the nature of duties cast upon the State and the duty of the State in adhering to the provisions of the Act and the procedures to be followed therefrom.

28. Section 3 of the Act relates to fixing of minimum rates of wages and for better clarity, the same is extracted herein below :-

"3. Fixing of minimum rates of wages.- (1) The appropriate Government shall, in the manner hereinafter provided,--

(a) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under section 27: Provided that the appropriate Government may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

Provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

(1A) Notwithstanding anything contained in sub-section (1), the appropriate Government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment, but if at any time, 4*** the appropriate Government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment 5* (as soon as may be after such finding).

(2) The appropriate Government may fix,--

(a) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(b) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(2A) Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 (14 of 1947) or before any like authority under any other law for the time being in force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so revised shall not apply to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.

(3) In fixing or revising minimum rates of wages under this section,--

(a) different minimum rates of wages may be fixed for--

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults, adolescents, children and apprentices;

(iv) different localities;

(b) minimum rates of wages may be fixed by any one or more of the following wage periods, namely:--

(i) by the hour,

(ii) by the day,

(iii) by the month, or

(iv) by such other larger wage-period as may be prescribed;

and where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated:

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (4 of 1936), minimum wages shall be fixed in accordance therewith."

29. Section 4 of the Act contemplates minimum rates of wages and the same is extracted herein below for reference :-

"4. Minimum rate of wages.- (1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of--

(i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance"); or

(ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or

(iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government."

30. Section 5 of the Act deals with the procedure for fixing and revising the minimum wages and the same is extracted hereunder :-

"5. Procedure for fixing and revising minimum wages. - (1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either--

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise 207 provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of subsection (1), the appropriate Government shall consult the Advisory Board also."

31. While Section 7 deals with the appointment of an Advisory Board, Section 9 of the Act deals with Composition of Committees, etc. and the same are reproduced hereunder for better clarity :-

"7. Advisory Board. - For the purpose of co-ordinating the work of [committees and sub-committees appointed under section 5] and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board.

* * * * * * * * *

9. Composition of committees, etc. - Each of the committees, subcommittees 2*** and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government."

32. In Bhikusa Yamasa Kshatriya case (supra), the Supreme Court had upheld the constitutional validity of Section 3 (3) (iv) of the Act holding that it does not contravene Article 19 (1) (f) of the Constitution. While deciding the said case, the Supreme Court held that the object of the Act is to prevent exploitation of workers and aims at fixation of minimum wages in those industries or localities, where the general level of wages and subsistence level is inadequate. In the said context the Supreme Court held as under :-

"5. The object and policy of the legislature appear on the face of the Act. The object of the Act is to prevent exploitation of the workers, and for that purpose it aims at fixation of minimum wages which the employers must pay. The legislature undoubtedly intended to apply the Act to those industries or localities in which by reason of causes such as unorganised labour or absence of machinery for regulation of wages, the wages paid to workers were, in the light of the general level of wages, and subsistence level, inadequate."

33. From the above decision of the Supreme Court, it is crystal clear that the Act is a piece of welfare legislation intended to safeguard the interests of the workers, more particularly the unorganised labour, in regulating the wages.

34. Keeping in mind the avowed object of the Legislature in enacting the above piece of legislation, this Court would now venture to analyse the contentions raised by the petitioners challenging the impugned notification as arbitrary and against the principles of natural justice.

Method To Be Adopted By Government ? Section 5 (1) (A) Or 5 (1) (B) :

35. Insofar as the contention of the petitioners that uniform method should be adopted and different method should not be adopted for different industry, reliance was placed on Chandra Bhavan''s case (supra), wherein it was held that the legislature has prescribed two procedures for collecting data, which are more

procedural in nature for the purpose of gathering information. It was further held that the Government is not bound by the advice and that the Government is vested with the discretion to select one of the two procedures for collecting data. For better clarity, the relevant portion of the order is extracted herein below :-

"9. .... The legislature has prescribed two different procedures for collecting the necessary data, one contained in Section 5(1)(a) and the other in Section 5(1)(b). In either case it is merely a procedure for gathering the necessary information. The Government is not bound by the advice given by the committee appointed under Section 5(1)(a). Discretion to select one of the two procedures prescribed for collecting the data is advisedly left to the Government. In the case of a particular employment, the Government may have sufficient data in its possession to enable it to formulate proposals under Section (5)(1)(b). Therefore it may not be necessary for it to constitute a committee to tender advice to it but in the case of another employment it may not be in possession of sufficient data. Therefore it might be necessary for it to constitute a committee to collect the data and tender its advice. If the Government is satisfied that it has enough material before it to enable it to proceed under Section 5(1)(b) it can very well do so. Which procedure should be adopted in any particular employment depends on the nature of the employment and the information the Government has in its possession about that employment. Hence the powers conferred on the Government cannot be considered as either unguided or arbitrary."

36. From the above position of law it is clear that the Government is vested with the discretion to choose from any one of the methods as contemplated under Section 5 (1). In such a situation, the Government having been vested with the power to choose the method to be adopted, the action of the Government in choosing the notification method cannot be termed to be arbitrary or violative and, therefore, the contention of the petitioners cannot be countenanced.

Non-Constitution of Committees & Sub-Committees :

37. The next contention of the petitioners is that Committees were not constituted as contemplated under Section 5 of the Act and this caused grave prejudice as no proper enquiry was conducted and advice of the Board taken before issuing final notification. Section 5 of the Act prescribes the method to be adopted while fixing/revising minimum wages and the procedure to be followed therein. It is the further grievance of the petitioners that had the committees and sub-committees been constituted as envisaged under Section 5 (1) (a) of the Act in accordance with Section 9 of the Act, and as contemplated under Section 5 (2) of the Act, if the advice of the Committee had been taken note of by the Advisory Board, which, in turn, had advised the Government accordingly, then the interests of the parties could have been balanced. In the absence of the constitution of the committees and consultation with the Advisory Board, the order passed by the Government revising the wages cannot be sustained.

38. It is also further submitted that there is non-compliance of the provisions of

Section 5 r/w Section 9 of the Act, and the absence of any of the members from the petitioner''s industries inducted into the Committees, which is a mandatory condition having been violated, the final notification issued has to be quashed. It is further contended that in the absence of any representative of the employers in the Advisory Board, which is supposed to co-ordinate the work of the committees and subcommittees under Section 5 of the Act to advice the Government generally in the matter of fixing and revising the minimum rates, the minimum rates of wages revised by the Government is arbitrary and is against the principles of fair play.

39. In Shangrila Food Products case (supra), the Apex Court, referring to the jurisdiction of the Court and the power of the Court to render complete and substantial justice under Article 226 of the Constitution, held as under :-

"11. It is well settled that the High Court in exercise of its jurisdiction under Article 226 of the Constitution can take cognisance of the entire facts and circumstances of the case and pass appropriate orders to give the parties complete and substantial justice. This jurisdiction of the High Court, being extraordinary, is normally exercisable keeping in mind the principles of equity. One of the ends of the equity is to promote honesty and fair play. If there be any unfair advantage gained by a party priorly, before invoking the jurisdiction of the High Court, the Court can take into account the unfair advantage gained and can require the party to shed the unfair gain before granting relief."

40. Keeping the above principles in mind, on considering the entire factual matrix, this Court is of the considered opinion that when discretion is vested with the Government to follow any one of the methods as contemplated under Section 5 (1) of the Act and the Government having adopted the method contemplated under Section 5 (1) (b) of the Act, the non-constitution of committees to hold enquiries in the revision of wages cannot be held to be bad, as Section 5 (1) (b) does not contemplate constitution of Committees. Further, the representations submitted by the petitioners have also been placed before the Advisory Board and have been considered and the Chamber of Commerce has also represented the petitioners before the Advisory Board and, therefore, it cannot be said that the representations of the petitioners were not considered in proper perspective.

41. Further, in the case on hand, there is no dispute that the Government followed the method prescribed under clause (b) of sub-section (1) of Section 5. It is also not the case of the petitioners that the Government had not consulted the Advisory Board. The grievance of the petitioners is that had the Government followed the method prescribed under Section 5 (1) (a) by constituting Committees and sub-committees and, thereafter consulted the Advisory Board, which could have co-ordinated with the said committees, and acted on its advice, the anamoly, as had crept in, would not have happened in the revision of wages. As has been held above, discretion having been vested with the Government to follow any one of the methods mandated in Section 5 of the Act and the Government having adopted the notification method prescribed under Section 5

(1) (b) of the Act, the said exercise cannot be termed to be arbitrary.

Consultation With Advisory Board :

42. The next contention advanced on behalf of the petitioners is that the Government had not consulted the Advisory Board and acted on its advice. However, a reading of the impugned order reflects that the Government had consulted the Advisory Board. However, the grievance of the petitioners is that the Government had not taken into consideration the advice given by the Advisory Board before revising the minimum rates of wages. Proviso to Section 5 (2) provides that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also. A bare reading of the above provision shows that advice from the Advisory Board is only a consultatory procedure and it is not a mandatory procedure. The Government has consulted the Advisory Board also, which is evident from the impugned order. In Allahabad Canning Company case (supra), the Allahabad High Court, on an identical issue, has held as under :-

"4. Sub-section (1) contemplates that in fixing minimum rates of wages for the first time or while revising the same, the State Government may follow either of the two processes namely, it may constitute a Committee or Sub-committee which may advise the Government in respect of fixation or revision of minimum wages or the State Government itself can issue a notification giving information to all persons likely to be affected giving them opportunity to make their proposals and thereafter to issue appropriate notification. The alternative procedure itself suggest that neither the constitution of Committee or Sub-committee or its advice is mandatory. The function of Advisory Board is to co-ordinate the Committees and Sub-committees appointed under Section 5 and advise the appropriate Government generally in the matter of fixing and revising the minimum rates of wages. It does not provide that if the Advisory Board has not been consulted, minimum wages determined by Government under Section 5 of the Act, 1948 would be illegal. It is not the case of petitioner that the State Government did not follow the procedure prescribed in Section 5 (1) (b) of Act, 1948".

(Emphasis supplied)

43. In the above circumstances, the Government having sent the representations/ suggestions received by it to the Advisory Board and had consulted the Advisory Board before passing the final notification, it cannot be held that the Government has not followed the procedure more so when it is evident from the impugned order that the Government had, in fact, consulted the Advisory Board on the basis of the representations/suggestions received from the persons interested. Therefore, this contention also has to necessarily fail.

44. Section 7 of the Act empowers the Government to appoint an Advisory Board for the purpose of co-ordinating the work of the committees and sub-committees

appointed under Section 5 of the Act and, thereafter, advise the Government in the matter of fixing and revising minimum rates of wages. It is clear from the above provision that the Advisory Board is constituted by the Government only for the purpose of advising the Government, however, the Government is not mandatorily required to accept the said advice. A reading of proviso to Section 5 (2) makes it clear that where the Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also. The unambiguous usage of words used in the proviso only goes to show that the Government shall also consult the Advisory and that consultation is not mandatory. Therefore, it is clear that consultation with the Advisory Board is only optional and is not mandatory as provided under Section 5 (1) (b) of the Act. Further, the advise of the Advisory Board is also not binding on the Government. The purpose of consultation with the Advisory Board is only to enable the Government to have necessary inputs and take into account the relevant factors before arriving at the final decision. In the case on hand, the Government having received the representations and consulted the Advisory Board, it cannot be said that the provisions as contemplated under Section 5 (1) (b) have been violated. Therefore, the Government having followed the method as contemplated under Section 5 (1) (b), the Government having consulted the Advisory Board on the basis of the representations received from the affected persons and having issued the final notification, it cannot be said that the final notification issued by the Government is not sustainable. Accordingly, the argument of the petitioners on the above aspect has to be negatived.

Revision of Wages For Production Managers & Trainees/apprentices :

45. The next contention of the petitioners is that the Government cannot fix/ revise the minimum wages for Production Managers and Trainees/Apprentices, as neither of those categories of persons involve themselves directly in production work and cannot be equated with those category of workers who are involved in production activities.

46. To answer the above contention, useful reference can be made to the decision of this Court In Tamil Nadu Spinning Mills Association case (supra), wherein, while dealing with the constitutional validity of Section 3 (3) (a) (iii) of the Act, it has been held that the same does not contravene the provisions of Article 19 (1) (f) of the Constitution. In the said decision, similar contention was raised with regard to fixation of minimum wages for apprentices. This Court, while dealing in extenso on the point whether apprentices could be considered as "employee" within the meaning of the Act, while adverting to Abhilash Jewellery case (2009 (2) SCC 661), where the Supreme Court had dealt with the words "employee" and "workman" as are defined in various labour welfare legislation''s, held that in certain enactments apprentices are included within the meaning of the word "workman" and "employee" and in certain categories there being neither inclusion nor exclusion. In the said context, it was held that the word

"employee" though does not specifically include "apprentices" under the Minimum Wages Act, however, held that leverage is given to the Government to expand the meaning of the words defined in the said legislation, whereby the Government is given the power to treat a person as an employee under the Act. Further, it was held that the intention of the law makers was not to exclude apprentices from the purview of the Act in view of the inclusion of Section 3 (3) (a) (iii) of the Act and, accordingly, held that the Government is well within its power to fix minimum rates of wages even for apprentices.

47. Though a feeble attempt is made by the learned senior counsel for the petitioners to state that the said decision is not binding on this Court, as it had been passed by only by a single Bench, however, this Court is of the considered view that the ratio laid down in the above-said decision is clearly on the point and, therefore, irrespective of the constitution of the Bench, the ratio is liable to be accepted. Further, no appeal having been filed against the said decision, the ratio laid down has reached finality and, therefore, it is too late in the day for the petitioners to argue that the said ratio has no binding effect on this Court. Accordingly, while accepting the ratio laid down by this Court in the above-said decision, this Court holds that the Government has ample elbow space to include Production Managers and apprentices within the meaning of employee under the Act and, thereby, fix/revise minimum wages and, therefore, the said contention is also rejected.

Different Wages For Similar Work In Different Industry :

48. The next contention raised by the learned senior counsel for the petitioners is that the Government has no power to fix different wages for the same type of employment in different industries. In this regard, attention of this Court was drawn to the tabular statement relating to the revision of wages in respect of tailoring in the hosiery industry and export garment industry. It is submitted that while for tailoring in hosiery industry, the basic rates of minimum wages is fixed at Rs. 4,248/-, in respect of tailoring in export garment industry, the basic rates of minimum wages is fixed at Rs. 5,639/-, which is arbitrary and irrational and without any basis. It is submitted that while same work is being discharged in both the industry, fixation of different rates cannot be sustained.

49. In Chandra Bhavan''s case (supra), the Supreme Court dealt with a similar issue and after taking into consideration the entire scenario, held that in view of its earlier decision in Bhaikusa Yamasa Kahatriya case (supra), the Government is well within its power to fix different wages for different industries or in different locations. In this regard, the Supreme Court held as under :-

"16. The contention that the Government has no power to fix different minimum wages for different industries or in different localties is no more available in view of the decision of this Court in Bhaikusa Yamasa Kahatriya v. Sangamner Akola Taluka Bidi Kamgar Union. (1963) Supp 1 SCR 524 The fixation of minimum wages depend on the prevailing economic conditions, the cost of living in a place, the nature of the work to be performed and the conditions in which the work is performed. The contention that it was impermissible for the Government to divide the State into several zones is opposed to Section 3(3) as well as to the scheme of the Act."

Reliance was also placed on the decision of this Court in Pharmaceutical Manufacturers Association case (supra).

50. Keeping the ratio laid down above in mind, on a careful consideration of the facts, it is to be held that disparity is bound to occur even with regard to the similar nature of work that is rendered in different industries. Though tailoring may be a common factor in both industries, be it hosiery or export garment industry, but the nature of work in the two industries is different and cannot be equated with one another with regard to labour and that the labour that is put in the export garment industry is different from the one put in the hosiery industry, which would have been the main reason for the Government to fix different wages in respect of hosiery industry vis-a-vis garment industry. Such being the case, this Court is not inclined to accept the above contention that fixation of different rates for similar activities, viz., tailoring, carried on in two different industries is arbitrary and, therefore, liable to be interfered with.

51. Further the Minimum Wages Act was enacted in order to curb the exploitation of unorganised labour and to provide for a minimum living wage to the unorganised labour in the scheduled employments notified by the Government. The Government, in striving towards the implementation of welfare measures for workmen as provided under Article 43 of the Constitution and to safeguard the dignity of hard labour, has, over a period of time, fixed and revised the minimum rates of wages for the labour in the scheduled employments to provide a fair living wage in the present day scenario. In the above backdrop, taking into account the cost of living index and requirements for a minimal dignified living, the tabular statement, which has been produced by the petitioners, showing the minimum wage to be paid by the respective employers, could in no way be termed as a burden on the respective industries in the discharge of its duty to its employees.

Violation of Principles of Natural Justice :

52. The last of the contention raised by the learned senior counsel appearing for the petitioners is that the representations submitted by the petitioners having not been considered in the proper perspective and the representatives of the petitioners having not been heard before the final notification was issued, the Government have not followed the principles of natural justice by affording an opportunity to the petitioners to be heard in person before issuing the final notification and, therefore, for violation of the same, the impugned notification has to be quashed. Placing reliance on the judgment of this Court in Justice Y. Venkatachalam''s case (supra), learned senior counsel submitted that the rule of law prevails in the country and everybody has a right to approach the Court of

law and as the petitioners were not even heard before passing the order, the same is violative of principles of natural justice. Learned senior counsel sought to contend that without there being consultation with the representatives of the management, decision has been taken by the Government unilaterally and the Chamber of Commerce, which according to the respondent State, was present in representative capacity, has not effectively represented the case of the petitioners. The Government, without taking into account the competitive market prevailing worldwide with stiff competition from neighbouring countries like Bangladesh, China, etc., has revised the wages without taking into consideration the marginal profit of the petitioners and the difficulty of the industries to pay the wages and if the impugned order is not set aside, it would be practically impossible for the petitioners to implement the revised wages and, therefore, the same has to be set aside.

53. In Dharampal Satyapal''s case (supra), the Apex Court held that in most of the statutes, provisions are made ensuring that notice is given to a person against whom an order is likely to be passed before a decision is made. There may be instances where an authority, though is vested with powers to pass orders, which have civil consequences affecting the liberty or property of individuals, but the statute may not contain provision for personal hearing before passing the order. However, what is sought to be introduced is that applicability of principles of natural justice is not dependent upon any statutory provision. Opportunity is to be mandatorily provided irrespective of the fact whether there is any such statutory provision or not. In the above context, while dealing with the procedural fairness in relation to violation of principles of natural justice, the Apex Court held as under :-

"28. ...... the courts have consistently insisted that such procedural fairness has to be adhered to before a decision is made and infraction thereof has led to the quashing of decisions taken. In many statutes, provisions are made ensuring that a notice is given to a person against whom an order is likely to be passed before a decision is made, but there may be instances where though an authority is vested with the powers to pass such orders, which affect the liberty or property of an individual but the statute may not contain a provision for prior hearing. But what is important to be noted is that the applicability of principles of natural justice is not dependent upon any statutory provision. The principle has to be mandatorily applied irrespective of the fact as to whether there is any such statutory provision or not.

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35. From the aforesaid discussion, it becomes clear that the opportunity to provide hearing before making any decision was considered to be a basic requirement in the court proceeding. Later on, this principle was applied to other quasi-judicial authorities and other tribunals and ultimately it is now clearly laid down that even in the administrative actions, where the decision of the authority may result in civil consequences, a hearing before taking a decision is necessary.

It was, thus, observed in A.K. Kraipak case [(1969) 2 SCC 262] that if the purpose of rules of natural justice is to prevent miscarriage of justice, one fails to see how these rules should not be made available to administrative inquiries."

54. Though the Supreme Court has laid down the ratio that opportunity of personal hearing is a facet of natural justice even in respect of administrative actions, in the same length, the Supreme Court, in the above decision, has further held that where on the face of the evidence, fair hearing would make no difference, meaning thereby that a hearing would not change the ultimate conclusion reached by the decision maker, then there would arise no duty to afford a personal hearing. It was further held that where non grant of personal hearing had caused no prejudice to the person against whom the action is taken, referring the matter back to the authorities for fresh decision would not be necessary. The Supreme Court categorically held that every violation of a facet of natural justice may not lead to the conclusion that the order passed is always null and void and that the validity of the order has to be decided on the touchstone of prejudice or test of fair reasoning. For better clarity, the relevant portion of the order passed is extracted herein below :-

"39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While emphasising that the principles of natural justice cannot be applied in straitjacket formula, the aforesaid instances are given. We have highlighted the jurisprudential basis of adhering to the principles of natural justice which are grounded on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason- perhaps because the evidence against the individual is thought to be utterly compelling?it is felt that a fair hearing "would make no difference"-meaning that a hearing would not change the ultimate conclusion reached by the decision-maker?then no legal duty to supply a hearing arises. Such an approach was endorsed by Lord Wilberforce in Malloch v. Aberdeen Corpn. (1971) 1 WLR 1578 : (1971) 2 All ER 1278 (HL) , who said that: (WLR p. 1595 : All ER p. 1294)

"? A breach of procedure ? cannot give (rise to) a remedy in the courts, unless behind it there is something of substance which has been lost by the failure. The court does not act in vain."

Relying on these comments, Brandon L.J. opined in Cinnamond v. British Airports Authority [(1980) 1 WLR 582 : (1980) 2 All ER 368 (CA)] that: (WLR p. 593 : All ER p. 377)

"? no one can complain of not being given an opportunity to make representations if such an opportunity would have availed him nothing."

In such situations, fair procedures appear to serve no purpose since the "right" result can be secured without according such treatment to the individual.

40. In this behalf, we need to notice one other exception which has been carved

out to the aforesaid principle by the courts. Even if it is found by the court that there is a violation of principles of natural justice, the courts have held that it may not be necessary to strike down the action and refer the matter back to the authorities to take fresh decision after complying with the procedural requirement in those cases where non-grant of hearing has not caused any prejudice to the person against whom the action is taken. Therefore, every violation of a facet of natural justice may not lead to the conclusion that the order passed is always null and void. The validity of the order has to be decided on the touchstone of "prejudice". The ultimate test is always the same viz. the test of prejudice or the test of fair hearing."

55. Keeping the above ratio laid down by the Supreme Court in mind, a perusal of the sequence of events leading to the revision of minimum wages by issuance of final notification, unfolds that initially the draft notification as contemplated under Section 5 (1) (b) of the Act was issued calling upon those persons interested to submit their suggestions/representations/objections to the revision of minimum wages. In pursuant to the said notification, representations/ objections/suggestions were submitted to the Government, where-in-after the Government after forwarding the same to the Advisory Board and after consultation with the Advisory Board went on to issue the final notification, which is under challenge. As the sequence of events unfolds as above, it is clear that the petitioners were put on notice through the draft notification calling for their representations. Their representations were considered in consultation with the Advisory Board, where the Chamber of Commerce represented the petitioners before the Advisory Board. Therefore, it cannot be said that there was violation of principles of natural justice as the petitioners were not given an opportunity before passing the final notification. Though it is the stand of the petitioners that representation by the Chamber of Commerce was not effective, however, that would not make the process bad in law. Further, the petitioners having not sent their representation, they cannot, at this distant point of time claim that there is violation of principles of natural justice.

Percentage Increase in Revision of Wages :

56. On the contention of the petitioners that the revision of wages by 64% is not sustainable has to be rejected even at the threshold. It is to be mentioned here that the last of the revision of minimum wages had taken place in the year 2004. It is not in dispute that the revision of minimum wages has to be done once in 5 years. For one or other reason, due to filing of writ petitions and order of stay granted by this Court, the revision of wage was not carried on from 2004 and only after the last batch of writ petitions having been dismissed during 2012, the Government had restarted the work of revision of minimum wages by consulting the advisory board. Therefore, since 2004 till 2012, for 8 years, the wage has not been revised and in that context if revision had been made at the rate of 8% every year, based on the data available with the Government and in consultation with the Advisory Board by following the procedure prescribed under Section 5

(1) (b) of the Act, the same cannot be said to be unreasonable or unjustified.

57. Incidentally, it was argued that in the event of this Court dismissing these writ petitions, exemplary interest should be levied on the petitioners as they have not been paying the minimum wages as notified by the Government and that a Governmental agency has to be nominated to oversee the process of payment of minimum wages as well as arrears to the unorganised labour for whose benefit the legislation has been intended. In this regard, reliance was placed on the decision of the Apex Court in Rajangam''s case (supra), wherein the Supreme Court had nominated the Tamil Nadu State Legal Aid Board to supervise the implementation of the scheme in an effective manner and entrusted the responsibility with the said Board. Accordingly, similar prayer is made by the learned counsel appearing for the workers in these batch of petitions. Though such a contention is raised, this Court is not inclined to nominate any agency to foresee the implementation of the revised wages. However, it is left open to the Government and the workers Union to work out their remedies in accordance with law if the minimum wages, as notified, is not paid consequent to this decision.

58. For the reasons stated above, the writ appeal filed by the State is allowed while the writ petitions filed by the employer/petitioners are dismissed directing the respective petitioners to comply with the notification issued in Government Order in G.O. (2D) No.59, Labour & Employment (J1) Department dated 10.10.2014 and published in Part-II ? Section 2 of the Tamil Nadu Government Gazette dated 3.12.2014 for payment of the revised minimum wages. Since the workmen have not challenged the non-payment of minimum wages for the past period, as notified in various Government Orders referred to above, this Court is not precipitating the matter any further by passing any orders. However, this Court directs that minimum wages as notified shall be paid to the workers by the petitioners/management on and from the date of the notification as published in the Government Gazette, i.e. from December 2014. The petitioners/management are further directed to pay the minimum wages along with the arrears within two months from the date of receipt of a copy of this order along with interest at the rate of 6% p.a. from the date of notification till date of payment. It is further made clear that the petitioners/management shall continue to pay the minimum wages as notified without any default. However, liberty is granted to the petitioners/management to submit a representation to the Government as to the difficulties faced by them in payment of the minimum wages as notified and the respondent/Government shall consider the same at the time when revision is contemplated in future and after affording an opportunity of personal hearing to the petitioners/management, the Government shall pass orders in accordance with law while further revising the minimum wages as per the provisions of the Act.

59. With the above observations and directions, while the writ appeal filed by the appellant/State is allowed, the writ petitions filed by the petitioners/management

are dismissed. Consequently, connected miscellaneous petitions are closed. However, in the circumstances of the case, there shall be no order as to costs.