

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF AUGUST, 2022**

**PRESENT**

**THE HON'BLE MR. ALOK ARADHE, ACTING CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY**

**WRIT PETITION NO. 6926 OF 2018 (GM-RES-PIL)**

**BETWEEN:**

MS. NOWHERA SHAIK

...PETITIONER

(BY SRI ASHISH KRUPAKAR, ADVOCATE [ABSENT])

**AND**

1. STATE OF KARNATAKA  
DEPARTMENT OF LABOUR  
ROOM NO.321, VIDHANA SOUDHA  
BENGALURU-01  
REPRESENTED BY ITS  
CHIEF SECRETARY
2. MINISTRY OF LABOUR  
KARMIKA BHAVAN  
BANNERGHATTA ROAD  
BENGALURU-29  
REPRESENTED BY ITS  
LABOUR COMMISSIONER  
GOVERNMENT OF KARNATAKA
3. MINISTRY OF SOCIAL WELFARE  
5<sup>TH</sup> FLOOR, M.S.BUILDING

DR.B.R.AMBEDKAR VEEDHI  
BENGALURU-01  
REPRESENTED BY ITS  
COMMISSIONER SOCIAL WELFARE

4. MINISTRY OF LABOUR &  
EMPLOYMENT  
GOVT. OF INDIA  
SHRAM SHAKTI BHAWAN  
RAFI MARG, NEW DELHI – 110 001  
REPRESENTED BY ITS  
CHIEF SECRETARY  
**(IMPLEADED V/O  
DATED 23.03.2021)**

...RESPONDENTS

(BY SRI J SATISH KUMAR, AGA FOR R-1 TO 3;  
CGC FOR R-4 [ABSENT])

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO GIVE MINIMUM WAGES TO THE WOMEN WORKERS IN THE MID-DAY MEAL SCHEME IN KARNATAKA AND ETC.

THIS WRIT PETITION COMING ON FOR FINAL HEARING THIS DAY, **ACTING CHIEF JUSTICE** MADE THE FOLLOWING:

**ORDER**

Sri J.Satish Kumar, learned Additional Government Advocate for respondent Nos.1 to 3.

The petitioner claims to be a social worker. This petition has been filed as a public interest litigation espousing the cause of women workers employed under the ‘Bisi Oota Mid-day Meal Scheme’ in the State of Karnataka.

2. In the light of the decision of the Hon'ble Supreme Court of India, mid-day meal scheme was made compulsory in all the States of India. The State of Karnataka has implemented the mid-day meal scheme by formulating "Bisi Oota Mid-day Meal Scheme" (hereinafter referred to as 'the scheme' for short). It is the case of the petitioner that under the aforesaid scheme, women workers are employed on paltry amount of Rs.1,000/- per month.

3. It has been averred in the writ petition that the women workers employed under the scheme belong to Scheduled Caste, Scheduled Tribe and other backward classes category. It has been stated that the aforesaid women workers who have been employed under the scheme for preparation of meals for school children, have been denied the benefit of minimum wages. It is also averred that the aforesaid women workers employed under the scheme proceeded on a strike to fulfill their demands with regard to payment of minimum wages and other

facilities. It is also pleaded that the fundamental rights of the said women workers under Articles 14 and 21 of the Constitution of India have been infringed. The petitioner, therefore, has filed this petition seeking a direction to the respondents to provide minimum wages to the women workers employed under the scheme. The petitioner, in addition, seeks a direction to the respondents to provide other benefits like Maternity Leave and other Leaves including medical benefits and insurance benefits to the women workers employed under the scheme.

4. We have perused the record and have heard the learned Additional Government Advocate at length.

5. In **'PEOPLE'S UNION FOR CIVIL LIBERTIES vs UNION OF INDIA & OTHERS' (WRIT PETITION (CIVIL) No.196/2001)**, the Hon'ble Supreme Court directed that freshly cooked meals be

provided to children in all the Government schools across the country. In compliance of the aforesaid directions issued by the Hon'ble Supreme Court of India, the Government of Karnataka has framed the aforesaid scheme. Under the scheme, Cooks were to be recruited for the purposes of preparing the meals and for serving the same to the school children. The scheme was to be operated within the premises of the schools falling under the category of Government run schools and Government aided schools. The scheme envisaged constitution of Selection Committee for selection of Cooks.

6. The scheme further envisaged that the recruitment of such Cooks under the scheme was to be made after invitation of applications and wide publicity was required to be given for the same. The details of eligibility, the terms of honorarium etc. were also provided therein. The working hours for such Cooks enrolled under the scheme is maximum

4 hours in a day. The Cooks were to be employed on contract basis.

7. Under the aforesaid scheme, Cooks were engaged by the Government of Karnataka on contract basis and initially, an honorarium of Rs.1,000/- per month was paid to them. However, subsequently in the year 2014-2015, the honorarium payable to the Head Cooks and Cooks was enhanced to Rs.1,700/- and Rs.1,600/- per month respectively. The aforesaid honorarium payable to Head Cooks and Cooks under the scheme was further enhanced to Rs.2,000/- and Rs.1,900/- per month respectively. Thereafter, in the year 2017, the honorarium payable to Head Cooks and Cooks under the scheme was enhanced to Rs.2,200/- to 2,100/- per month respectively.

8. In view of the demands made by the Head Cooks and Cooks employed under the scheme, in the

year 2018, the honorarium was further enhanced to Rs.2,700/- and Rs.2,600/- per month respectively.

9. The Government has also undertaken the measures of providing insurance and compensation. In case of untimely death or injury, compensation to the extent of extent of Rs.1,00,000/- and Rs.75,000/- respectively is payable. The provision for payment of Rs.30,000/- has also been made in case any burn injuries are sustained by any person employed under the scheme.

10. The State Government, by an order dated 18.05.2015, has made a provision for insurance under the 'Rastriya Bhima Yojane'. Any person employed under the scheme can avail of the benefit of insurance by depositing Rs.12/- per annum as subscription and the Cooks employed under the scheme are entitled for payment of Rs.2,00,000/- in case of death and Rs.1,00,000/- in case of injury.

11. So far as the claim of the Head Cooks and Cooks employed under the Scheme for grant of minimum wages is concerned, the Minimum Wages Act, 1948 (hereinafter referred to as 'the Act' for short) applies in case of "scheduled employment". The provisions of the Act apply to the employments which have been mentioned in the Schedule appended to the Act. The scheme is not one of the employments mentioned in the Schedule and therefore, the provisions of the Act do not apply to Head Cooks and Cooks who have been employed on contract basis for a limited duration of 4 hours in a day. It is worth mentioning that under the provisions of the Karnataka Minimum Wages Rules, 1958 (hereinafter referred to as 'the Rules' for short), the number of hours to constitute a normal working day in case of an adult is 9 hours. The Head Cooks and Cooks also failed to fulfill this criteria mentioned under the Rules. The claim of minimum wages by the Head Cooks and Cooks employed under the

scheme is not covered under the provisions of Act. Therefore, no writ of mandamus can be issued to the respondents to provide minimum wages to the Head Cooks and Cooks employed under the scheme.

12. Medical benefits and insurance benefits have already been extended to the Head Cooks and Cooks employed under the scheme. Needless to state that the benefits available to Head Cooks and Cooks under the scheme shall be extended to them by the State Government.

With the aforesaid directions, the writ petition is disposed of.

**Sd/-  
ACTING CHIEF JUSTICE**

**Sd/-  
JUDGE**