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

**DATED THIS THE 7<sup>TH</sup> DAY OF FEBRUARY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ**

**WRIT PETITION NO. 22751 OF 2021 (L-RES)**

**BETWEEN:**

INDIAN COFFEE WORKERS'  
CO-OPERATIVE SOCIETY LIMITED  
NO.19, UNIT NO.37, 38  
CHURCH STREET, BRIGADE GARDEN  
BENGALURU-560001  
REP. BY ITS PRESIDENT  
SRI. A. CHINNAPPA  
AGED 73 YEARS

...PETITIONER

(BY SRI. SOMASHEKAR, ADVOCATE-VC)

**AND:**

1. THE SENIOR LABOUR INSPECTOR  
41<sup>ST</sup> CIRCLE, DIVISION-2  
OFFICE OF THE LABOUR COMMISSIONER'S  
OFFICE  
KARMIKA BHAVANA, BANNERGHATTA ROAD  
BENGALURU-560029
2. THE DEPUTY LABOUR COMMISSIONER  
DIVISION-2, KARMIKA BHAVAN  
BANNERGHATTA ROAD  
BENGALURU-560029
3. THE DEPUTY REGISTRAR OF  
CO-OPERATIVE SOCIETIES  
2<sup>ND</sup> CIRCLE, NO.146, SAHAKARA SOUDHA

Digitally  
signed by  
POORNIMA  
SHIVANNA  
Location:  
HIGH COURT  
OF  
KARNATAKA



2<sup>ND</sup> FLOOR, 8<sup>TH</sup> CROSS, 3<sup>RD</sup> MAIN  
MARGOSA ROAD, MALLESHWARAM  
BENGALURU-560003

4. SRI. VENKATARAMA

5. SRI. REVANNA

6. SRI. B.K. RAMALINGAIAH



7. SRI. RAMACHANDRA.B.V.

8. SRI. Y.M. RAMAKRISHNA

9. SRI. RAMAIAH



10. SRI. V.M. PETER JOHN

11. SRI. S. MAHIMA NATHAN

12. SRI. ARJUN RAO



13. SRI. NAGESH

... RESPONDENTS

(BY SRI. BHOJE GOUDA T. KOLLER, AGA FOR R1 TO R3-VC;  
SRI. K. SUBBA RAO, SR. COUNSEL FOR  
SRI. L. MURALIDHAR PESHWA, ADVOCATE FOR  
IMPLEADING R4 TO R13)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER BEARING NO.VU KAA AA BEM-2/VE PAA KAA / CR-35/2020-21/1948 DATED 27.10.2021 PASSED BY THE SECOND RESPONDENT, AT ANNEXURE-R TO THIS WRIT PETITION AND ETC.

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THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP AND HAVING BEEN RESERVED FOR ORDERS ON 8.09.2022, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:



**ORDER**

1. The petitioner is before this Court seeking for the following reliefs;

- a. *Quash the impugned order bearing No.VU KAA AA BEM-2/VE PAA KAA / CR-35/2020-21/1948 dated 27.10.2021 passed by the second respondent, at Annexure-R to this writ petition;*
- b. *Declare that the second respondent has no jurisdiction in view of Section 70(1) of the Karnataka cooperative Societies Act on or after 20.06.2000 in respect of petitioner society registered under the Karnataka Co-operative Societies Act;*
- c. *This Hon'ble Court may be pleased to grant time to pay the arrears of Rs.15,85,843/- in 30 equal monthly instalments in view of the financial difficulties faced by the petitioner society;*
- d. *And pass such other appropriate orders as deemed fit to grant in the facts and circumstances of the case in the interest of justice and equity.*

2. The petitioner is a Co-operative Society registered under the Co-operative Societies Act in the year 1957. The petitioner was carrying on the business of running a coffee shop in Bangalore. The said business was going on very well till the year 2016. However, thereafter, it started suffering losses more so on account of Covid 19 as also on account of the



Bruhat Bangalore Mahanagara Palike (BBMP) having taken up the work of redoing Church Street, which had closed the said road for repair for a period of nearly a year preventing the customers from visiting the coffee hotel being run by the petitioner.

3. The petitioner, during this time having closed the said coffee shop had not made payment of the wages and/or contributions as statutorily mandated but had paid only 50% of the same. It is on this allegation that the workmen had once earlier approached the Deputy Registrar Co-operative Societies who had passed an order stating that he would not be in a position to pass an order on a representation but however, a properly instituted dispute could be considered.
4. Thereafter, the respondent-workmen approached the authority under the Minimum Wages Act seeking for payment of minimum wages. The said authority,



vide its order dated 27.10.2021 upheld the contention of the workmen and directed for payment of minimum wages. It is aggrieved by the same, the petitioner is before this Court seeking for the aforesaid reliefs.

5. Sri.Somashekar, learned counsel for the petitioner, would submit that:

5.1. the authority under the Minimum Wages Act has no jurisdiction and/or authority to decide any dispute and/or claim made by the workmen as regards the Co-operative Society in view of the amendment which has been brought about to Section 70 of the Karnataka Co-operative Societies Act, 1959 in the year 2000.

5.2. that subsequent to the said amendment, any dispute as regards any claim of an workmen/ employee as regards wages or otherwise would have to be referred to the Registrar for decision





and no Civil or Labour or Revenue Court or Industrial Tribunal shall have the jurisdiction to entertain any suit or other proceedings in respect of such dispute.

5.3. In this regard, he relies upon Section 70(1) of the Karnataka Co-operative Societies Act, 1959, (for short, 'the Act') which is reproduced hereunder for easy reference:

**70. Dispute which may be referred to Registrar for decision:**

*(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society <sup>7</sup>[xxxxx] arises—*

*(a) among members, past members and persons claiming through a member, past member or*

*(b) between any member, past members or persons claiming through a member, past members or deceased member, and the society, its <sup>1</sup>[board] or any officer, agent or employee of the society ; or*

*(c) between the society or its <sup>2</sup>[board] and any past <sup>3</sup>[board], any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representative of any deceased officer, deceased agent or deceased employee of the society ; or*

*(d) between the society and any other co-operative society, <sup>4</sup>[or a credit agency.]*



*Such dispute shall be referred to the Registrar for decision and [no Civil or Labour or Revenue Court or Industrial Tribunal] shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute*

5.4. Since in Section 70(1)(c) of the Act, a dispute between the society or its Board and any past Board or any Officer, agent or employee or any past officer, past agent or past employee has been used, the dispute in the present case relating to the present employee would also be covered by Section 70(1)(c) of the Act making the embargo as brought about by the amendment of the year 2000 applicable to the claim of the present workmen and the said dispute and/or claim would have to be adjudicated only by the Registrar of Co-operative Society and the Labour Court would not have any jurisdiction.

5.5. Not only the Labour Court but any authority constituted under any other Labour Enactment



including the authority under the Minimum Wages Act and/or the Payment of Wages Act would also not have jurisdiction to decide any dispute and/or claim as minimum wages or payment of wages.

5.6. He refers to the decision of the Hon'ble Apex Court in the case of ***Dharappa v. Bijapur Coop. Milk Producers Societies Union Ltd.***<sup>1</sup> more particularly Paras, 8, 11, 14, 20 and 22 thereof, which are reproduced hereunder for easy reference:

**8.** *The appellant contends that amended Section 70 of the KCS Act took away the jurisdiction of Labour Courts and Industrial Tribunals functioning under the ID Act only when the amendments to the said section as per Act 2 of 2000 came into effect on 20-6-2000, and it did not nullify an award made by the Labour Court prior to that date, that is on 15-10-1996. It was also contended that the respondent not having raised any objection about want of jurisdiction before the Labour Court, could not subsequently be permitted to raise the plea of want of jurisdiction before the High Court. The respondent on the other hand, supported the decision of the High Court and contended that the Labour Court had no jurisdiction having regard to Section 70 of the KCS Act. The respondent also*

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<sup>1</sup> (2007) 9 SCC 109



*contended that the award of the Labour Court was otherwise also unsustainable as the claim itself was hopelessly barred by limitation, delay and laches. Therefore, the following two questions arise for our consideration:*

*(i) Whether the jurisdiction of Labour Court under the ID Act, was barred by Section 70 of the KCS Act with reference to cooperative societies and if so, from when.*

*(ii) Even if Labour Court had jurisdiction, whether the appellant was entitled to file an application under Section 10(4-A) of the ID Act in respect of a cause of action which occurred in 1978.*

**11.** *The effect of the amendments to Section 70 of the KCS Act, by Act 2 of 2000 is that if any dispute (including any dispute relating to the terms of employment, working conditions and disciplinary action), arose between a cooperative society and its employees or past employees or heirs/legal representatives of a deceased employee, on and from 20-6-2000, such dispute had to be referred to the Registrar for decision and no civil court or Labour Court or Industrial Tribunal would have jurisdiction to entertain any suit or proceeding in respect of such dispute.*

**14.** *Though the Karnataka Cooperative Societies Act, 1959 was reserved for the assent of the President and received his assent on 11-8-1959, the Amendment Act 19 of 1976 which added Clause (d) to sub-section (2) of Section 70 (whereby a dispute between a cooperative society and its present or past employee(s) in regard to any disciplinary action or working conditions was deemed to be a dispute touching the constitution, management, or the business of a cooperative society), was neither reserved for, nor received the assent of the President. In the absence of the assent of the President, Clause (d) of Section 70(2) could not be called in aid to contend that Section 70(1)(c) of the KCS Act would prevail over the provisions of the Industrial Disputes Act. Consequently, even after the 1976 Amendment to*



*the KCS Act, the Labour Courts and Industrial Tribunals functioning under the ID Act continued to have jurisdiction in regard to disputes between a society and its workmen if the cooperative society answered the definition of an "industry" and the dispute was an "industrial dispute". But when sub-section (1) of Section 70 of the KCS Act was further amended by Act 2 of 2000 by specifically excluding the jurisdiction of Labour Courts and Industrial Tribunals with the simultaneous addition of the words "notwithstanding anything contrary contained in the Industrial Disputes Act, 1947" in Clause (d) of Section 70(2) of the KCS Act, the said Amendment Act (Act 2 of 2000) was reserved for the assent of the President and received such assent on 18-3-2000. The amended provisions were given effect from 20-6-2000. Therefore, only with effect from 20-6-2000, was the jurisdiction of Labour Courts and Industrial Tribunals excluded in regard to disputes between a cooperative society and its employees (or past employees) relating to terms of employment, service conditions or disciplinary action. It follows therefore that in the year 1996, the Labour Court had the jurisdiction to make an award in regard to such a dispute. The High Court could not have interfered with it on the ground that Section 70 of the KCS Act was a bar to the jurisdiction of the Labour Court to decide the dispute.*

**20.** *The Full Bench of the Karnataka High Court in Karnataka Sugar Workers Federation [2003 Lab IC 2352 : 2003 AIR Kar HCR 1802 : (2003) 4 Kar LJ 353 (FB)] , decided two issues. Firstly, it upheld the constitutional validity of amendment of Section 70 of the KCS Act by Act 2 of 2000. That question does not arise for our consideration and the decision thereon does not require to be disturbed. Secondly, it upholds and reiterates the decision in Veerashaiva Coop. Bank [2001 Lab IC 269 : (2001) 3 Kar LJ 519 (DB)] . To that extent, it is not good law.*

**22.** *The resultant position can be summarised thus:*



*(a) Even though Clause (d) was added in Section 70(2) with effect from 20-1-1976, Section 70(1) did not exclude or take away the jurisdiction of the Labour Courts and Industrial Tribunals under the ID Act to decide an industrial dispute between the society and its employees. Consequently, even after insertion of Clause (d) in Section 70(2) with effect from 20-1-1976, the Labour Courts and Industrial Tribunals under the ID Act, continued to have jurisdiction to decide disputes between societies and their employees.*

*(b) The jurisdiction of Labour Courts and Industrial Tribunals to decide the disputes between cooperative societies and their employees was taken away only when sub-section (1) and sub-section (2)(d) of Section 70 were amended by Act 2 of 2000 and the amendment received the assent of the President on 18-3-2000 and was brought into effect on 20-6-2000.*

*(c) The jurisdiction to decide any dispute of the nature mentioned in Section 70(2)(d) of the KCS Act, if it answered the definition of industrial dispute, vested thus:*

*(i) exclusively with Labour Courts and Industrial Tribunals till 20-1-1976;*

*(ii) concurrently with Labour Courts/Industrial Tribunals under the ID Act and with Registrar under Section 70 of the KCS Act between 20-1-1976 and 20-6-2000; and*

*(iii) exclusively with the Registrar under Section 70 of the KCS Act with effect from 20-6-2000.*

5.7. By relying on the said decision, he submits that the Hon'ble Apex Court has categorically held that the jurisdiction to decide any dispute of the nature mentioned in Section 70(2)(d) of the Act



is now vested with the Registrar Co-operative Societies and/or the Labour Court or any other authority is barred from considering the same.

5.8. He further relies upon the decision of the Hon'ble Apex Court in the case of **Krishan Prasad Gupta v. Controller, Printing & Stationery**<sup>2</sup> more particularly Paras 32, 33, 34, 35 and 36 thereof, which are reproduced hereunder for easy reference:w

**32.** *Under sub-section (1) of Section 33-C the amount for the recovery of which proceedings may be initiated by a workman, may also consist of the amount due under a settlement or an award. This may be compared with the definition of 'Wages' as contained in Section 2(vi) of the Payment of Wages Act, which also includes "remuneration payable under any Award or Settlement". It is obvious that if any part of this amount is withheld or its payment is unreasonably delayed, the employee can recover it under the Payment of Wages Act.*

**33.** *In Town Municipal Council v. Presiding Officer, Labour Court [(1969) 1 SCC 873 : (1969) 2 LLJ 651] , this Court while affirming the decision of the Mysore High Court, since reported in Town Municipal Council v. Labour Court [(1968) 1 LLJ 779 (Mys)] , laid down that questions relating to payment of minimum*

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<sup>2</sup> (1996) 1 SCC 69



wages to the employee at the agreed rate or any amount for overtime work or for work on off-days can be considered and decided not only under the Payment of Wages Act but also under Section 33-C(2) of the Industrial Disputes Act, 1947, and that jurisdiction of the Labour Court under Section 33-C(2) is not barred on account of the provisions contained in the Payment of Wages Act.

**34.** This decision has been cited only as an effort to indicate that claim for wages can be entertained not only under the Payment of Wages Act but also under Section 33-C(2) of the Industrial Disputes Act.

**35.** Thus, the character and function of the Labour Court under the Industrial Disputes Act as also the Authority under the Payment of Wages Act are similar in purpose and both are designed to produce the same result particularly as some of the provisions under both the Acts prescribe the same thing to be done.

**36.** The Industrial Disputes Act, 1947 and the Payment of Wages Act, 1936 are, therefore, "corresponding law" qua each other particularly as both are part of the same social legislative canopy made by Parliament for immediate amelioration of workmen's plight resulting from non-payment, or delayed payment or, for that matter, short payment of their wages.

5.9. He also refers to the decision of the Allahabad High Court in Civil Misc. Writ Petition No.28261/2000 in the case of **Sahakari Sangh Ltd., vs. Presiding Officer, Labour Court and Ors.**<sup>3</sup> more particularly Para 9 thereof,

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<sup>3</sup> (2013) 137 FLR 999





wherein the decision of the Hon'ble Apex Court in ***Kishan Prasad Gupta vs. Controller, Printing & Stationery*** had been applied. The said Para 9 is reproduced hereunder for easy reference:

*"Thus, on a comparative reading of the judgment of the learned Single Judge in the case of Assistant Registrar, Cooperative Societies (supra), and the judgment of the Supreme Court reported in Ghaziabad Zila Sahkari Bank (supra) and in Krishan Prasad Gupta (supra), neither the Payment of Wages Act, 1936 has any application nor the provisions of the Industrial Disputes Act have any application and the only remedy available to the Respondent no..2 in the given facts of the case is in under the U.P. Cooperative Societies Act, 1965 and the Rules framed there under"*

5.10. Relying on the extracts from the decision in ***Kishan Prasad Gupta*** and ***Sahakari Sangh's*** cases, Sri.Somashekar, learned counsel for the petitioner submits that the Payment of Wages Act, 1976 has no application for recovery of any wages and as such, he submits that the appropriate authority under the Minimum



Wages Act could not have passed orders on an application being made by the Workmen and the same requires to be set aside.

6. Per contra, Sri.K.Subba Rao, learned Senior Counsel appearing for the respondent-workmen would submit:

6.1. that the Minimum Wages Act, 1948 is a Special Enactment, which has been enacted with the purpose and intent of securing the wages of a workmen and being a Special Enactment, the same would have to be given preference over the Karnataka Co-operative Societies Act, 1959 and/or the amendment made thereto and as such, he submits that the workmen cannot be deprived of the mechanism prescribed under the said enactment.

6.2. By referring to certain notifications which have been issued under the Minimum Wages Act, he



submits that the employment in coffee houses and/or coffee hotels is a scheduled employment under the Minimum Wages Act where the minimum wages have been prescribed for such workmen. The same having been detailed and the said establishment having identified and the minimum wages fixed, it is only the recovery proceedings which are prescribed under the Payment of Wages Act which is required to be applied which was so applied by the authority under the Minimum Wages Act and the amount directed to be recovered and as such, he submits that there being no dispute as such, the Karnataka Co-operative Societies Act, whether prior to amendment or post amendment would not apply to minimum wages.

6.3. There is no dispute which is required to be decided by the authority under the Minimum



Wages Act and as such, no such dispute could be referred to or decided by the Registrar under the Karnataka Co-operative Societies Registration Act since it is the only question that is required to be decided is whether the minimum wages prescribed have been paid or not, the employment being scheduled to the Minimum Wages Act. On these grounds, he submits that the authority under Minimum Wages Act being the proper and correct authority has exercised jurisdiction in a proper and correct manner and passed an order which need not be interfered with by this Court.

7. Heard Sri.Somashekar, learned counsel for the petitioner and Sri.Bhoje Gowda T.Koller, learned AGA for respondents No.1 to 3 and Sri.K.Subba Rao, learned Senior Counsel for respondents No.4 to 13 - workmen and perused papers.



8. The points that would arise for determination by this Court are:

- 1) **Whether the amendment made to Section 70 of the Karnataka Co-operative Societies Act, 1959 would impose an embargo on an authority under the Minimum Wages Act to consider any claim for recovery of minimum wages and/or would make the remedies available under the Minimum Wages Act, 1948 read with the Payment of Wages Act, 1936 inapplicable to a claim for minimum wages made by the workmen?**
- 2) **Whether a claim made by a workmen for payment of minimum wages is an industrial dispute which is mentioned and covered by the decision of the Hon'ble Apex Court in the case of *Dharappa v. Bijapur Coop. Milk Producers Societies Union Ltd. reported in (2007) 9 SCC 109*?**
- 3) **Whether the order passed by the authority under the Minimum Wages Act requires interference?**
- 4) **What order?**

9. I answer the above points as under:-

10. **Answer to Point No.1: Whether the amendment made to Section 70 of the Karnataka Co-**



**operative Societies Act, 1959 would impose an embargo on an authority under the Minimum Wages Act to consider any claim for recovery of minimum wages and/or would make the remedies available under the Minimum Wages Act, 1948 read with the Payment of Wages Act, 1936 inapplicable to a claim for minimum wages made by the workmen?**

10.1. Section 70 of the Karnataka Co-operative Societies Act, 1959 (for short, 'the Act') has been reproduced hereinabove.

10.2. The said Act is a State Enactment, which has been brought into force in order to administer the Co-operative Societies in the State of Karnataka.

10.3. Section 70 of the Act deals with a dispute which are to be referred to the Registrar for a decision which includes in terms of Section 70(1)(c) of the Act, dispute between the Society, any officer, agent or employee. Any such dispute shall be referred to the Registrar for decision and no Civil, Labour or Revenue Court or



Industrial Tribunal shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

10.4. The 'Statement of Objects and Reasons' of Minimum Wages Act, 1948 reads as under:

**STATEMENT OF OBJECTS AND REASONS**

*The justification for statutory fixation of minimum wage is obvious. Such provisions which exist in more advanced countries are even necessary in India, where workers' organizations are yet poorly developed and the workers' bargaining power is consequently poor.*

*2. The Bill provides for fixation by the Provincial Governments of minimum wages for employments covered by Schedule to the Bill. The items in the Schedule are those where sweated labour is more prevalent or where there is a big chance of exploitation of labour. After sometime, when some experience is gained, more categories of employment can be added and the Bill provides for addition to the Schedule. A higher period is allowed for fixation of minimum wages for agricultural labour as administrative difficulties in this case will be more than in other employments covered by the Schedule. The Bill provides for periodical revision of wages fixed.*

*3. Provisions had been made for appointment of Advisory Committees and Advisory Boards, the latter for co-ordination work of the Advisory Committees. The Committees and the Boards will have equal representation of employers*



*and workmen. Except on initial fixation of minimum wages, consultation with the Advisory Committee will be obligatory on all occasions of revision.*

- 4. In cases where an employer pays less than the minimum wages fixed by the Provincial Government a summary procedure has been provided for recovery of the balance with penalty and subsequent prosecution of the offending party.*
- 5. It is not ordinarily proposed to make any exemptions in regard to employees of undertakings belonging to the Central Government except that difficulties might arise when the sphere of duty of such an employer covers more than one province and where the rates of minimum wages fixed by the different provinces may be different. For this purpose a provision has been included that the minimum wages fixed by a Provincial Government will not apply to employees in any undertaking owned by the Central Government or employees of a Federal Railway, except with the consent of the Central Government.*

10.5. It is trite law that there is no justification for payment of wages less than the minimum wages and further that an organization which pays less than minimum wages have no right to exist as held by the Hon'ble Apex Court in the





case of ***Bakshish Singh vs. Darshan Engineering Works***<sup>4</sup>.

10.6. In terms of Section 3 of the Minimum of Wages Act, 1948, the appropriate Government shall fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and further for employees employed in Part II of the Schedule, the State would also be at liberty to fix minimum wages for the whole or part of the State.

10.7. It is not in dispute that an employment in a hotel is a scheduled employment where the minimum wages have been fixed. From the Statement of Objects and Reasons of the Minimum Wages Act, it is clear that the minimum wages are required to be fixed for all industries. In the event of the said minimum

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<sup>4</sup> 1994 LLR 61 (SC).



wages not being paid, the recovery proceedings have been prescribed under the Payment of Wages Act, 1936.

10.8. I am of the considered opinion that the dispute which has been referred to in Section 70 of the Act cannot cover the non-payment of wages under the Minimum Wages Act inasmuch as there is no dispute which requires determination. It is only the implementation of the Minimum Wages Act, which is required to be done. In the event of the employer making payment of minimum wages, no order need to be passed. However, in the event of the employer not making payment of minimum wages, there would be a direction required to be issued to the employer to make payment of the minimum wages.

10.9. The context of dispute which has been used in Section 70 of the Act is different from a claim



for minimum wages which is the case in the present matter. The decision in **Darappa's**<sup>1</sup> case was that relating to industrial dispute relating to disciplinary action or working conditions of a workmen. The decision in **Kishan Prasad Gupta** was a claim as regards payment to be made under a settlement or an award. **Sahakari Sangh Limited's** case<sup>3</sup> also deals with an industrial dispute.

10.10. Thus, I am of the considered opinion that the said decisions would not be applicable in the present case and would not come to the rescue of the petitioner. In the present case as afore observed, the claim is for minimum wages in a scheduled employment, the minimum wages being notified by the Appropriate Government. If the said payment is not made, then a claim for recovery of the amount could be made under the Payment of Wages Act, 1936.



10.11. As such, I answer Point No.1 by holding that Section 70 of the Karnataka Co-operative Societies Act, 1959 does not impose any embargo on an authority under the Minimum Wages Act to consider any claim for recovery of minimum wages and as such, the said authority could consider an application for payment of minimum wages, which if not paid, could be recovered under the provisions of Payment of Wages Act, 1936.

11. **Answer to Point No.2: Whether a claim made by a workmen for payment of minimum wages is an industrial dispute which is mentioned and covered by the decision of the Hon'ble Apex Court in the case of *Dharappa v. Bijapur Coop. Milk Producers Societies Union Ltd. reported in (2007) 9 SCC 109?***

11.1. In answer to Point No.1, I have already held that the dispute contemplated under Section 70 of the Act is one contemplated under Industrial Disputes Act, 1947 and not as regards non-payment of minimum wages. The minimum



wages, if not paid, would only give rise to a claim for payment of minimum wages and not a dispute for adjudication. In **Darappa's** case<sup>1</sup>, the Hon'ble Apex Court was seized of a dispute between the Co-operative Society and a workmen arising out of an industrial dispute, which is not the case in the present matter. In fact, the industrial Disputes Act, 1947 does not cover a claim of minimum wages. A claim for minimum wages has to be made under the Minimum Wages Act, 1948.

11.2. Hence, I answer point No.2 by holding that the claim made by a workmen for payment of minimum wages is not a dispute covered under Section 70 of Karnataka Co-operative Societies Act, 1959 nor is it covered by the decision by the Hon'ble Apex Court in the **Darappa's**<sup>1</sup>.

12. **Answer to point No.3: Whether the order passed by the authority under the Minimum Wages Act requires interference?**



12.1. In view of my finding on Point No.1 and 2, there is no infirmity in the order passed by the authority under the Minimum Wages Act, 1948 requiring interference.

12.2. When the matter was listed for pronouncement of judgment, both the counsel requested this Court not to pronounce the judgment and they will try and resolve the matter amicably. Subsequent thereto, both the petitioner and respondents have filed their respective memo of calculations which are at variance with each other.

12.3. Despite sufficient time having been granted, they have been unable to arrive at any settlement and as such, requested this Court go ahead with the pronouncement of judgment.

13. **Answer to point No.4: What Order?**

13.1. There being no grounds, which have been made out, I pass the following:



**ORDER**

- 1) The Writ Petition is dismissed.
- 2) The workmen are entitled to work out their remedy before the appropriate forum.

**Sd/-  
JUDGE**

Prs\*

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