

Indian Nurses Association vs State of Kerala

Indian Nurses Association vs State of Kerala

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Court : Kerala

Decided On : Jan-23-2023

Judge : Honourable Mr. Justice Amit Rawal

Appeal No. : WP(C)/13106/2021

Appellant : Indian Nurses Association

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 14778 OF 2018 PETITIONER/S: KERALA STATE UNITED NURSES ASSOCIATION DOOR NO. 26/548/9, II FLOOR, CAPITAL CITY, KORAPATH LANE,CHEMBUKAVU P.O, TRICHUR - 680 020,REPRESENTED BY ITS SECRETARY SUJANAPAL A.K, AGED 30 YEARS,S/O. ACHUTHAN, RESIDING AT ATTACKKARA HOUSE, PAYYANADAM P.O,MANNARKAD, PALAKKAD - 678 583.

BY ADV SRI.P.S.BIJU RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY,LABOUR

& SKILLS (E) DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. 2 THE ADDITIONAL CHIEF SECRETARY HEALTH DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. 3 THE LAW SECRETARY GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. 4 THE LABOUR COMMISSIONER THOZHIL BHAVAN, PMG JUNCTION, THIRUVANANTHAPURAM PIN - 695 001.

5 DR. JAYAKRISHNAN S/O. VIKRAMA MENON, AGED 49 YEARS, RESIDING AT NARAYANI NIVAS, PATTAMBI, PERINTHALMANNA, CHAIRMAN OF THE 'INDIAN MEDICAL ASSOCIATION (IMA) HOSPITAL BOARD OF INDIA'. IS IMPEADED AS PER

ORDER DATED 18/6/2018 IN IA NO.10485/18

BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY GOVERNMENT PLEADER SRI.K.ARJUN VENUGOPAL DR.S.GOPAKUMARAN NAIR SR. SMT.V.A.HARITHA SRI.R.NANDAGOPAL SRI.SOORAJ T.ELENJICKAL SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL OTHER PRESENT: GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).13106/2021, 15059/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 13106 OF 2021 PETITIONER/S: INDIAN NURSES ASSOCIATION REPRESENTED BY ITS STATE SECRETARY LIBIN TOMAS, AMBIKA COMPLEX, OPPO, WOMENS COLLEGE, PALLIMUKKU, KANNUR - 4. BY ADV T.B.MINI RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT,

HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT, TRIVANDRUM - 695 001. 2 THE SECRETARY TO GOVERNMENT LABOUR AND REHABILITATION DEPARTMENT, SECRETARIAT, TRIVANDRUM - 695001. 3 DIRECTOR OF HEALTH SERVICE KERALA, PALAYAM - AIRPORT ROAD, NEAR GENERAL HOSPITAL ROAD, JUNCTION, THIRUVANANTHAPURAM, KERALA - 695035. 4 THE MINIMUM WAGES ADVISORY BOARD REPRESENTED BY ITS SECRETARY, KIWI TOWERS, TUTORS LANE, STATUE, THIRUVANANTHAPURAM - 1. BY ADV SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 15059 OF 2018 PETITIONER/S: 1 KERALA PRIVATE HOSPITAL ASSOCIATION HAVING ITS REGISTERED OFFICE AT KPHA HEAD QUARTERS,ASHIR BHAVAN ROAD,KACHERIPPADY,ERNAKULAM,KOCHI-682018,REPRESENTED BY ITS SECRETARY,HUSSSAIN KOYA THANGAL.

2 HUSSAIN KOYA THANGAL CHAIRMAN,NIMS HOSPITAL,WANDOOR,PB NO:17.P O VANIYAMBALAM,MALAPPURAM DISTRICT,KERALA-679339. BY ADVS. SRI.N.N.SUGUNAPALAN (SR.) SRI.K.ANAND SRI.BENNY ANTONY PAREL RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM- 695001. 2 THE ADDL.CHIEF SECRETARY LABOUR AND REHABILITATION DEPARTMENT,GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695001. 3 THE LABOUR COMMISSIONER THOZHIL BHAVAN,PMG JUNCTION,THIRUVANANTHAPURAM- 695001.

4 KERALA STATE UNITED NURSES ASSOCIATION DOOR NO.26/548/9, 11 FLOOR, CAPITAL CITY, KORAPATH LANE, CHEMBUKAVU PO, TRICHUR-680020. REPRESENTED BY ITS SECRETARY SUJANAPAL A.K, AGED 30 YEARS, S/O ACHUTHAN, RESIDING AT ATTAKKARA HOUSE, PAYYANADAM PO, MANNARKAD, PALAKKAD-678583. 5 INDIAN NURSES ASSOCIATION REPRESENTED BY ITS GENERAL SECRETARY, LIBIN THOMAS, S/O THOMAS, AGED 28 YEARS, ROOM NO.IV/218(12), PEE SQUARE BUILDING, CHANDAPPURA P.O., KODUNGALLOOR, TRICHUR DISTRICT. BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY GOVERNMENT PLEADER P.S.BIJU T.B.MINI SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 15074 OF 2018 PETITIONER/S: ASSOCIATION OF ADVANCED SPECIALITY HEALTH CARE INSTITUTIONS, PB NO.1, THIRUVANANTHAPURAM - 695 029, REPRESENTED BY ITS PRESIDENT M.I.SAHADULLA. BY ADVS. SRI.P.RAMAKRISHNAN SRI.C.ANIL KUMAR SMT.ASHA K.SHENOY SRI.T.C.KRISHNA SMT.PREETHI RAMAKRISHNAN P-212 SRI.PRATAP ABRAHAM VARGHESE RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, LABOUR AND REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 ADDL. R2. DR. JAYAKRISHNAN, S/O. VIKRAMA MENON, AGED 49 YEARS, REIDING AT NARAYANI NIVAS, PATTAMBI, PERINTHALMANNA, CHAIRMAN OF THE 'INDIAN MEDICAL ASSOCIATION (IMA) HOSPITAL BOARD OF INDIA.' (ADDITIONAL R2 IS IMPEADED AS PER ORDER DATED 10/07/2018 IN IA NO.11054/18) BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY SRI.K.ARJUN VENUGOPAL SMT.V.A.HARITHA SRI.R.NANDAGOPAL

SRI.SOORAJ T.ELENJICKAL GOVERNMENT PLEADER SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 15198 OF 2018 PETITIONER/S: QUALIFIED PRIVATE MEDICAL PRACTITIONERS' ASSOCIATION (QPMPA) FLOOR V - E/F, VALLAMATTAM ESTATE, RAVIPURAM,M.G.ROAD, ERNAKULAM - 682 015 REPRESENTED BY ITS STATE PRESIDENT, PROF (DR) CM ABOOBACKER.

BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR SRI.P.GOPINATH SRI.K.JOHN MATHAI SRI.JOSON MANAVALAN SRI.KURYAN THOMAS SRI.PAULOSE C. ABRAHAM RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY TO GOVERNMENT,SECRETARIAT, THIRUVANANTHAPURAM - 695 001, KERALA. 2 THE ADDITIONAL CHIEF SECRETARY LABOUR AND REHABILITATION DEPARTMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001KERALA. 3 THE LABOUR COMMISSIONER THOZHIL BHAVAN, PMG JUNCTION, THIRUVANANTHAPURAM - 695 001, KERALA.

4 DR. JAYAKRISHNAN, AGED 49 YEARS S/O. VIKRAMA MENON, RESIDING AT NARAYANI NIVAS, PATTAMBI, PERINTHALMANNA, CHAIRMAN OF THE INDIAN MEDICAL ASSOCIATION, (IMA) HOSPITAL BOARD OF INDIA. 5 KERALA STATE PRIVATE HOSPITAL EMPLOYEES FEDERATION (CITU), STATE COMMITTEE, E. BALANANDAN SMARAKA MANDIRAM, MELETHAMPANOR, THIRUVANANTHAPURAM - 695 001, REP. BY ITS GENERAL SECRETARY BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY GOVERNMENT PLEADER DR.S.GOPAKUMARAN NAIR (SR.) ASOK M.CHERIAN SRI.SOORAJ T.ELENJICKAL SRI.K.ARJUN VENUGOPAL

SMT.V.A.HARITHA SRI.R.NANDAGOPAL SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 15243 OF 2018 PETITIONER/S: ASSOCIATION OF HEALTH PROVIDERS (INDIA) 2ND FLOOR, INDIAN MEDICAL ASSOCIATION HOUSE, INDRAPRASTHA MARGH, NEW DELHI - 110 002, REPRESENTED BY ITS STATE PRESIDENT DR.HARISH PILLAI. BY ADVS. P.RAMAKRISHNAN C.ANIL KUMAR ASHA K.SHENOY T.C.KRISHNA PREETHI RAMAKRISHNAN (P-212) PRATAP ABRAHAM VARGHESE RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, LABOUR AND REHABILITATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 ADDL.R2 KERALA HOSPITAL EMPLOYEES SANGH (BMS) REGISTRATION NO. 91/83, SHORNUR ROAD, PATTURACKAL, THIRUVAMBADY., THRISSUR - 680 022, REPRESENTED BY ITS GENERAL SECRETARY SHRI.A.C KRISHNAN. (ADDL.R2 IS IMPEADED AS PER ORDER DATED BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY SHAJI THOMAS SRI.JEN JAISON SRI.K.V.SOHAN STATE ATTORNEY GOVERNMENT PLEADER SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 19105 OF 2018 PETITIONER/S: 1 M/S. M.B. HOSPITAL DOWN HILL, MALAPPURAM-676519, REPRESENTED BY ITSMANAGING PARTNER, E. UMMER BAVA. 2 ORCHID INSTITUTE OF HEALTH CARE RESEARCH PVT. LTD. DOWN HILL, MALAPPURAM-676519, REPRESENTED BYITS MANAGING PARTNER, P. SUBAIR. 3 CHRISTIAN WELFARE CENTRE UP. HILL MALAPPURAM-676505, REPRESENTED BY ITS MANAGING TRUSTEE, REV. CHRISPIN PARAS. 4 MS. RELIEF HOSPITAL AND TRAUMA CENTRE PTVT. LTD. KONDOTTY,MALAPPURAM, REPRESENTED BY ITS MANAGING DIRECTOR, DR. A.MOIDEENKUTTY. BY ADVS. SRI.S.SREEKUMAR (SR.) SRI.AJAY BEN JOSE SRI.R.GITHESH SRI.P.MARTIN JOSE SRI.MANJUNATH MENON SRI.P.PRIJITH SRI.THOMAS P.KURUVILLA RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695001. 2 THE ADDITIONAL CHIEF SECRETARY LABOUR & SKILLS(E) DEPARTMENT,GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695001. 3 THE LABOUR COMMISSIONER THOZHIL BHAVAN, PMG JUNCTION,THIRUVANANTHAPURAM- 695001. BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY GOVERNMENT PLEADER SRI.K.V.SOHAN STATE ATTORNEY SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 23406 OF 2018 PETITIONER/S: 1 KALLIYATH HOSPITAL POOKKAYIL (P.O.), TIRUR - 676 107,MALAPPURAM REP. BY ITS MANAGING DIRECTOR DR.TAHA SUBARI KALLIYATH. 2 TIRUR MISSION HOSPITAL POONGOTTUKULAM, TIRUR - 676

101,REP. BY ITS MANAGING DIRECTOR,DR.MOHAMED ABDURAHMAN. 3 NEELI MEMORIAL HOSPITAL CMAS B.P.ANGADI, TIRUR - 676 102, MALAPPURAM,REP. BY ITS MANAGING DIRECTOR DR.VALAYUDHAN. 4 SURYA MATERNITY SURGICAL HOSPITAL MANGATTIRI (PO), TIRUR - 676 101, MALAPPURAM,REP. BY ITS PROPRIETOR DR.K.B.VALSAN.

5 TIRUR NURSING HOME TIRUR - 676 101, MALAPPURAM,REP. BY ITS MANAGING PARTNER DR.NOUSHAD. 6 PKH HOSPITAL B.P.ANGADI, 676 102, MALAPPURAM,REP BY ITS MANAGING DIRECTOR DR.MOHAMED KUTTY.

7 NEHA HOSPITAL CHANGUVETTI (PO), KOTTAKKAL - 676 503,REP. BY ITS MANAGING DIRECTOR DR.ABDURAHIMAN THOTTIYIL. 8 MANU MEMORIAL HOSPITAL MELAKAM, MARUVAMBURAM (PO),MANJERI - 676 121,REP. BY ITS MANAGING DIRECTOR DR.MOHAMED RENNIS. 9 HARISON MEDICAL CENTRE EDARIKKODE (PO), MALAPPURAM - 676 501,REP. BY ITS MANAGING DIRECTOR DR.DAMANALAL.K.S. 10 MERCY HOSPITAL MAIN ROAD, KONDOTTY, MALAPPURAM - 673 638,REP. BY ITS MANAGING PARTNER FATHIMA K.T. 11 AMINA HOSPITAL PERINTHALMANNA, MALAPPURAM - 679 322,REP. BY ITS MANAGING DIRECTOR DR.MOHIADDEEN. 12 RELIEF HOSPITAL AND TRAUMA CENTRE KONDOTTY, MALAPPURAM - 673 638,REP. BY ITS MANAGING DIRECTOR DR.MOIDEEN KUTTY. 13 SUKAPURAM HOSPITAL ASHA NIVAS (P.O.), KALADI, MALAPPURAM - 679 582,REP. BY ITS MANAGING DIRECTOR DR.AMRITHKUMAR. 14 SAVERA HOSPITAL PVT.LTD. EZHUR ROAD, TIRUR - 676 101,REP. BY ITS MANAGING DIRECTOR DR.K.MOIDEEN KUTTY. 15 ANUPAMA MEDICAL CENTRE K.G.PADI, TIRUR - 676 101,REP. BY ITS MANAGING DIRECTOR DR.PRAMOD. 16 HOLY CROSS HOSPITAL PVT LTD. MANJERI, MALAPPURAM (DIST) - 676 121,REP.BY ITS MANAGING DIRECTOR DR.M.C.JOY. 17 NAHAS HOSPITAL PARAPPANANGADI, MALAPPURAM (DIST) - 676 303,REP. BY ITS MANAGING DIRECTOR DR.K.ABDUL MUNEER. 18 RAMDAS CLINIC AND NURSING HOME PERINTHALMANNA, MALAPPURAM (DIST) - 679 322,REP. BY ITS MANAGING DIRECTOR DR.RAMDAS. 19 NIZAR HOSPITAL VALANCHERY, MALAPPURAM (DIST) - 676 552,REP. BY ITS MANAGING DIRECTOR DR.MUJEEB RAHMAN.

20 NADAKKAVIL HOSPITAL VALANCHERI, MALAPPURAM (DIST) - 676 552, REP. BY ITS MANAGING DIRECTOR DR. MOHAMEDALI.N. BY ADVS. SRI.K.K.PREMALAR SRI.VISHNU JYOTHIS LAL RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR & SKILLS (E) DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2 DISTRICT LABOUR OFFICER MALAPPURAM - 676 505. BY ADVS. SRI.K.V.SOHAN, STATE ATTORNEY SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 24067 OF 2018 PETITIONER/S: 1 VALLUVANAD HOSPITAL COMPLEX LIMITED ETC. KANNIYAMPURAM POST, OTTAPPALAM, PALAKKAD-679 104, REPRESENTED BY ITS CHAIRMAN, DR. RAMAKRISHNAN, 2 MODERN HOSPITAL KOOTTANAD, PALAKKAD-679 533 REPRESENTED BY ITS MANAGING PARTNER, DR. RAMAKRISHNAN BY ADVS. SRI.K.K.PREMALAR SRI.VISHNU JYOTHIS LAL RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR & SKILLS (E) DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001 2 DISTRICT LABOUR OFFICER PALAKKAD BY ADV SRI.K.V.SOHAN, STATE ATTORNEY GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944 WP(C) NO. 25109 OF 2018 PETITIONER/S: THE ASSOCIATION OF HEALTHCARE PROVIDERS (INDIA) SECOND FLOOR, INDIAN MEDICAL ASSOCIATION HOUSE,INDRAPRASTHA MARG NEW DELHI-110002REPRESENTED BY ITS KERALA STATE CHAPTER PRESIDENTSR.HARISH PILLAI BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR SRI.P.GOPINATH SRI.K.JOHN MATHAI SRI.JOSON MANAVALAN SRI.JAI MOHAN SRI.KURRYAN THOMAS SRI.PAULOSE C. ABRAHAM RESPONDENT/S: 1 THE STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY TO GOVERNMENT,SECRETARIAT, THIRUVANANTHAPURAM-695 001, KERALA 2 THE ADDITIONAL CHIEF SECRETARY LABOUR AND REHABILITATION DEPARTMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001, KERALA

3 THE LABOUR COMMISSIONER THOZHIL BHAVAN, PMG JUNCTION,THIRUVANANTHAPURAN-695 001, KERALA BY ADVS. GOVERNMENT PLEADER SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL GP SABEENA P ISMAIL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH WP(C).14778/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners in the writ petitions numbered WP(C) No. 24067/2018, 19105/2018, 23406/2018, 15198/2018, various private hospitals across the State of Kerala and various Associations of Healthcare Providers, Qualified Medical Practitioners, Advanced Speciality Healthcare Institutions, Kerala Private Hospitals, Kerala State United Nurses Association have approached this Court assailing the notification dated 23.04.2018 promulgated by the State Government of Kerala G.O.(P) No. employees in the private hospital sectors.

2. The contention of the petitioners is that the impugned

notification revising the minimum rates of wages payable to the employees in the private hospital sectors is indeed arbitrary and irrational, for it was revised without following the procedure prescribed in the Minimum Wages Act, 1948 (hereinafter referred to as 'the Act'). The scheme of the Act does not envisage an automatic increase every five years. Section 3 of the Minimum Wages Act, 1948 mandates a review of minimum rates of wages at such intervals not exceeding five years by the Government. Hospitals in Kerala are also treated as shops under the Shops and Commercial Establishments Act, 1960 and while revising the minimum wages of those employed in the private hospitals vide impugned government

order dated 23.04.2018 the petitioners are put to pay higher rates

for the same work compared to those covered under the Shops and Commercial Establishments Act as several categories of employees are common to both Acts and discharge identical duties.

3. The impugned notification is not as per the result of

direction of the Hon'ble Apex Court in Trained Nurses Association of India v. Union of India (2016 SCC Online SC 95) whereby Government of India to improve the conditions of service including fair wages of nurses and allied employees of the Central Government Constituted Jagdeesh Prasad Committee followed by, State government of Kerala constituted a four (4) member Committee and published a draft proposal of rates of wages payable to employees employed in private hospitals, dispensaries, pharmacies, scanning centres, x-ray units and other related establishments. The said draft proposal notification No. 375/E1/2017/LBR dated 16.11.2017 the recommendations therein, were not implemented and due to further agitations the state government of Kerala was compelled to issue a consequential order which is the impugned order herein.

4. Even though several aspects of the draft proposal are

adopted in the consequential order, the same is vitiated by malafides and arbitrariness. The petitioner associations submits that the impugned order suffers

from anomalies and arbitrariness thus liable to be quashed and seeks Court's direction to carry out revision of wages, if necessary, only in accordance with the provisions in the Statute/ or Act.

5. Learned counsel for the petitioners submitted that the

Government has totally ignored the procedure, method and norms laid down in the Minimum Wages Act, 1948 in the fixation of wages in the impugned notification dated 23.04.2018 and the wages now fixed are above the level of Fair Wages. As per the recommendations the committee constituted in compliance of the

judgement dated 29.01.2016 in Trained Nurses Association of India

v. Union of India (2016 SCC Online SC 95) salary payable to nurses working in private hospitals shall not be less than Rs. 20000/- per month even for hospitals having less than fifty (50) beds. The state government has come up with the impugned notification without actually hearing the real aggrieved parties or dealt with the objections. The petitioners had earlier approached this Hon'ble court through WP (C) No. 33100/2016 with an interim prayer to keep the recommendations of the committee in abeyance which was disposed off directing SO.

6. For the fixation of minimum wages a standard formula

need to be adopted by the respective Governments in accordance with the guiding norms laid down by the Supreme Court in Workmen represented by Secretary v. Management of Reptakos Brett and Co. Ltd. And Another (1992 91) SCC 290) but has totally ignored while promulgating the impugned notification. It is also regardless of the interim orders of this Hon'ble High Court in WP(C)No. 33100/2016 and observations passed in WP(C)No. 8867/2018, therefore the passing of the notification dated 23.04.2018 of the State Government of Kerala G.O.(P) No. 33/2018/LBR revising the minimum rates of wages payable to the employees in the private hospital sectors is arbitrary and in gross violation of procedure established by the statute and beyond the scope of the Act.

7. Section 5 of the Act prescribes procedure for fixing and

revising the minimum wages. There are two options for the Government either for appointment of the committee by holding an enquiry regarding fixation or revision of the wages OR by notification in the Official Gazette by publishing the proposal for the information of the persons likely to be affected and specify date of not less than two months, on which the proposals will be taken into consideration. Against the proposal, the objections are invited where the representation received are to be considered.

8. It was contended that sub Section 3 of Section 3 of the

Act prescribes procedure for fixing or revising the minimum rates of wages. Different minimum rates of wages has been fixed only in categories of employment ie., different scheduled employments, different classes of work in the same scheduled employments, adults, adolescents, children and apprentices and different localities. The section does not permit different categorization of private hospitals in the same scheduled employments. Clause 9 of the impugned notification Ext.P2 is to be implemented with effect from 1.10.2017; notification Ext.P2 is dated 23.4.2018, thus it has a retroactive effect which is not permissible in law in view of the catena of judgments.

9. Private hospitals in Kerala have been brought under the

purview of Kerala Shops and Commercial Establishments Act, 1960. The minimum rate of wage was fixed for the employees working in establishments under the aforementioned provisions of the Act by the Government vide order dated 15.9.2015. Minimum wages of a Manager under the Act have been prescribed as 9330+D.A whereas in the case of members of the Association, the rate fixed is at around 26,150+D.A. Thus there is a stark difference between the wages viz- a-viz the minimum wages under the Shops and Commercial Establishments Act.

10. The respondents relied upon the recommendations of the

committee in compliance with the judgment of Hon'ble Supreme Court in Trained Nurses Association of India v. Union of India (2016 SCC Online SC 95) whereby

Government of India Constituted Jagdeesh Prasad Committee to improve the conditions of service including fair wages of nurses and allied employees to the Central Government and urged this court for implementation of the notification dated 23.04.2018 for the betterment of working life of the private nurses in Kerala.

11. Trained nurses Association filed W.P.(C) No.527 of 2011 before the Supreme Court seeking directions to improve working conditions of the nurses in private hospitals in all over India. Vide

judgment dated 29.1.2016 directions were issued to the Central

Government to form a committee within four months from the date of the judgment to vindicate the grievances [Trained Nurses Association of India v. Union of India (2016 SCC Online SC 95)]. Committee constituted, submitted a recommendation to the Principal Secretary of Health to all States including Kerala, R1(e). Government of Kerala vide order dated 19.10.2016, constituted Industrial Relations Committee on private hospitals. Subsequent

order dated 28.10.2016, the said Committee was authorized to

submit proposal for revision of minimum wages for employees in private hospitals, dispensaries and pharmacies, after conducting an enquiry. The said committee consisted of 13 members representing the employers and 13 members representing the employees. Labour commissioner was the chairman. Despite extending the term of the aforementioned committee, it could not submit the report and on request of the committee a joint meeting was conducted in the presence of Ministers of law, Health and Labour & skills. A unanimous decision in the said meeting could not be taken as two nurses' Union representatives refused to agree.

12. On 14.3.2018, the Kerala Private Hospital Association

preferred a writ petition bearing No.8867 of 2018 for direction to hear them and their objections before issuing Final Notification revising minimum rates of wages pursuant to the preliminary notification dated 16.11.2017. This Court Vide interim order dated 15.3.2018 stayed the publication of the final notification for fixing

minimum wages and directed to proceed with the scheduled hearing. Mediation was conducted at the mediation centre of the High Court. It was suggested that the mediation should be conducted with the participation of five Management Association, 5 Employees' Association, Labour Commissioner, three members of Wages Advisory Board and two trained mediators from the panel of mediators of High Court Mediation Centre. However for the reasons best known, no consensus was arrived at in the mediation and this Court in the judgment aforementioned vide judgment dated 3.4.2018 permitted the parties to assail the Final Notification in accordance with law.

13. Along with this comes another writ petition W.P. (C) No.

against the State of Kerala, and other respondents seeking implementation of the notification dated 23.04.2018 promulgated by the State Government of Kerala G.O.(P) No. 33/2018/LBR revising the minimum rates of wages payable to the employees in the private hospital sectors. Petitioner is a registered Union working for the welfare of nurses especially in private hospitals and the instant writ petition is filed on behalf of the Nurses working in private hospitals across Kerala. The case of the Association is that the working conditions in private hospitals is pathetic during the pandemic situation and their working shifts are mostly more than the permitted hours. Hospitals where the nurses working are duty bound to bear the treatment expense of the nurses for the attack of Covid and to provide them with Covid-19 Protection materials regularly for free and seek this Court's indulgence in directing the respondent State Government Of Kerala to sanction and disburse Rs. 10000/- as risk allowance for nurses in private hospitals.

14. I have heard the learned counsel for the parties and appraised the paperbook.

15. Section 3(3) and Section 5 of the Minimum Wages Act is required to be reproduced. The same reads as under:

3. Fixing of minimum rates of wages: 3(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.

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 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 sub-section (1), the appropriate Government shall consult the Advisory Board also.]

16. Provisions of Section 5 unambiguously, envisages two

situations one for appointment of the committee and another for publication of the notification. From the contents of the counter reply, it is evident that respondent have relied upon the report of the committee Ext.R1(e) constituted by the Central Government. The same reads as under: Recommendations of the committee constituted in compliance of Hon'ble Apex Court Judgment dated 29.01.2016 in W.P.IC) 24.02.2016

Committee examined all the information collected from various states. AIGNF and TNAI and felt that adequate salary and basic facilities are not provided to nurses employed in private hospitals/nursing homes. Their pay and working condition is really pathetic and some steps are required to be taken to uplift the standard of working conditions in respect of nurses. After deliberations and discussions, the committee has made following recommendations:

1.Salary: In case of >200 bedded hospitals, salary given to private nurses should be at par with the salary of State Govt nurses given in the concerned State/UT for the similar corresponding grade. In case of >100 bedded hospitals, salary given to private nurses should not be more than 10% less in comparison of the salary of State Govt. nurses given in the concerned State/UT for the similar corresponding

grade. In case of 50-100 bedded hospitals, salary given to private nurses should not be more than 25% less in comparison of the salary of State Govt nurses given the concerned State/UT for the similar corresponding grade. Salary given to private nurses should not be less than Rs 20000/- pm in any case even for <50 bedded hospitals, 2. Working conditions: Working conditions viz leaves, working hours, medical facilities, transportation, accommodation etc, given to nurses should be at par with the benefits granted to State Govt nurses working in the concerned State/UTS.

3. Steps should be taken by all States/LTS for formulating legislation/guidelines to be adopted for implementation of the above recommendations in case of Nurses working in private hospitals/institutions.

17. Despite that the Government initiated, simultaneously

other steps by promulgating the draft notification dated 16.11.2017 reflecting intention to revise existing minimum wage or wages and finally promulgated notification dated 23.04.2018 without considering the objections and suggestions on the draft proposal by the petitioners regarding categorization of hospitals and fixed the minimum wages.

18. The counter of the respondent do not disclose the

proceedings of rejection of the objections and representation of the effected parties, particularly with regard to the stark difference between the minimum wages prescribed under the Shops and Commercial Establishments Act, viz., Minimum Wages Act, 1948 were least considered.

19. Section 5 does not permit the Government to adopt both

courses. It is not discerned that whether while promulgating the impugned notification Ext.P2, Government had taken the aid of the committee or had independently after consideration of the objections revised the minimum wages. Thus there is an anomaly. Minimum wages fixed under Shops and Establishment Act, 1960 viz, Minimum Wages Act, 1948 are strikingly different and such impervious situations has not been pondered. In this view of the matter, without

commenting further on merits which may not affect the rights of the parties, I set aside the notification with liberty to the Government to reconsider issue of revision of minimum wages after affording an opportunity of hearing to all the affected parties and pass a detailed order/notification, to be an enclosure in the notification to rule out any ambiguity or challenge. Let this exercise be undertaken within a period of three months from the date of receipt of a certified copy of this judgment.

Sd/- sab AMIT RAWAL JUDGE APPENDIX OF WP(C) 13106/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE PETITIONER UNION. Exhibit P2 TRUE COPY OF NOTIFICATION ISSUED BY THE GOVERNMENT DATED 23/4/2018. Exhibit P3 TRUE COPY OF THE LETTER ADDRESSED BY THE PETITIONER UNION TO THE CHIEF MINISTER DATED 26/9/2020. Exhibit P4 TRUE COPY OF THE LETTER ISSUED BY THE REGIONAL LABOUR COMMISSIONER DATED Exhibit P5 TRUE COPY OF THE LETTER OF THE REGIONAL LABOUR COMMISSIONER ADDRESSED TO THE PETITIONER DATED 2/6/21. Exhibit P6 TRUE COPY OF THE LETTER ADDRESSED BY THE PETITIONER UNION TO THE LABOUR COMMISSIONER DATED 17/5/2021. APPENDIX OF WP(C) 15059/2018 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF NOTIFICATION G.O(MS)NO.135/2013/LBR DATED 5.11.2013 EXHIBIT P2 TRUE COPY OF THE NOTIFICATION G.O(P)NO.33/2018/LBR DATED 23.04.2018. TRUE COPY OF THE ORDER DATED 17.10.2016 EXHIBIT P3 PASSED BY THIS HON'BLE COURT IN WRIT PETITION NO.33100/2016 TRUE COPY OF THE MINUTES OF THE LAST MEETING EXHIBIT P4 OF THE MINIMUM WAGES COMMITTEE HELD ON 19.10.2017 TRUE COPY OF THE OBJECTION FILED BY THE EXHIBIT P5 PETITIONER BEFORE THE GOVERNMENT EXHIBIT P6 TRUE COPY OF THE MINUTES OF THE MEETING OF HTE ADVISORY BOARD DATED 13.4.2018 EXHIBIT P6 TRUE COPY OF THE NOTICE DATED 18.6.2018 ISSUED BY THE ASSISTANT LABOUR OFFICER, NILAMBUR RESPONDENT EXHIBITS R1(a) True copy of G.O.(Rt) No. 1055/1990/LBR dated 25.04.1990 True copy of the judgment in W.A. No. R1(b) 372/2005 and connected W.A. No. 176/2005 True copy of G.O.(Ms) No. 174/2009/LBR dated R1(c) 16.12.2009 True copy of judgment dated 08.11.2016 in W.P.(C) No. 31637/2009 R1(d)

True copy of the letter dated 20.09.2016 issued by Government of India, Ministry of Health and Family to the Principal Secretary

R1(e) of Health, Government of Kerala R1(F) True copy of G.O.(Rt) No.1286/ 2016/LBR dated 19.10.2016 R1(g) True copy of G.O.(Rt) No.1334/ 2016/LBR dated 28.10.2016 R1(h) True copy of G.O.(Rt) No. 297/2017/LBR dated 06.03.2017 R1(i) True copy of G.O.(Rt) No.183/ 2017/LBR dated 07.02.2017 R1(J) True copy of G.O.(Rt) No.682/ 2017/LBR dated 27.05.2017 R1(k) True copy of G.O.(Rt) No.984/2017/LBR dated 28.07.2017 R1(l) True copy of G.O.(Rt) No.1255/2017/LBR dated 18.09.2017 R1(m) True copy of the interim order dated 01.03.2018 in W.P.(C) No. 7006/2018 R1(n) True copy of the order dated 12.03.2018 in W.P.(C) No. 7006/2018 R1(O) True copy of the interim order dated 15.03.2018 in W.P.(C) No. 8867/2018 R1(p)

True copy of the written suggestion submitted by the State Attorney before this Hon'ble Court dated 27.03.2018 in WP(C) No. 8867/2018

R1(q) True copy of the order dated 27.03.2018 in I.A. No. 6085/2018 in W.P.(C) No. 8867/2018 R1(r) True copy of the judgment dated 03.04.2018 in W.P.(C) No. 8867/2018 True copy of the advice/ proposal along with R1(S) the covering letter dated 16.04.2018 APPENDIX OF WP(C) 15074/2018 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF LIST OF MEMBERS OF THE PETITIONER SOCIETY EXHIBIT P2 TRUE COPY OF THE NOTIFICATION DATED KERALA EXHIBIT P3 TRUE COPY OF OBJECTION DATED 13/1/2018 SUBMITTED BY THE CHAIRMAN AND MANAGING DIRECTOR OF PRS HOSPITAL LIMITED EXHIBIT P4 TRUE COPY OF NOTES OF HEARING SUBMITTED BY THE PETITIONER BEFORE THE SAID MINIMUM WAGES ADVISORY BOARD EXHIBIT P5 TRUE COPY OF NOTIFICATION DATED 23/4/2018 ISSUED BY THE STATE OF KERALA EXHIBIT P6 TRUE COPY OF NOTIFICATION DATED 24/5/2017 FOR MINIMUM WAGES FOR EMPLOYEES EMPLOYED IN MEDICAL SHOPS EXHIBIT P7 TRUE COPY OF NOTIFICATION DATED 19/5/2017 FOR MINIMUM WAGES FOR EMPLOYED IN LIGHT MOTOR VEHICLE IN THE STATE OF KERALA EXHIBIT P8 TRUE COPY OF NOTIFICATION DATED 9/5/2017

FOR MINIMUM RATES OF WAGES PAYABLE TO THE EMPLOYEES EMPLOYED IN THE SECURITY SERVICE IN THE STATE OF KERALA EXHIBIT P9 TRUE COPY OF NOTIFICATION INVITING APPLICATIONS FOR THE POSTS OF STAFF NURSE, CLINICAL PSYCHOLOGIST AND PHYSIOTHERAPIST UNDER THE DISTRICT HEALTH AND FAMILY WELFARE SOCIETY, ERNAKULAM (NHM)

EXHIBIT P10 TRUE COPY OF DECISION IN THE MEETING HELD

ON 10/07/2017. EXHIBIT P11 TRUE COPY OF NOTICE DATED 06/03/2018 RECEIVED BY A MEMBER OF THE PETITIONER ASSOCIATION. RESPONDENT EXHIBITS EXHIBIT R1 TRUE COPY OF GO(RT) NO.1055/1990/LBR DATED EXHIBIT R1(b) TRUE COPY OF THE JUDGMENT IN WA NO.372/2005 AND CONNECTED WA NO.176/2005. EXHIBIT R1(c) TRUE COPY OF GO(MS) NO.174/2009/LBR DATED TRUE COPY OF GO (RT) NO.682/2017/LBR DATED TRUE COPY OF GO (RT) NO.984/2017/LBR DATED EXHIBIT R1 TRUE COPY OF JUDGMENT DATED 08/11/2016 IN WPC NO.31637/2009. EXHIBIT R1 TRUE COPY OF THE LETTER DATED 20/09/2016

ISSUED BY GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY TO THE PRINCIPAL SECRETARY OF HEALTH, GOVERNMENT OF KERALA.

EXHIBIT R1 TRUE COPY OF GO (RT) NO.1286/2016/LBR DATED EXHIBIT R1 TRUE COPY OF GO (RT) NO.1334/2016/LBR DATED EXHIBIT R1 TRUE COPY OF GO (RT) NO.297/2017/LBR DATED EXHIBIT R1 TRUE COPY OF THE G.O.(RT) NO.1255/2017/ LBR DATED 18.09.2017. EXHIBIT R1 TRUE COPY OF THE INTERIM ORDER DATED 01.03.2018 IN W.P.(C) NO. 7006/2018. EXHIBIT R1 TRUE COPY OF THE ORDER DATED 12.03.2018 IN W.P.(C)NO.7006/2018. EXHIBIT R1 TRUE COPY OF THE INTERIM ORDER DATED 15.03.2018 IN W.P.(C)NO.8867/2018. EXHIBIT R1 TRUE COPY OF THE WRITTEN SUGGESTION SUBMITTED BY THE STATE ATTORNEY BEFORE THIS HON'BLE COURT DATED 27.03.2018 IN WP(C) NO.8867/2018. EXHIBIT R1 TRUE COPY OF THE ORDER DATED 27.03.2018 IN I.A.NO.6085/2018 IN W.P.(C) NO.8867/2018. EXHIBIT R1 TRUE COPY OF THE JUDGMENT DATED 03.04.2018 IN W.P.9C) NO.8867/2018. EXHIBIT R1 TRUE COPY OF THE

ADVICE/PROPOSAL ALONG WITH THE COVERING LETTER DATED 16.04.2018. EXHIBIT R1 TRUE COPY OF GO (RT) NO.183/2017/LBR DATED APPENDIX OF WP(C) 15198/2018 PETITIONER EXHIBITS EXT.P1: TRUE COPY OF NOTIFICATION

GO(MS)NO.135/2013/LBR DATED 05/11/2013 ISSUED BY THE LABOUR AND REHABILITATION DEPARTMENT, GOVT. OF KERALA. EXT.P2; TRUE COPY OF NOTIFICATION DATED 23/04/2018 BEARING NO.GO(P)NO.33/2018/LBR ISSUED BY THE LABOUR AND SKILLS DEPARTMENT, GOVT. OF KERALA. EXHIBIT P3 TRUE COPY OF THE NOTIFICATION DATED

24.5.2017 BEARING NO.GO(P) NO.45/2017/LBR ISSUED BY THE LABOUR AND SKILLS (E) DEPARTMENT GOVERNMENT OF KERALA EXHIBIT P4 TRUE COPY OF THE NOTIFICATION DATED 19.5.2017 BEARING NO.GO(P) NO.44/2017/LBR ISSUED BY THE LABOUR AND SKILLS (E) DEPARTMENT GOVERNMENT OF KERALA EXHIBIT P5 TRUE COPY OF THE NOTIFICATION DATED 09.5.2017 ISSUED BY THE LABOUR AND SKILLS

(E) DEPARTMENT GOVERNMENT OF KERALA BEARING

NO.G.O.(P) NO.38/2017 LBR APPENDIX OF WP(C) 15243/2018 PETITIONER EXHIBITS EXHIBIT-P1: TRUE COPY OF THE NOTIFICATION DATED KERALA. EXHIBIT-P2: TRUE COPY OF OBJECTIONS DATED 13/1/2018 SUBMITTED BY THE CHAIRMAN AND MANAGING DIRECTOR OF PRS HOSPITAL PVT LIMITED. EXHIBIT-P3: TRUE COPY OF NOTES OF HEARING SUBMITTED BY THE PETITIONER BEFORE THE SAID MINIMUM WAGES ADVISORY BOARD. EXHIBIT-P4: TRUE COPY OF NOTIFICATION DATED 23/4/2018 ISSUED BY THE STATE OF KERALA. EXHIBIT-P5: TRUE COPY OF NOTIFICATION DATED 24/5/2017 FOR MINIMUM WAGES FOR EMPLOYEES EMPLOYED IN MEDICAL SHOPS. EXHIBIT-P6: TRUE COPY OF NOTIFICATION DATED 19/5/2017 FOR MINIMUM WAGES FOR EMPLOYEES EMPLOYED IN LIGHT MOTOR VEHICLE SECTOR IN THE STATE OF KERALA. EXHIBIT-P7: TRUE COPY OF NOTIFICATION DATED 9/5/2017

FOR MINIMUM RATES OF WAGES PAYABLE TO THE EMPLOYEES EMPLOYED IN THE SECURITY SERVICE IN THE STATE OF KERALA. EXHIBIT-P8: TRUE COPY OF NOTIFICATION INVITING APPLICATIONS FOR THE POSTS OF STAFF NURSE, CLINICAL PSYCHOLOGIST AND PHYSIOTHERAPIST UNDER THE DISTRICT HEALTH AND FAMILY WELFARE SOCIETY, ERNAKULAM (NHM).

RESPONDENT EXHIBITS EXHIBIT R1(A): TRUE COPY OF G.O(RT) NO.1055/1990/LBR DATED 25.04.1990 EXHIBIT R1(B): TRUE COPY OF THE JUDGMENT IN W.A. NO.372/2005 AND CONNECTED W.A.NO.176/2005 EXHIBIT R1(C): TRUE COPY OF G.O.(MS) NO.174/2009/LBR DATED 16.12.2009 EXHIBIT R1(D): TRUE COPY OF THE JUDGMENT DATED 08.11.2016 IN W.P.(C) NO. 31637/2009 EXHIBIT R1(E): TRUE COPY OF THE LETTER DATED 20.09.2016

ISSUED BY GOVERNMENT OF INDIA, MINISTRY OF HEALTH AND FAMILY TO THE PRINCIPAL SECRETARY OF HEALTH, GOVERNMENT OF KERALA

EXHIBIT R1(F): TRUE COPY OF G.O.(RT) NO.1286/2016/LBR DATED 19.10.2016 EXHIBIT R1(G): TRUE COPY OF G.O.(RT) NO.1334/2016/LBR DATED 28.10.2016 EXHIBIT R1(H): TRUE COPY OF G.O.(RT)NO.297/2017/LBR DATED 06.03.2017 EXHIBIT R1(I): TRUE COPY OF THE G.O.(RT)NO.183/2017/LBR DATED 07.02.2017 EXHIBIT R1(J): TRUE COPY OF THE G.O.(RT) NO.682/2017/LBR DATED 27.05.2017 EXHIBIT R1(K): TRUE COPY OF THE G.O.(RT) NO.984/2017/LBR DATED 28.07.2017 EXHIBIT R1(L): TRUE COPY OF THE G.O.(RT) NO.1255/2017/ LBR DATED 18.09.2017 EXHIBIT R1(M): TRUE COPY OF THE INTERIM ORDER DATED 01.03.2018 IN W.P.(C) NO. 7006/2018 EXHIBIT R1(N): TRUE COPY OF THE ORDER DATED 12.03.2018 IN W.P.(C)NO.7006/2018 EXHIBIT R1(O): TRUE COPY OF THE INTERIMORDER DATED 15.03.2018 IN W.P.(C)NO.8867/2018 EXHIBIT R1(P): TRUE COPY OF THE WRITTEN SUGGESTION SUBMITTED BY THE STATE ATTORNEY BEFORE THIS HON'BLE COURT DATED 27.03.2018 IN WP(C) NO.8867/2018 EXHIBIT R1(Q): TRUE COPY OF THE ORDER DATED 27.03.2018 IN I.A.NO.6085/2018 IN W.P.(C) NO.8867/2018 EXHIBIT R1(R):

TRUE COPY OF THE JUDGMENT DATED 03.04.2018 IN W.P.9C) NO.8867/2018 EXHIBIT R1(S): TRUE COPY OF THE ADVICE/PROPOSAL ALONG WITH THE COVERING LETTER DATED 16.04.2018 APPENDIX OF WP(C) 19105/2018 PETITIONER EXHIBITS EXT.P1. TRUE COPY OF G.O.(MS) NO. 135/2013/LBR DATED 5-11-2013. EXT.P2. TRUE COPY OF G.O.(P) NO. 33/2018/LBR DATED 23-04-2018. EXT.P3. TRUE COPY OF G.O.(P) NO. 196/2016/LBR DATED 21-12-2016. EXHIBIT P2 TRUE COPY OF THE NOTIFICATION G.O(P)NO.33/2018/LBR DATED 23.04.2018. TRUE COPY OF THE ORDER DATED 17.10.2016 EXHIBIT P3 PASSED BY THIS HON'BLE COURT IN WRIT PETITION NO.33100/2016 TRUE COPY OF THE MINUTES OF THE LAST

EXHIBIT P4 MEETING OF THE MINIMUM WAGES COMMITTEE HELD

ON 19.10.2017 RESPONDENT EXHIBITS R1(a) True copy of G.O.(Rt) No. 1055/1990/LBR dated 25.04.1990 True copy of the judgment in W.A. No. R1(b) 372/2005 and connected W.A. No. 176/2005 R1(c) True copy of G.O.(Ms) No. 174/ 2009/LBR dated 16.12.2009 R1(d) True copy of judgment dated 08.11.2016 in W.P.(C) No. 31637/2009 R1(e) True copy of the letter dated 20.09.2016

issued by Government of India, Ministry of Health and Family to the Principal Secretary of Health, Government of Kerala

R1(F) True copy of G.O.(Rt) No.1286/ 2016/LBR dated 19.10.2016 R1(g) True copy of G.O.(Rt) No.1334/ 2016/LBR dated 28.10.2016 True copy of G.O.(Rt) No. 297/2017/LBR R1(h) dated 06.03.2017 True copy of G.O.(Rt) No.183/ 2017/LBR dated 07.02.2017 R1(i) True copy of G.O.(Rt) No.682/ 2017/LBR dated 27.05.2017 R1(J) True copy of G.O.(Rt) No.984/2017/LBR dated 28.07.2017 R1(k) True copy of G.O.(Rt) No.1255/2017/LBR R1(l) dated 18.09.2017 R1(m) True copy of the interim order dated 01.03.2018 in W.P.(C) No. 7006/2018 R1(n) True copy of the order dated 12.03.2018 in W.P.(C) No. 7006/2018 True copy of the interim order dated R1(O) 15.03.2018 in W.P.(C) No. 8867/2018 R1(p)

True copy of the written suggestion submitted by the State Attorney before this Hon'ble Court dated 27.03.2018 in WP(C) No.

R1(q) True copy of the order dated 27.03.2018 in I.A. No. 6085/2018 in W.P.(C) No. 8867/2018 R1(r) True copy of the judgment dated 03.04.2018 in W.P.(C) No. 8867/2018 True copy of the advice/ proposal along R1(S) with the covering letter dated 16.04.2018 APPENDIX OF WP(C) 23406/2018 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF THE NOTIFICATION G.O.(P) NO.33/2018/LBR DATED 23/04/2018. EXHIBIT P2 A TRUE COPY OF THE MINIMUM AGES NOTIFICATION G.O.(MS) NO.135/2013/LBR DATED EXHIBIT P3 A TRUE COPY OF THE REPRESENTATION DATED PETITIONER AND OTHER HOSPITALS. EXHIBIT P4 A TRUE COPY OF THE PAGES 31,32 & 33 OF THE MINIMUM WAGES COMMITTEE REPORT CONSTITUTED FOR THE MINIMUM WAGES NOTIFICATION DATED EXHIBIT P4(A) A TRUE TRANSLATION OF EXHIBIT P4 EXHIBIT P5 A TRUE COPY OF THE INFORMATION SUPPLIED

UNDER RTI ACT IN RESPECT OF CALCULATION OF TOTAL COST OF FOOD IN NOTIFICATIONS GO(P) NO.36/2017/LABOUR AND NO.38/2017/LABOUR DATED 09/05/2017.

EXHIBIT P5(A) A TRUE TRANSLATION OF EXHIBIT P5. EXHIBIT P6 A TRUE COPY OF THE PRICE BULLETIN OF DEPARTMENT OF ECONOMICS AND STATISTICS FOR THE MONTH OF APRIL 2018. EXHIBIT P7 A CALCULATION STATEMENT OF FOOD EXPENSES AND THE POTENTIAL MINIMUM WAGES ON THE BASIS OF EXHIBITS P4, P5 AND P6 RESPONDENT EXHIBITS R1(a) True copy of G.O.(Rt) No. 1055/1990/LBR dated 25.04.1990 R1(b) True copy of the judgment in W.A. No. R1(c) True copy of G.O.(Ms) No. 174/ 2009/LBR R1(d) dated 16.12.2009 True copy of judgment dated 08.11.2016 in W.P.(C) No. 31637/2009 R1(e)

True copy of the letter dated 20.09.2016 issued by Government of India, Ministry of Health and Family to the Principal

R1(F) Secretary of Health, Government of Kerala R1(g) True copy of G.O.(Rt) No.1286/ 2016/LBR dated 19.10.2016 True copy of G.O.(Rt) No.1334/ 2016/LBR

R1(h) dated 28.10.2016 True copy of G.O.(Rt) No. 297/2017/LBR dated 06.03.2017 R1(i) True copy of G.O.(Rt) No.183/ 2017/LBR dated 07.02.2017 True copy of G.O.(Rt) No.682/ 2017/LBR R1(J) dated 27.05.2017 R1(k) True copy of G.O.(Rt) No.984/2017/LBR dated 28.07.2017 R1(l) True copy of G.O.(Rt) No.1255/2017/LBR R1(m) dated 18.09.2017 R1(n) True copy of the interim order dated 01.03.2018 in W.P.(C) No. 7006/2018 True copy of the order dated 12.03.2018 in R1(O) W.P.(C) No. 7006/2018 R1(p) True copy of the interim order dated 15.03.2018 in W.P.(C) No. 8867/2018 True copy of the written suggestion R1(q) submitted by the State Attorney before this Hon'ble Court dated 27.03.2018 in WP(C) No. True copy of the order dated 27.03.2018 in R1(r) I.A. No. 6085/2018 in W.P.(C) No. 8867/2018 True copy of the judgment dated 03.04.2018 in W.P.(C) No. 8867/2018 R1(S) True copy of the advice/ proposal along with the covering letter dated 16.04.2018 APPENDIX OF WP(C) 24067/2018 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF THE NOTIFICATION G.O. (P) NO. 33/2018/LBR DATED 23.4.2018 EXHIBIT P2 A TRUE COPY OF THE MINIMUM WAGES NOTIFICATION G.O. (MS) NO. 135/2013/LBR DATED 5.11.2013 EXHIBIT P3 A TRUE COPY OF THE PAGES 31,32 & 33 OF THE MINIMUM WAGES COMMITTEE REPORT CONSTITUTED FOR THE MINIMUM WAGES NOTIFICATION DATED 16.12.2009 EXHIBIT P3(A) A TRUE TRANSLATION OF EXHIBIT P4 EXHIBIT P4 A TRUE COPY OF THE INFORMATION SUPPLIED

UNDER RTI ACT IN RESPECT OF CALCULATION OF TOTAL COST OF FOOD IN NOTIFICATIONS GO(P) NO. 36/2017/LABOUR AND NO. 38/2017/LABOUR DATED 9.5.2017

EXHIBIT P4 (A) A TRUE TRANSLATION OF EXHIBIT P5 EXHIBIT P5 A TRUE COPY OF THE PRICE BULLETIN OF DEPARTMENT OF ECONOMICS AND STATISTICS FOR THE MONTH OF APRIL 2018 EXHIBIT P6 A CALCULATION STATEMENT OF FOOD EXPENSES AND THE POTENTIAL MINIMUM WAGES ON THE BASIS OF EXHIBITS P3, P4 AND P5 EXHIBIT P7 A TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 25.4.2015 ISSUED BY THE NURSING COUNCIL APPENDIX OF WP(C) 25109/2018 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE NOTIFICATION GO(MS)

NO.135/2013/LBR DATED 05/11/2013 ISSUED BY THE LABOUR AND REHABILITATION DEPARTMENT, GOVT. OF KERALA EXHIBIT P2 TRUE COPY OF THE NOTIFICATION DATED 23.04.2018 BEARING NO.GO(P) NO.33/12018 LBR ISSUED BY THE LABOUR AND SKILLS DEPARTMENT, GOVT. OF KERALA APPENDIX OF WP(C) 14778/2018 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE NOTIFICATION NO.375/E1/2017/LBR DATED 16/11/2017 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P2 TRUE COPY OF THE GOVERNMENT ORDER G.O(P) NO.33/2018/LBR DATED 23/4/2018... RESPONDENT'S EXHIBITS R1(a) TRUE COPY OF THE PROPOSAL DATED 2.5.2018 SUBMITTED BY LABOUR COMMISSIONER TO THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT, LABOUR AND SKILLS DEPARTMENT

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