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"CR"

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

FRIDAY, THE 16TH DAY OF JUNE 2025 / 23RD JYAISHTA, 1947

WP (C) NO. 34023 OF 2022

PETITIONERS:

- 1 KORAMBAYIL HOSPITAL & DIAGNOSTICS CENTRE (P) LTD.,
REPRESENTED BY MANAGING DIRECTOR DR. K. MOHAMED ALI,
S/O. KORAMBAYIL AHAMED HAJI, HILLTOP, NSS COLLEGE
POST, MANJERI - 676122, MALAPPURAM DISTRICT.
- 2 M/S. HOUSEMASTER FACILITY MANAGEMENT SERVICES PVT.
LTD.,
REPRESENTED BY THE MANAGING DIRECTOR, SRI. TOMY
JOSEPH, UNIDEC HOUSE, FATHIMA CHURCH ROAD,
KADAVANTHRA P.O., ERNAKULAM-682020.

BY ADVS.
SRI.NAVEEN.T
KUM.CHITHRA CHANDRASEKHARAN
SRI.V.S.ABHISHEK
SHRI.BIJI A MANIKOTH
SHRI.SHIBU JOSEPH KOTTAYIL

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.



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- 2 THE DEPUTY LABOUR COMMISSIONER,
PALAKKAD, OFFICE OF THE DEPUTY LABOUR COMMISSIONER,
PALAKKAD, PIN-678 001, (AUTHORITY UNDER THE MINIMUM
WAGES ACT, 1948).
- 3 THE ASSISTANT LABOUR OFFICER,
OFFICE OF THE ASSISTANT LABOUR OFFICER, MALAPPURAM,
PIN- 676505.

BY ADVS.
GOVERNMENT PLEADER
ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL
SMT.SABEENA P.ISMAIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13.06.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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VIJU ABRAHAM, J

WP (C) .No.34023 of 2022

Dated this the 16th day of June, 2025

JUDGMENT

Petitioners have approached this Court challenging Ext.P8 order whereby the petitioners were directed to pay the minimum wages to the employees of the 1st petitioner hospital engaged through the 2nd petitioner.

2. The 1st petitioner is a private hospital and the 2nd petitioner is a facility management company involved in providing housekeeping (Cleaning/Sweeping) staff for various establishments on a contract basis. Ext.P1 agreement was executed between the 1st and 2nd petitioners to provide sufficient staff to the 1st petitioner for cleaning/sweeping, during the agreement period. The 2nd petitioner company is an establishment registered under the Kerala Shops and Commercial Establishments Act, 1960. Petitioners rely



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on Ext.P3, minimum wage notification issued by the Government wherein the daily wages for sweeping and cleaning in Municipality and Corporation areas for 8 hours was fixed at Rs.150/- and other areas at Rs.135/- and submits that the 2nd petitioner is paying the minimum wages as contemplated in Ext.P3. Later Ext.P4 minimum wage notification was issued in respect of private hospitals,etc., wherein the "house keeper" category coming under Group 6 and are entitled to the scale of pay of Rs.8,100-165-8,925-180-9,825.

3. The specific case of the petitioners is that since sweeping and cleaning category is not included in Ext.P4, the notification applicable to the petitioners is Ext.P3 and that they are paying wages more than what is stipulated in Ext.P3. While so the Assistant Labour Officer, Malappuram inspected the premises and registered Minimum Wages Application No.29/2017 before the 2nd respondent. The 1st petitioner submitted Ext.P5 counter statement and the



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2nd petitioner has also submitted Ext.P6 counter statement and also Ext.P7 additional counter statement. Without considering any of the contentions raised by the petitioners, by Ext.P8 order the 2nd respondent directed the petitioners to pay an amount of Rs.7,31,679/- being the arrears and an amount of Rs.7,31,679/- as compensation to the 34 employees worked during 10/2015 to 3/2016 in the 1st petitioner establishment. Aggrieved by the same, Ext.P10 review petition was filed and challenging Ext.P8, the present writ petition has been filed.

4. The learned counsel appearing for the petitioners would submit that by Ext.P1, the 2nd petitioner has agreed to employ workmen for cleaning purpose and the same was taken note of by the 2nd respondent in Ext.P8 and also in the table provided in Ext.P8 order wherein the 34 employees were shown as working as 'cleaners'. On the strength of the same, it is the contention of the petitioners that since employees are working as cleaners and the 2nd



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respondent has entered into a specific finding to that effect, only Ext.P3 minimum wage notification will apply and they have already complied with the said minimum wage notification.

5. The learned Government Pleader based on the detailed counter affidavit filed would submit that going by Section 27 of the Minimum Wages Act, 1948 (hereinafter referred to as Act 1948) the appropriate Government by notification in the Official Gazette should fix minimum rate of wages for any employment. The learned Government Pleader would further submit that invoking the said power, employment in Private Hospitals, Dispensaries, Pharmacies, Clinical lab, Scanning Centres, X-ray units and other related institutions were included as serial No.68 in the schedule attached to the Act, 1948. After such inclusion, Ext.P4 notification was issued specifically for persons employed in private hospitals, pharmacies, clinical laboratories, scanning centres, X-ray unit and other related



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establishment in the State fixing the minimum wages for the employees there in and in Group C "house keeper" is included as Serial No.13 wherein a fixed scale of pay has been provided, which admittedly is not paid to the employees. The learned Government Pleader submits that Ext.P1 agreement was executed between the petitioners 1 and 2 to provide house keeping services to the 1st party and further it is agreed that the 2nd party will be fully responsible for cleaning and conserving neatness and hygiene in the entire hospital premises. The learned Government Pleader would further submit that sweeping and cleaning is included as serial No.80 in the schedule attached to the Act,1948 and on the basis of the same Ext.P3 has been issued. Further it is agreed in Ext.P2 that the 2nd party should ensure that house keeping staff posted in the hospitals premises are trained, courteous and well behaviour. So the employees engaged as per Ext.P1 is to provide house keeping service to the 1st respondent hospital, which



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also include cleaning and keeping the entire hospital premises neat and hygiene. In Ext.P8 order there is a clear finding that the employees of the 2nd respondent are doing the job equivalent to that of house keeping staff and on the basis of the same that Ext.P8 order was issued.

6. True, in the Table attached to Ext.P8 order there is a reference that the 34 employees are engaged as cleaners, but the discussion in Ext.P8 order will clearly show that the work undertaken by the employees are similar to that of in a house keeping post. In Ext.P8 the contentions were elaborately examined and found that the employees of the petitioners are entitled to wages fixed as per Ext.P4 notification. Further as per Ext.P1 the employees were engaged through the 2nd respondent to provide house keeping services. The relevant portion of Ext.P1 agreement is extracted below:

*"The agreement made on the First day of April
Two Thousand and Fifteen between Korambayil Hospital &
Diagnostic Centre(P) Ltd., Manjeri having its*



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establishment at Pandikkad Road, Manjeri represented by the Managing Director Dr.K.Mohamed Ali, S/o.Korambayil Ahamed Haji, Hill Top, NSS College Post, Manjeri hereinafter called the first party which term shall deem to include his Heirs Executors, Administrators, Successors in interest, legal representatives and assignees as First Party,

And

M/s.House Master Facility Management Services Private Limited an establishment engaged in providing housekeeping on contract basis having its registered office at 37/1012, Unidec House, Fathima Church Road, Elamkulam, Kadavanthara (PO), Cochin represented by its Regional Director Mr.Shibu Joseph Kattayil, S/o.Joseph V Kottayil, Vellila Post, Mankada, Malappuram District herein after called Second Party.

Whereas the above-mentioned First party having its establishment called Korambayil Hospital & Diagnostic Centre (P) Ltd., Manjeri, is desirous of utilizing the services of the Second Party for proper House Keeping Conservancy Services of the Establishment and for orderly conduct of day to day House Keeping activities of the Hospital

And whereas the Second party has agreed to offer such services on terms and conditions hereinafter contained.

This agreement witnesses the terms and conditions under which the Second party has undertaken to provide House Keeping services to the First party on contract as follows:

The period of this agreement shall be for Twelve(12) months from the date of entering into the contract.

1. The second party will be fully responsible for cleaning and conserving neatness and hygiene in the entire hospital premises (excluding maintenance of



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garden), (as per annexure attached). The second party shall maintain strict vigil for ensuring neatness and tidiness in the hospital.

2. The second party should ensure that the house keeping staff posted in the hospital premises are trained, courteous and well behaved. They should exhibit good etiquette and exemplary public behavior. They should not intrude into the privacy of the hospital customers and Hospital Staff.

3. The second party shall provide professionally experienced and qualified staff especially in the Operation Theatres, Intensive Care Units etc and shall provide adequate training to the house keeping staff engaged by them at periodical intervals. It will be the responsibility of the second party to give prior information to the first party on the conduct of such training session.

4. The work of the house keeping staff shall be supervised and controlled by the second party under the supervision and guidance of the house keeping in charge.

5. The second party shall engage its staff to clean up the vacated rooms within half an hour of vacating. The house keeping staff shall report such eventualities, which require attention or concerned to the First Party immediately.

6. The second party shall do and perform all such House Keeping and Conservancy Services in accordance with such directions which the first party may inform from time and which have been mutually agreed upon between the two parties.

....."

A reading of Ext.P1 would clearly reveal that the agreement was for orderly conduct of the House



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Keeping activities of the 1st petitioner hospital. In view of the detailed discussions and finding in Ext.P8, only for the reason that in the table shown in Ext.P8 the employees are termed as 'cleaners', I am not inclined to accept the contentions of the petitioners that the workers were employed as cleaners. Taking into consideration, the above facts and circumstances, I am of the view that the findings in Ext.P8 order is not liable to be interfered with.

7. Yet another contention raised by the learned counsel appearing for the petitioners is that all the employees are of the 2nd petitioner and therefore the 1st petitioner cannot be made responsible for the same. The learned Government Pleader with reference to Section 2(e) of the Act, 1948 wherein word 'employer' is defined submits that employer means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment. The learned



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Government Pleader also relies on the judgment in **Hindustan Sanitary ware and Industries Limited and Others v. State of Haryana (2019) 15 SCC 774**, wherein paragraph 15 reads as follows:

"The word "employee" as defined in the Act means any person who is employed for hire or reward in a scheduled employment. There is no distinction made between a person employed by the principal employer and a person employed through a contractor. Any person who employs, whether directly or through any other person, one or more employees in a scheduled employment falls within the definition of an "employer". A close scrutiny of the definitions of the employer and the employee would bring the workmen employed through the contractors within the purview of the Act. We reject the submission made on behalf of the appellants that the contract workmen are not covered under the Act."

(underline supplied)

In the light of the judgment in **Hindustan Sanitary ware's** case cited supra, the contention of the learned counsel for the petitioners is only to be rejected.

8. I also find considerable force in the argument of the learned Government Pleader that a person engaged as house keeping staff is entitled for



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pay fixed as per Ext.P4 and if the same not paid, will be a violation of the principles of "equal pay for equal work". In support of her contention, the learned Government Pleader relies on the judgment in **State of Punjab and Others v. Jagjit Singh and Others (2017) 1 SCC 148**, wherein paragraphs 57 and 58 reads as follows:

"57. There is no room for any doubt that the principle of "equal pay for equal work" has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under Article 141 of the Constitution of India. The parameters of the principle have been summarised by us in para 42 hereinabove. The principle of "equal pay for equal work" has also been extended to temporary employees (differently described as work-charge, daily wage, casual, ad hoc, contractual, and the like). The legal position, relating to temporary employees has been summarised by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot



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be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation." (underline supplied)

9. As regard the contention of the learned counsel for the petitioners that aggrieved by Ext.P8 order a review petition has been preferred as Ext.P10, the learned Government Pleader would submit that there is no provision in the Act for reviewing the order passed by the authority and stating so the petition has been dismissed and the same has been communicated to the petitioners. When the statute does not provide for review, the petitioners are not



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entitled to invoke the said remedy. Further the said rejection order has not been challenged by the petitioners.

Taking into consideration the above facts and circumstances, I find no reason to interfere with Ext.P8 order and the writ petition is accordingly, dismissed. However, it is made clear that any amount deposited by the petitioners shall be given due credit to by the authorities while initiating further action in the matter.

sd/-

**VIJU ABRAHAM,
JUDGE**

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APPENDIX OF WP(C) 34023/2022

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONERS ON 1-4-2015. -
Exhibit P2	TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 19.01.2015 ISSUED UNDER THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT.
Exhibit P3	TRUE COPY OF THE NOTIFICATION, ISSUED BY THE GOVERNMENT AS PER G.O.(MS) NO. 48/2010/LBR DATED 19-04-2010.
Exhibit P4	TRUE COPY OF THE NOTIFICATION ISSUED BY THE GOVERNMENT AS PER G.O.(MS) NO. 135/2013/ LBR DATED 5-11-2013.
Exhibit P5	TRUE COPY OF THE COUNTER STATEMENT FILED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.
Exhibit P6	TRUE COPY OF THE COUNTER STATEMENT FILED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT ON 12-2-2019 ALONG WITH ENGLISH TRANSLATION.
Exhibit P7	TRUE COPY OF THE ADDITIONAL COUNTER STATEMENT PREFERRED BY THE 2ND PETITIONER ON 30-4-2019 ALONG WITH ENGLISH TRANSLATION.
Exhibit P8	TRUE COPY OF THE PROCEEDINGS DATED 17-5-2022 OF THE 2ND RESPONDENT IN CASE NO. MWA 29/17 ALONG WITH ENGLISH TRANSLATION.
Exhibit P9	TRUE COPY OF THE NOTIFICATION ISSUED BY THE GOVERNMENT AS PER G.O.(P) NO. 68/2019/ LBR DATED 20-7-2019.
Exhibit P10	TRUE COPY OF THE REVIEW PETITION DATED 29-7-2022 PREFERRED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.