HC-KAR

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 20TH DAY OF NOVEMBER, 2025

R

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 104367 OF 2025 (S-RES)

BETWEEN:

1. SHRI. ANIL S/O. MALLAPPA KANAWADE,
   AGE: 38 YEARS, OCC: ASSISTANT TEACHER,
   INGALI, TQ. CHIKKODI,
   DIST. BELAGAVI – 591 242.

2. SHRI. JINENDRA S/O. RAJKUMAR BABNNAVAR,
   AGE: 30 YEARS,
   OCC: PHYSICAL EDUCATION TEACHER,
   R/O. MUGAKHOD, TAL: RAIBAG,
   DIST. BEALGAVI – 591 317.

3. SMT. POOJA D/O. SUBHAS PATIL,
   AGE: 33 YEARS, OCC: ASSISTANT TEACHER,
   R/O. KOTHALI, TAL: CHIKKODI,
   DIST. BELAGAVI – 591 287.

4. RAHUL S/O. SURENDAR BABNNAVAR,
   AGE: 31 YEARS, OCC: ASSISTANT TEACHER,
   R/O: MUGALKHOD, TAL: RAIBAG,
   DIST. BELAGAVI – 591 235.

... PETITIONERS

(BY SMT. VAIBHAVI INAMADAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   DEPARTMENT OF PRIMARY AND
   SECRETARY EDUCATION,
   M.S. BUILDING, BENGALURU – 560 001.

2. THE ADDITIONAL COMMISSIONER,
DEPARTMENT OF EDUCATION,
DHARWAD, RODDA ROAD,
DHARWAD – 580 008.

3. THE DEPUTY DIRECTOR OF
PUBLIC INSTRUCTIONS,
CHIKKODI, OFFICE AT DDPI COMPUS,
CHIKKODI, DIST: BEALAGAVI – 591 201.

4. THE BLOCK EDUCATIONAL OFFICER,
DEPARTMENT OF SCHOOL EDUCATION
AND LITERACY, CHIKKODI,
TAL. CHIKKODI, DIST. BELAGAVI – 591 201.

5. SHRI. DESHBHUSHAN HIGH SCHOOL,
KOTHALI KUPPANWADI, TAL: CHIKKODI,
DIST: BELAGAVI – 591 201,
REPRESENTED BY HEAD MASTER.

… RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1 TO R4;
SRI. KISHOR S. SUTAR, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION, BY DIRECTING THE RESPONDENTS NO. 2 TO 5 HEREIN TO PASS NECESSARY ORDER BY RELEASING THE MONTHLY SALARY OF THE PETITIONER FROM THE MONTH OF MAY 2024 TO TILL THIS MONTH WHICH IS WRONGLY WITHHELD BY THEM AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING B GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

1. The petitioners are before this Court seeking the following prayer:

> "a). Issue a Writ in the nature of Mandamus or any other appropriate writ or order or direction, by directing the Respondents No. 2 to 5 herein to pass necessary order by releasing the monthly salary of the Petitioner from the month of May 2024 to till this month which is wrongly withheld by them.
>
> b) Issue such any other Writ or order or direction that this Hon'ble Court may deems fit in the facts and circumstances of this case, in the interest of justice and equity."

2. Heard Smt. Vaibhavi Inamdar, learned counsel appearing for the petitioners; Smt. Girija S.Hiremath, learned HCGP appearing for respondent Nos.1 to 4; & Shri Kishor S.Sutar, learned counsel appearing for respondent No.5.

3. Facts in brief, germane, are as follows:

The fifth respondent is the Institution which receives grants from the hands of the State. As necessary, on 29.09.2022, permission is granted by respondent No.2 to fill up all the vacant posts in respondent No.5 – School. The process of selection would commence and the result of the selection is appointment

of the petitioners as Assistant Teachers in the fifth respondent – School. Pursuant to the said appointment, the salaries of the petitioners are fixed and appointment order dated 24.03.2023, are issued again with the concurrence of the government. The petitioners like every person works without break. On 16.05.2024, it transpires that the State withholds salaries which the petitioners allege to be without any rhyme or reason. Challenging the said action of withholding of salaries, the petitioners approach this Court in W.P.No.104223/2024. A coordinate bench of this Court grants an interim order of stay of the communication which directs withholding the salaries of the petitioners, on 23.07.2024. The order reads as follows:

> "Learned HCGP is directed to take notice for respondent Nos.1 to 4.
>
> Issue emergent notice to respondent Nos.5 and 6.
>
> By impugned communication dated 16.05.2024, produced at Annexure-E, the salary payable to the petitioners is sought to be withheld with immediate effect without any prior notice or without there being any challenge to their very appointment.
>
> **There shall be stay of the Annexure-E, till the next date of hearing.**
>
> List on 28.08.2024."
>
> (Emphasis supplied)

This is the first writ petition filed by the petitioners.

4. After the grant of an interim order in the aforesaid writ petition, a show cause notice comes to be issued to the petitioners as to why their appointment should not be cancelled. This is again challenged by the petitioners in W.P.No.105048/2024. Another coordinate bench directs the respondents not to precipitate the matter against the petitioners, in terms of an interim order dated 28.08.2024. The order reads as follows:

> "Issue emergent notice.
>
> Petitioners to pay process fee within three days. Registry to dispatch same forthwith. List after service.
>
> **Till then, respondents shall not precipitate in pursuance of Annexure-H.**
>
> Petitioners shall file objections against show cause notice within one week from today."
>
> (Emphasis supplied)

This is the second writ petition filed by the petitioners.

5. The second respondent then issues an order of cancellation of appointment of the petitioners and a direction to relieve them from service on 12.09.2024. Aggrieved by the said order, the petitioners prefer an appeal invoking Section 131 of the Karnataka Education Act 1983, before the Appellate

Authority. The Appellate Authority sets aside the order of cancellation of the appointment and remits the matter back to the second respondent for consideration afresh. On remand, the second respondent again passes an order of cancellation. This is challenged in W.P.No.100863/2025, in which an interim order of *status quo, qua* the appointment is granted on 10.02.2025. This is the third writ petition filed by these petitioners.

6. In all these proceedings, the casualty in the petitions is, the salaries that is payable to the petitioners. It is the allegation that the petitioners are not been paid salary from May, 2024 till this day, which is close to 19 months. It is therefore, the petitioners are again back to the doors of this Court now seeking *mandamus* for payment of their salaries. This is the fourth writ petition.

7. Learned counsel Smt. Vaibhavi Inamdar appearing for the petitioners taking this Court through the documents appended to the petition would seek to demonstrate that the petitioners have been working either on the appointment of respondent No.5 or on the interim orders so granted by this Court in three of the aforesaid writ petitions, nonetheless, they

have been working throughout from May-2024 till today. She has placed on record the Muster Roll of marking of their attendance on every day of working from May-2024 till today. Learned counsel submits that representations are also submitted to the respondents for release of their salaries. The second respondent has not released the salaries. Therefore, the petitioners for the fourth time are at the doors of this Court.

8. Learned HCGP though would seek to defend the action of passing the impugned orders time and again. She would contend that those orders would be defended in the other cases that are pending, but not in a position to dispute the contention that no salary is paid from May-2024 till today. The defence is that, the writ petitions are pending and therefore, the salaries are not paid. The petitioners working in respondent No.5 – School and marking of their attendance are not in dispute.

9. **When the chronology of events is viewed is its proper sequence, one truth shines with unmistakable clarity: the petitioners, having discharging their duties without any break since, 2023 and have not been paid a single rupee of salary from May, 2024 till this date, a**

period spanning nearly 19 months. In effect, these teachers have been compelled to render services in the fifth respondent – School without any remuneration whatsoever from the said date. The liability to pay salary to the petitioners squarely rests upon the State is a matter beyond contest. To force these teachers or indeed any employee, to toil without wages strikes at the very heart of human dignity and stands in stark violation of Article 23 of the Constitution of India, which proscribes begar in all its forms.

10. Article 23 of the Constitution of India, reads as follows:

> **"23. Prohibition of traffic in human beings and forced labour.—(1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.**
>
> (2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them."

(Emphasis supplied)

Article 23 of the Constitution of India has borne consideration in plethora of judgments. I deem it appropriate to notice the celebrated judgment rendered by the Apex Court in the case of

PEOPLE'S UNION FOR DEMOCRATIC RIGHTS v. UNION OF INDIA reported in **(1982) 3 SCC 235,** wherein, the Apex Court interprets what is 'begar' and how the State must outlaw such practise. The Apex Court holds as follows:

> **"12.** Article 23 enacts a very important fundamental right in the following terms:
>
> > "23. *Prohibition of traffic in human beings and forced labour.*—(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
> >
> > (2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them."
>
> Now many of the fundamental rights enacted in Part III operate as limitations on the power of the State and impose negative obligations on the State not to encroach on individual liberty and they are enforceable only against the State. But there are certain fundamental rights conferred by the Constitution which are enforceable against the whole world and they are to be found inter alia in Articles 17, 23 and 24. We have already discussed the true scope and ambit of Article 24 in an earlier portion of this judgment and hence we do not propose to say anything more about it. So also we need not expatiate on the proper meaning and effect of the fundamental right enshrined in Article 17 since we are not concerned with that article in the present writ petition. **It is Article 23 with which we are concerned and that article is clearly designed to protect the individual not only against the State but also against other private citizens. Article 23 is not limited in its application against the State but it prohibits "traffic in human being and begar and other similar forms of forced labour" practised by anyone else. The sweep of Article 23 is wide and unlimited and it strikes at "traffic in**

human beings and begar and other similar forms of forced labour" wherever they are found. The reason for enacting this provision in the Chapter on Fundamental Rights is to be found in the socio-economic condition of the people at the time when the Constitution came to be enacted. The Constitution-makers, when they set out to frame the Constitution, found that they had the enormous task before them of changing the socio-economic structure of the country and bringing about socio-economic regeneration with a view to reaching social and economic justice to the common man. Large masses of people, bled white by wellnigh two centuries of foreign rule, were living in abject poverty and destitution, with ignorance and illiteracy accentuating their helplessness and despair. The society had degenerated into a status-oriented hierarchical society with little respect for the dignity of the individual who was in the lower rungs of the social ladder or in an economically impoverished condition. The political revolution was completed and it had succeeded in bringing freedom to the country but freedom was not an end in itself, it was only a means to an end, the end being the raising of the people to higher levels of achievement and bringing about their total advancement and welfare. Political freedom had no meaning unless it was accompanied by social and economic freedom and it was therefore necessary to carry forward the social and economic revolution with a view to creating socio-economic conditions in which every one would be able to enjoy basic human rights and participate in the fruits of freedom and liberty in an egalitarian social and economic framework. It was with this end in view that the Constitution-makers enacted the directive principles of state policy in Part IV of the Constitution setting out the constitutional goal of a new socio-economic order. **Now there was one feature of our national life which was ugly and shameful and which cried for urgent attention and that was the existence of bonded or forced labour in large parts of the country. This evil was the relic of a feudal exploitative society and it was totally incompatible with the new egalitarian socio-economic order which "we the people of India" were determined to build and constituted a gross and most revolting denial of basic human dignity. It was therefore necessary to eradicate this pernicious practice and wipe it out altogether from the national scene and this had to be done immediately because with the advent of freedom, such practice could not be allowed to**

continue to blight the national life any longer. Obviously, it would not have been enough merely to include abolition of forced labour in the directive principles of state policy, because then the outlawing of this practice would not have been legally enforceable and it would have continued to plague our national life in violation of the basic constitutional norms and values until some appropriate legislation could be brought by the legislature forbidding such practice. The Constitution-makers therefore decided to give teeth to their resolve to obliterate and wipe out this evil practice by enacting constitutional prohibition against it in the Chapter on Fundamental Rights, so that the abolition of such practice may become enforceable and effective as soon as the Constitution came into force. This is the reason why the provision enacted in Article 23 was included in the Chapter on Fundamental Rights. The prohibition against "traffic in human beings and begar and other similar forms of forced labour" is clearly intended to be a general prohibition, total in its effect and all pervasive in its range and it is enforceable not only against the State but also against any other person indulging in any such practice.

13. The question then is as to what is the true scope and meaning of the expression "traffic in human beings and *begar* and other similar forms of forced labour" in Article 23? What are the forms of "forced labour" prohibited by that article and what kind of labour provided by a person can be regarded as "forced labour" so as to fall within this prohibition? When the Constitution-makers enacted Article 23 they had before them Article 4 of the Universal Declaration of Human Rights but they deliberately departed from its language and employed words which would make the reach and content of Article 23 much wider than that of Article 4 of the Universal Declaration of Human Rights. They banned "traffic in human beings" which is an expression of much larger amplitude than "slave trade" and they also interdicted "begar and other similar forms of forced labour". **The question is what is the scope and ambit of the expression "begar" and other similar forms of forced labour'? Is this expression wide enough to include every conceivable form of forced labour and what is the true scope and meaning of the words "forced**

labour"? The word "begar" in this article is not a word of common use in English language. It is a word of Indian origin which like many other words has found its way in the English vocabulary. It is very difficult to formulate a precise definition of the word "begar", but there can be no doubt that it is a form of forced labour under which a person is compelled to work without receiving any remuneration. Molesworth describes '*begar*' as "labour or service exacted by a Government or person in power without giving remuneration for it". *Wilson's Glossary of Judicial and Revenue Terms* gives the following meaning of the word "begar":"a forced labourer, one pressed to carry burthens for individuals or the public. Under the old system, when pressed for public service, no pay was given. The *begari*, though still liable to be pressed for public objects, now receives pay. Forced labour for private service is, prohibited." "Begar" may therefore be loosely described as labour or service which a person is forced to give without receiving any remuneration for it. That was the meaning of the word "begar" accepted by a Division Bench of the Bombay High Court in *S. Vasudevan* v. *S.D. Mital* [AIR 1962 Bom 53 : 63 Bom LR 774 : (1961-62) 21 FJR 441] . "Begar" is thus clearly a form of forced labour. Now it is not merely "begar" which is unconstitutionally (*sic*) prohibited by Article 23 but also all other similar forms of forced labour. This Article strikes at forced labour in whatever form it may manifest itself, because it is violative of human dignity and is contrary to basic human values. The practice of forced labour is condemned in almost every international instrument dealing with human rights. It is interesting to find that as far back as 1930 long before the Universal Declaration of Human Rights came into being, International Labour Organisation adopted Convention No. 29 laying down that every member of the International Labour Organisation which ratifies this convention shall "suppress the use of forced or compulsory labour in all its forms" and this prohibition was elaborated in Convention No. 105 adopted by the International Labour Organisation in 1957. The words "forced or compulsory labour" in Convention No. 29 had of course a limited meaning but that was so on account of the restricted definition of these words given in Article 2 of the Convention. Article 4 of the European Convention of Human

Rights and Article 8 of the International Covenant on Civil and Political Rights also prohibit forced or compulsory labour. Article 23 is in the same strain and it enacts a prohibition against forced labour in whatever form it may be found. The learned counsel appearing on behalf of the respondents laid some emphasis on the word "similar" and contended that it is not every form of forced labour which is prohibited by Article 23 but only such form of forced labour as is similar to "begar" and since "begar" means labour or service which a person is forced to give without receiving any remuneration for it, the interdict of Article 23 is limited only to those forms of forced labour where labour or service is exacted from a person without paying any remuneration at all and if some remuneration is paid, though it be inadequate, it would not fall within the words "other similar forms of forced labour". This contention seeks to unduly restrict the amplitude of the prohibition against forced labour enacted in Article 23 and is in our opinion not well founded. It does not accord with the principle enunciated by this Court in *Maneka Gandhi* v. *Union of India* [(1978) 1 SCC 248 : AIR 1978 SC 597 : (1978) 2 SCR 621] that when interpreting the provisions of the Constitution conferring fundamental rights, the attempt of the court should be to expand the reach and ambit of the fundamental rights rather than to attenuate their meaning and content. **It is difficult to imagine that the Constitution-makers should have intended to strike only at certain forms of forced labour leaving it open to the socially or economically powerful sections of the community to exploit the poor and weaker sections by resorting to other forms of forced labour. Could there be any logic or reason in enacting that if a person is forced to give labour or service to another without receiving any remuneration at all, it should be regarded as a pernicious practice sufficient to attract the condemnation of Article 23, but if some remuneration is paid for it, then it should be outside the inhibition of that article? If this were the true interpretation, Article 23 would be reduced to a mere rope of sand, for it would then be the easiest thing in an exploitative society for a person belonging to a socially or economically dominant class to exact labour or service from a person belonging to the deprived and vulnerable section of the community by paying a negligible amount of remuneration and thus escape the rigour of Article 23. We do not think it would be**

right to place on the language of Article 23 an interpretation which would emasculate its beneficent provisions and defeat the very purpose of enacting them. We are clearly of the view that Article 23 is intended to abolish every form of forced labour. The words "other similar forms of forced labour" are used in Article 23 not with a view to importing the particular characteristic of "begar" that labour or service should be exacted without payment of any remuneration but with a view to bringing within the scope and ambit of that article all other forms of forced labour and since "begar" is one form of forced labour, the Constitution-makers used the words "other similar forms of forced labour". If the requirement that labour or work should be exacted without any remuneration were imported in other forms of forced labour, they would straightaway come within the meaning of the word "begar" and in that event there would be no need to have the additional words "other similar forms of forced labour". These words would be rendered futile and meaningless and it is a well-recognised rule of interpretation that the court should avoid a construction which has the effect of rendering any words used by the legislature superfluous or redundant. The object of adding these words was clearly to expand the reach and content of Article 23 by including, in addition to "begar", other forms of forced labour within the prohibition of that article. Every form of forced labour, "begar" or otherwise, is within the inhibition of Article 23 and it makes no difference whether the person who is forced to give his labour or service to another is remunerated or not. Even if remuneration is paid, labour supplied by a person would be hit by this article if it is forced labour, that is, labour supplied not willingly but as a result of force or compulsion. Take for example a case where a person has entered into a contract of service with another for a period of three years and he wishes to discontinue serving such other person before the expiration of the period of three years. If a law were to provide that in such a case the contract shall be specifically enforced and he shall be compelled to serve for the full period of three years, it would clearly amount to forced labour and such a law would be void as offending Article 23. That is why specific performance of a contract of service cannot be enforced against an employee

and the employee cannot be forced by compulsion of law to continue to serve the employer. Of course, if there is a breach of the contract of service, the employee would be liable to pay damages to the employer but he cannot be forced to continue to serve the employer without breaching the injunction of Article 23. This was precisely the view taken by the Supreme Court of United States in *Baily* v. *Alabama* [219 US 219 : 55 L Ed 191] while dealing with a similar provision in the Thirteenth Amendment. There, a legislation enacted by the Alabama State providing that when a person with intent to injure or defraud his employer enters into a contract in writing for the purpose of any service and obtains money or other property from the employer and without refunding the money or the property refuses or fails to perform such service, he will be punished with a fine. The constitutional validity of this legislation was challenged on the ground that it violated the Thirteenth Amendment which inter alia provides:"Neither slavery nor involuntary servitude ... shall exist within the United States or any place subject to their jurisdiction." This challenge was upheld by a majority of the Court and Mr Justice Hughes delivering the majority opinion said:

> "We cannot escape the conclusion that although the statute in terms is to punish fraud, still its natural and inevitable effect is to expose to conviction for crime those who simply fail or refuse to perform contracts for personal service in liquidation of a debt, and judging its purpose by its effect that it seeks in this way to provide the means of compulsion through which performance of such service may be secured. The question is whether such a statute is constitutional."

The learned Judge proceeded to explain the scope and ambit of the expression "involuntary servitude" in the following words:

> "The plain intention was to abolish slavery of whatever name and form and all its badges and incidents, to render impossible any state of bondage; to make labour free by prohibiting that control by which the personal service of one man is disposed of or coerced for another's benefit, which is the essence of involuntary servitude."

Then, dealing with the contention that the employee in that case had *voluntarily* contracted to perform the service which

was sought to be compelled and there was therefore no violation of the provisions of the Thirteenth Amendment, the learned Judge observed:

> "The fact that the debtor contracted to perform the labour which is sought to be compelled does not withdraw the attempted enforcement from the condemnation of the statute. The full intent of the constitutional provision could be defeated with obvious facility if through the guise of contracts under which advances had been made, debtors could be held to compulsory service. It is the compulsion of the service that the statute inhibits, for when that occurs, the condition of servitude is created which would be not less involuntary because of the original agreement to work out the indebtedness. The contract exposes the debtor to liability for the loss due to the breach, but not to enforce labour."

and proceeded to elaborate this thesis by pointing out:

> "Peonage is sometimes classified as voluntary or involuntary, but this implies simply a difference in the mode of origin, but none in the character of the servitude. The one exists where the debtor voluntarily contracts to enter the service of his creditor. The other is forced upon the debtor by some provision of law. But peonage however created, is compulsory service, involuntary servitude. The peon can release himself therefrom, it is true, by the payment of the debt, but otherwise the service is enforced. A clear distinction exists between peonage and the voluntary performance of labour or rendering of services in payment of a debt. In the latter case the debtor though contracting to pay his indebtedness by labour or service, and subject like any other contractor to an action for damages for breach of that contract, can elect at any time to break it, and no law or force compels performance or a continuance of the service."

It is therefore clear that even if a person has contracted with another to perform service and there is consideration for such service in the shape of liquidation of debt or even remuneration he cannot be forced, by compulsion of law or otherwise, to continue to perform such service, as that would be forced labour within the inhibition of Article 23. This article strikes at every form of forced labour even if it has its origin in a contract

voluntarily entered into by the person obligated to provide labour or service (vide *Pollock* v. *Williams* [322 US 4 : 88 L Ed 1095]). The reason is that it offends against human dignity to compel a person to provide labour or service to another if he does not wish to do so, even though it be in breach of the contract entered into by him. There should be no serfdom or involuntary servitude in a free democratic India which respects the dignity of the individual and the worth of the human person. Moreover, in a country like India where there is so much poverty and unemployment and there is no equality of bargaining power, a contract of service may appear on its face voluntary but it may, in reality, be involuntary, because while entering into the contract, the employee, by reason of his economically helpless condition, may have been faced with Hobson's choice, either to starve or to submit to the exploitative terms dictated by the powerful employer. It would be a travesty of justice to hold the employee in such a case to the terms of the contract and to compel him to serve the employer even though he may not wish to do so. That would aggravate the inequality and injustice from which the employee even otherwise suffers on account of his economically disadvantaged position and lend the authority of law to the exploitation of the poor helpless employee by the economically powerful employer. Article 23 therefore says that no one shall be forced to provide labour or service against his will, even though it be under a contract of service.

14. Now the next question that arises for consideration is whether there is any breach of Article 23 when a person provides labour or service to the State or to any other person and is paid less than the minimum wage for it. It is obvious that ordinarily no one would willingly supply labour or service to another for less than the minimum wage, when he knows that under the law he is entitled to get minimum wage for the labour or service provided by him. It may therefore be legitimately presumed that when a person provides labour or service to another against receipt of remuneration which is less than the minimum wage, he is acting under the force of some compulsion which drives him to work though he is paid less than what he is entitled under law to receive. What Article 23 prohibits is "forced labour" that is labour or service which a person is forced to provide and "force" which would make such labour or service "forced labour" may arise in several ways. It may be physical force which may compel a

person to provide labour or service to another or it may be force exerted through a legal provision such as a provision for imprisonment or fine in case the employee fails to provide labour or service or it may even be compulsion arising from hunger and poverty, want and destitution. Any factor which deprives a person of a choice of alternatives and compels him to adopt one particular course of action may properly be regarded as "force" and if labour or service is compelled as a result of such "force", it would be "forced labour". Where a person is suffering from hunger or starvation, when he has no resources at all to fight disease or to feed his wife and children or even to hide their nakedness, where utter grinding poverty has broken his back and reduced him to a state of helplessness and despair and where no other employment is available to alleviate the rigour of his poverty, he would have no choice but to accept any work that comes his way, even if the remuneration offered to him is less than the minimum wage. He would be in no position to bargain with the employer; he would have to accept what is offered to him. And in doing so he would be acting not as a free agent with a choice between alternatives but under the compulsion of economic circumstances and the labour or service provided by him would be clearly "forced labour". There is no reason why the word "forced" should be read in a narrow and restricted manner so as to be confined only to physical or legal "force" particularly when the national charter, its fundamental document has promised to build a new socialist republic where there will be socio-economic justice for all and everyone shall have the right to work, to education and to adequate means of livelihood. The Constitution-makers have given us one of the most remarkable documents in history for ushering in a new socio-economic order and the Constitution which they have forged for us has a social purpose and an economic mission and therefore every word or phrase in the Constitution must be interpreted in a manner which would advance the socio-economic objective of the Constitution. It is not unoften that in a capitalist society economic circumstances exert much greater pressure on an individual in driving him to a particular course of action than physical compulsion or force of legislative provision. The word "force" must therefore be construed to include not only physical or legal force but also force arising from the compulsion of economic circumstances which leaves no choice of alternatives to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage. Of course, if a person provides labour or service to another against receipt of the minimum

> wage, it would not be possible to say that the labour or service provided by him is "forced labour" because he gets what he is entitled under law to receive. No inference can reasonably be drawn in such a case that he is forced to provide labour or service for the simple reason that he would be providing labour or service against receipt of what is lawfully payable to him just like any other person who is not under the force of any compulsion. **We are therefore of the view that where a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words "forced labour" under Article 23. Such a person would be entitled to come to the court for enforcement of his fundamental right under Article 23 by asking the court to direct payment of the minimum wage to him so that the labour or service provided by him ceases to be "forced labour" and the breach of Article 23 is remedied. It is therefore clear that when the petitioners alleged that minimum wage was not paid to the workmen employed by the contractors, the complaint was really in effect and substance a complaint against violation of the fundamental right of the workmen under Article 23**."
>
> (Emphasis supplied)

The Apex Court explains the scope of 'begar', to include several forms of forced labour and further holds that any form of work that is extracted from any person, without paying remuneration, would amount to begar.

11. **If the elucidation of the law and Article 23 of the Constitution of India is noticed *qua* the facts obtaining in the case at hand, what would unmistakably emerge is, that the State has practised begar by non-payment of**

salary to these petitioners for over 19 months, as the teachers have been made to work without salary. The State's defence, resting solely on the pendency of the writ proceedings, is wholly untenable and bereft of any legal justification. It is trite that no individual engaged in any form by anyone, much less in public service, can be driven to work, under the yoke of unpaid labour.

12. In the light of the admitted and incontrovertible position that the petitioners have continued to serve the fifth respondent – School since May, 2024, the petition must necessarily succeed – with a direction that their long withheld salaries be released within **04.12.2025**.

13. For having compelled the petitioners to knock at the doors of this Court repeatedly owing to unlawful actions of the second respondent, the petitioners are entitled to, at the least the cost of litigation in a matter where grievance pertains to the denial of rightful earnings, notwithstanding the same, this Court is holding its hands from imposition of exemplary costs, in the peculiar facts of this case on certain conditions. The learned counsel has placed a memo of calculation before this Court,

which depicts that the salaries of Rs.12,44,386/- each is due to be paid to these petitioners, from May, 2024 till this date.

14. In the light of the aforesaid reasons and the untenable defence of the State, that there is arrears of salaries, as noted hereinabove, the petition deserves a *mandamus* to be issued to the second respondent. The writ petition thus, deserves to succeed.

15. For the aforesaid reasons, the following:

ORDER

(i) The writ petition is allowed;

(ii) *Mandamus* issues to the second respondent to release the salaries of the petitioners from May, 2024 to till this date, on or before **04.12.2025.**

(iii) In the event, the salaries are not released on or before **04.12.2025,** the petitioners become entitled to cost of litigation at **Rs.25,000/- each**.

Sd/-
(M.NAGAPRASANNA)
JUDGE

VNP/CT-ASC
List No.: 1 Sl No.: 11