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**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

SURYA KANT; CJI., JOYMALYA BAGCHI; J.

WRIT PETITION (C) NO.42/2026; JANUARY 29, 2026

PENN THOZHILALARGAL SANGAM & ORS. versus UNION OF INDIA & ORS.

Constitution of India – Article 32 – Writ Petition – Domestic Workers' Rights – Minimum Wages – Separation of Powers – Petitioners sought a writ of mandamus declaring that domestic workers have a fundamental right to minimum wages under Articles 21 and 23 and challenging their exclusion from the Minimum Wages Act and Code of Wages, 2019 - Held: Supreme Court declined to issue a positive mandamus for the enactment of law, emphasizing the doctrine of separation of powers - While acknowledging the vulnerable status of domestic workers and the lack of legislative protection, noted that an enforceable decree cannot be passed if it requires the legislature to enact a specific law - Supreme Court impressed upon State Governments to consider the grievances highlighted by the petitioners and urged the development of suitable mechanisms to prevent exploitation and ensure minimum wages. *[Relied on Ajay Malik vs. State of Uttarakhand and another [(2025) INSC 118]; Paras 2-8]*

For Petitioner(s): Mr. Raju Ramachandran, Sr. Adv. Ms. Shreya Munoth, AOR Mr. Gautam Bhatia, Adv. Mr. Abhinav Sekhri, Adv. Ms. Asawari Sodhi, Adv. Ms. Shruti Narayan, Adv. Ms. Tavleen Kaur Saluja, Adv.

ORDER

1. The instant writ petition, under Article 32 of the Constitution of India, has been filed by 10 writ petitioners, most of whom are purportedly trade unions/associations of domestic workers of different States. They have sought the following directions to the Union of India, all the States and Union Territories, which have been impleaded as party respondents:

“(a) Issue a writ in the nature of mandamus, or any other appropriate writ, order, or direction declaring that domestic workers have a fundamental right to a minimum wage, protected and guaranteed by Articles 21 and 23 of the Constitution;

(b) Issue a writ in the nature of mandamus, or any other appropriate writ, order, or direction declaring that the exclusion of domestic workers from the Schedule to the Minimum Wages Act and/or the Code of Wages, 2019, is unconstitutional;

(c) Issue a writ in the nature of mandamus, or any other appropriate writ, directing the Central Government and the state governments that have not already done so, to include domestic workers within the Schedule to the Minimum Wages Act and/or the Code of Wages, 2019;

(d) Issue a writ in the nature of mandamus, or any other appropriate writ, directing state governments to fulfill their constitutional obligations by mitigating a process of determining the minimum wage for domestic work, and to meaningfully engage with and consult domestic workers and their representatives, including the petitioner-unions, as a part of the process;

(e) Issue a writ in the nature of mandamus, or any other appropriate writ, order, or direction exercising continued supervisory jurisdiction over this matter;

(f) Issue any other writ, order or direction as this Hon'ble Court may deem fit and proper to do complete justice in the circumstances of the case.”

2. The above-stated directions have been sought against the background of the detailed observations and directions issued by this Court in exercise of its powers under Article 142 of the Constitution of India through a judgment dated 29.01.2025, rendered in *Ajay Malik vs. State of Uttarakhand and another [(2025) INSC 118]*. That was a case

wherein the plight of domestic workers in India, arising from the lack of legal protection, was highlighted, with detailed referencing provided to existing international norms and standards. This Court also took notice of the repeated legislative attempts made in the past to enact a comprehensive law for the protection of domestic workers, but unfortunately, none of those bills have materialised into the formal enactment of a statute. The details of all such bills that were allowed to lapse have been provided in paragraph 49 of the judgment. Thereafter, this Court observed that there was no effective legislative or executive action that could have otherwise benefited millions of vulnerable domestic workers nationwide. It was further observed that as a result of the absence of any legislative protection, domestic workers were excluded from taking advantage of various Labour Laws, such as the Payment of Wages Act, Equal Remuneration Act, etc. At the same time, this Court was conscious of the fact that it would not be advisable to issue a positive *mandamus* for the enactment of any law. It was, thus, observed:

“53.....We say so, being cognizant of the factum that ordinarily, 'the judiciary should not stray too far out of bounds, and expressly interfere in the legislative domain. The democratic setup of this country may be likened to a tripartite machine, fueled by the doctrine of separation of powers, without which it's functioning shall surely come to a grinding halt.”

3. Thereafter, this Court held that:

“54. It is in this vein, that we once again repose our faith in the Legislature, and the elected representatives of the Indian people, to take the imperative steps towards ensuring an equitable and dignified life for domestic workers. In light of the same, we seek to dispose of these appeals with certain pointed directions to the Government of India.

4. Consequently, the following directions were issued:

55.....(iv) As regard to the larger issue of the protection of rights of domestic workers, we direct the Ministry of Labour and Employment in tandem with the Ministry of Social Justice and Empowerment, the Ministry of Women and Child Development, and the Ministry of Law and Justice, to jointly constitute a Committee comprising subject experts to consider the desirability of recommending a legal framework for the benefit, protection and regulation of the rights of domestic workers.

(v) The composition of the Expert Committee is left to the wisdom of the Government of India and its concerned Ministries. It will be appreciated if the Committee submits a Report within a period of 6 months, whereupon the Government of India may consider the necessity of introducing a legal framework which may effectively address the cause and concern of domestic workers.”

5. It seems that drawing support from the observations made by this Court highlighting the plight of domestic workers, the petitioners' associations took up the cause with their respective State Governments and also with the Union of India. It further appears that the Union of India was of the opinion that the petitioners should approach their respective States to enact appropriate laws for the protection and benefit of domestic workers. As none of the States has come forward with any formidable legislative scheme, the petitioners' Union has once again approached this Court.

6. Notwithstanding the fact that the prayer clause has been drafted in such a manner as if this Court has been merely asked to issue a *mandamus* for inclusion of domestic workers in the existing laws, we find that, on a combined reading of the prayers, especially prayers 'A' and 'B', no enforceable decree or order can be passed by this Court unless the legislature is asked to enact a suitable law. Such a direction, we are afraid, ought not to be issued for the same reasons which we have assigned in paragraphs 53 and 54 of our decision in Ajay Malik (supra), which is heavily relied upon by the petitioners.

7. We, thus, deem it appropriate to observe that the petitioners may continue to highlight the plight of the domestic workers and impress upon the stakeholders to take a final call in relation thereto, more so, when the correspondence between the petitioners' unions and the State Governments does suggest that the issue is under active consideration by the latter. We hope and trust that a suitable mechanism will be developed by the Competent Authority in each State to improve the conditions of domestic workers and prevent the exploitation of unorganised workers, especially for the purpose of paying minimum wages.

8. The writ petition is, accordingly, disposed of while impressing upon all the State Governments to look into the grievances of the petitioners' associations, as highlighted by them in their respective representations. The petitioners, if so advised, may also forward copies of this writ petition to the State Governments as a comprehensive representation on their behalf for consideration thereof.

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