



# INDIAN DRUG MANUFACTURERS' ASSOCIATION

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## **PARTNERS IN GLOBAL HEALTHCARE**

IDMA/ASSAM/LABOUR/2013/002

15 November 2013

**Shri A. Baruah,**  
**Secretary to the Government of Assam**  
**Labour and Employment Department,**  
**Labour (RC) Branch,**  
Assam Sachivalaya,  
Dispur, Guwahati - 781006

**Sub: Draft Proposal to fix the Minimum rates of Wages for the employees employed in the Sales Promotion Establishments**

Dear Sir,

**Ref: Darft Notification No. GLR(RC)59/2008/206**  
**Our Letter dated 12<sup>th</sup> November, 2013**

**Sub: Fixation of minimum rates of wages for employees employed in the sales promotion establishment – Pharmaceutical Industry and other Industries.**

Vide our letter dated 12<sup>th</sup> November, 2013 (copy enclosed) we have requested the Labour and Employment Department, Government of Assam for certain details, however in the absence of the requested details we are submitting following points towards our objection against the move of the Assam Government to **fix the Minimum rates of Wages for the employees employed in the Sales Promotion Establishments** objection to the draft notification No. **GLR(RC)59/2008/206 dated 18.9.2013** (Said Notification), however, we reserve our right to add / amend our submission after the receipt of the requested information.

Minimum Wages as proposed vide above referred notification if considered, will have cascading effect on the growth of the Pharmaceutical Industry in the State and the industry will be hostilely discriminated and crippled. Further, if this draft notification is considered, it will not only affect the Pharmaceutical Industry but also the needy patients, who are the ultimate end users of the medicines whom the entire Pharma industry is committed to serve by ensuring "Health for all".

At the outset we strongly object to the fixation of minimum rates of wages at Rs.12500/- per month besides variable dearness allowance (VDA) @ 75% on the rise and fall in index number. In our considered opinion the draft proposal is most arbitrary, injudicious and without application of mind.

While proposing the exorbitant amount of Rs.12,500/- as minimum wages, its impact on the pharmaceutical industries, comparative analysis *viz a viz* other States in the country and other far reaching results emanating from it have not been taken into consideration.

By proposing the above rates as minimum rates of wages for Sales Promotion Employees, there seems to be no application of mind as the well settled principles of fair wage and capacity to pay by the industry have not been kept in mind.

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## **AFFORDABLE MEDICINES FOR ALL**

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The following substantial question of law arise with respect to the notification of proposed rate of minimum wages

- Whether the rate of minimum wage proposed through the said notification is really a rate of minimum wage or is a fair wage?
- Whether the rate of minimum wage proposed through the said notification has in any manner taken into consideration the nature, scope and details of the employment concerned and as to any basis is disclosed for such proposal?
- Whether the fixation of minimum wage as proposed without any consideration of industries in various segments such as large, medium and small scale manufacturers / distributors is legal and justified?
- Whether the state government is empowered to fix minimum wages as done in the said notification?
- Whether the notification which fixes the statutory minimum wages ignoring the essential factor of the capacity of the industry to pay is legal? While the Constitution bench of the Hon'ble Supreme Court in AIR 1958 SC 578 has held that the statutory minimum wages contemplated under the Act postulates the capacity of the industry to pay and no fixation of wages which ignores this essential factor of capacity of the industry to pay could ever be supported.

The Minimum Wages Act was brought on the statute book to take care of situations where no effective arrangement existed for the effective regulation of wages by collective agreement or otherwise and especially where wages are exceptionally low. Industrial Disputes Act was brought on the statute book to resolve industrial disputes, which contemplates collective bargaining with the union on one hand and the employers on the other and failing resolution adjudication. Both the acts operate in different fields to take care of different situations. The Minimum Wages Act to ensure that workmen are not exploited where they have no organization to take up their cause and the wages are below sustenance level thus requiring the government to step in to provide relief. Industrial Disputes Act on the other hand provide for situations where there are mature unions, mature industry, variety of industries in the region, different capacity of employers to pay and therefore a machinery to assist in collective bargaining and failing which adjudication. In the case of Pharmaceutical Industry, the employees including the sales promotion employees are represented by their unions. It is at this level the Assam Government has come out with the notification prescribing minimum wages with respect to an organized industry where such fixation is clearly not warranted or necessitated. The Government in issuing the said notification has therefore wrongly exercised its jurisdiction under the Minimum Wages Act.

In industrial jurisprudence the term "Minimum Wage", "Fair Wage" and "Living Wage" has definite meaning. The report of the committee on fair wages defines them as follows.

- The "Living Wage" represent standard of living which provides not merely for a bare physical subsistence but for the maintenance of health and decency, a measure of frugal comfort and some insurance against the more important misfortunes.
- The "Minimum Wage" must provide not merely for the bare subsistence of life but for the preservation of the efficiency of the worker by providing some measure of education, medical requirement and amenities.

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- While the lower limit of the “Fair Wage” must obviously be the minimum wage, the upper limit is set by the capacity of the industry to pay. Between these two limits the actual wages will depend on:
  - The productivity of labour
  - The prevailing rates of wages
  - The level of the national income and its distribution, and
  - The place of the industry in the economy of the country.

Once fair wage is fixed any revision ought to take into account the four factors cited above. Therefore productivity and wage payable on region cum industry basis and more particularly in this case the place of the industry in the economy or in other words the entire pharmaceutical industry in terms of its peculiar nature namely fall in prices due to global pressures, the demand for consumption within the country, the potential for sales, the threat due to operation of huge multi nationals, increase in cost of production, fall in global prices and several such other factors not excluding the productivity of the employees and the capacity of the employer to take upon the additional burden due to increase in wages have to be all taken into account and therefore is best left to the Authority under the Industrial Disputes Act to adjudicate and not unilaterally be decided by the Government.

Once fair wages are fixed any dispute with regard to revision has to be resolved by adjudication and not unilaterally by the Government by imposing a minimum wage without taking the above factors into consideration.

It may not be out of place to quote here Article 224 of Minimum Wage fixing machinery Convention 1928, article one of which reads

**“Each member of which this section applies shall create or maintain machinery whereby minimum rates of wages can be fixed for workers working in certain of the trades or parts of trades and in particular home working trades in which no arrangements exists for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low.”**

In this context the work of Sales Promotion Employee needs to be looked at. The work, as the designation itself implies, is one essentially involving marketing. The salary of sales promotion employee is not in any way linked to the time but is on a basic minimum quantum of work. However the more important component of his emoluments is based on his productivity. Commission and Incentives therefore is the main feature of the emolument of a Sales Promotion Employee. The minimum wage now proposed by the Government of Assam will practically endanger such productivity on the part of the sales promotion person employed, who will not now require the commission and incentives and is therefore effectively dissuaded from working for increasing the productivity. There is no way that an employer can control the time and the manner of the work of the Sales Promotion personnel employed. The only manner in which the Sales Promotion Employee can be made to effectively work is through productivity linked commission. The said notification practically endangers this crucial aspect of the work of a Sales Promotion person employed to the utter detriment and prejudice of the employer.

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Further pharmaceutical products are highly technical in nature. Depending upon the technicality of the products the employers are required to hire Sales Promotion Employee of various categories ranging from the highly and technically qualified pharmacy graduates to mere executive sales person with no such qualification. While in case of the highly technically qualified category the wages proposed vide said notification may at the most constitute a Fair Wage while for the other category, which comprises the majority, the wage proposed is absolutely excessive and in any case far in excess of Fair Wage. There is no rationale or justification in seeking to equate such classes as done in the said notification which will lead to grave anomalies and extreme practical difficulties in the implementation. A technically qualified person like the pharmacy graduate can be quickly and economically trained within a short time and effectively utilized in the field for work, whereas the less qualified personnel have to be trained over a period of time incurring heavy expenses and requiring constant monitoring involving huge expenses at least for a period of one year. All these will reflect on the capacity of the industry to pay which in any case has obviously not been considered while issuing the said notification. There is no differentiation therefore made in the said notification with respect to training period of such personnel and their regular work after such training and as to how the said notification is to be implemented in this regard. The consequences of the said notification are therefore absolutely unbearable for the pharmaceutical industry. The huge disparity as emanating from the wages fixed in different States will itself disclose the harsh, inequitable, arbitrary and irrational manner in which the said notification has been issued and the grave consequences that will arise on its implementation.

The prices of the pharmaceutical products are also controlled by the Central Government through Drug Price Control Order (DPCO). The manufacturers as well as the distributors are therefore constrained to charge only such fixed prices. There is no way therefore that the additional cost burden on them can be passed on since the ultimate burden will then shift to consumer which is impermissible in view of the aforesaid price fixation. The said notification is therefore on the face of it unjustified and harsh. In particular the small and medium are affected by such fixation as distinct from multinational companies who have their patented products in the high end which are not controlled through these Drug Price Control Orders. Absolutely no distinction is made in the minimum wage fixation by the said notification taking note of the aforesaid practice in different sectors and in different regions and the practical difficulties arising by implementation of the said notification.

The Assam Government has over-looked the material fact that a minimum wage notification itself is not intended to be introduced to an industry where the labour is organisaed as held by the Hon'ble Supreme Court of India in AIR 1955 SC 25, while dealing with the vires of the Act-

**“The legislative policy is apparent of the facts of the present enactment. What it aims at is the statutory fixation of minimum wages with a view to obviate the chance of exploitation of labour. The legislature undoubtedly intended to apply this Act not to all industries but to these industries only where by the reason of unorganized labour or want of proper arrangements for effective regulation of wages or for other causes the wages of labourers in a particular industry were very low”**

The Government of Assam ignored the fact that since fair wages existed, instead of taking the recourse to the machinery provided under the Industrial Disputes Act, the Government imposed on the industry a “Wage” which was termed as “Minimum Wage”. Since fair wages were already fixed for the industry in the region therefore any revision of fair wages could not have been termed as “Minimum Wage”.

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The nature of work of an employee, doing sales promotion, varies from industry to industry. It is therefore not proper to link the Sales Promotion Employees of pharmaceutical industry with that of other industries.

Admittedly the sales and marketing strategy, incentives, commission of all these industries are different and therefore, there is no justification to equate all these industries in same platform.

Admittedly, the Medical Representatives though being sales promotion employees would not be able to discharge the same responsibility of selling an electrical item or work in an automobile industry or readymade garment industry. There is therefore, no uniformity in the nature of work of these industries wherein the Government intends to have a common minimum wages for the employees in the said industries.

A sales promotion employee is not largely dependent upon the remuneration. Every Sales Promotion employee is keen on having incentives. The nature of incentive together with the system of giving such incentive varies from industry to industry. The prime purpose of such incentive is to increase the productivity. The parameter for growth of sales is not at all identical in various industries. A fixed minimum wage without any incentive would neither be appreciable nor acceptable to the sales promotion employees nor is in the larger interest of the employer as there will be no guarantee and / or increase in the growth of the company. The government, therefore, has miserably failed to appreciate the incentive factors in the industry granted to the Sales Promotion Employees.

Sales Promotion Employee is transferable. If an employee working in Assam stands to be transferred to Madhya Pradesh, cannot be justified to get the remuneration as earlier drawn in Assam. He has to stand in parity with the other Sales Promotion employees working in Madhya Pradesh; else, it will lead to industrial unrest. The said notification ignores this fact and has failed to consider this important aspect. The said notification needs to be viewed in the light of this and the repercussions of the same will be very high on the manufacturers who sell their products all over the country. All such manufacturers who will be called upon to implement the said notification in the state of Assam will face demands from similar employees in all other states. Even otherwise it will be unfair on the part of manufacturers to have different salary / wage structures / payments to the same category employees working in different parts of the country and in any case it is practically impossible to effectuate any such huge differentiation forced upon them by the said notification.

The nature of every industry is totally different and therefore, there cannot be uniformity in the minimum wages for the sales promotion employees in any of these industries.

In this context we would like to place before you some facts and data which we hope shall be considered in right perspective before taking the final decision.

To begin with, on the basis of information immediately available with us, we are giving list of States which have not at all fixed any minimum rates of wages for Sale Promotion Employees. These are:

1. State of Uttar Pradesh
2. State of Delhi
3. State of Gujarat
4. State of Punjab
5. State of Haryana
6. State of Uttarakhand
7. State of Jharkhand
8. State of Maharashtra
9. State of Odhisa

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The State Government of Kerala included the Sale Promotion Employees in the minimum wages in the year 2009. However, this decision of the Government of Kerala was challenged by Federation of South Indian Pharmaceuticals Manufacturers Association [FOSIPMA] before the Hon'ble High Court of Kerala and the Hon'ble High Court was pleased to stay the notification.

The State Government of West Bengal also notified minimum wages for Sales Promotion Employees in the pharmaceutical industries in the year 1998 and again in the year 2002. Both these notifications were challenged by the Indian Drug Manufacturers' Association [IDMA] and the Hon'ble High Court of West Bengal set aside the notifications as recently as in September 2013. The printout of the said judgment obtained from the website of the High Court of West Bengal is attached herewith your information.

So far as the other States are concerned where the minimum rates of wages in respect of Sales Promotion Employees have been fixed by the Government, the rates so fixed, inclusive of VDA, are much less than that of Rs. 12500/- the amount proposed by the Assam Government. The list is as under:

State Government of Rajasthan	Rs.6372/-
State Government of Chattisgarh	Rs.5385/-
State Government of Tamil Nadu	Rs.7814/-
State Government of Andhra Pradesh	Rs.7739/-
State Government of Bihar	Rs.7098/-

The above data give a clear picture of the situation of almost the entire country as regards the minimum rates of wages for the Sales Promotion Employees.

The proposed rates, as compared to the States where the minimum rates of wages for Sales Promotion Employees have been fixed are extremely exorbitant, unreasonable and most unjustified. Even in the light of the minimum rates of wages currently prevailing in the state of Assam for all the scheduled employments the proposed rate of Rs. 12500/- plus the VDA is almost double. Current rate of minimum wages for the Skilled Worker / Clerical Works category as pronounced by the Government of Assam vide its notification no. GLR.318/90/Pt-111/84 dated 1<sup>st</sup> July, 2013 is Rs. 6788.40/- per month. The Government of Assam has so far not declared the reasons or the basis for fixing such a high minimum rate of wages for Sales Promotion Employees in its proposed notification. The state of Assam is within India and the cost of living in the state is, if not on par is not significantly higher than the states like Tamilnadu, Andhra Pradesh, Rajasthan, Maharashtra etc. In the circumstances fixing higher level of wage as done in the said notification is illegal and not a minimum wage but is a fair wage.

In case the Government of Assam goes ahead with the fixation of this amount as minimum rates of wages besides VDA as proposed, it will have far reaching effects on the industry as well as the employment opportunities in the State. The industry will be heavily burdened financially and the business itself may not remain viable. It shall create an apparent disparity among employees in different States which will lead to industrial unrest throughout the country in pharmaceutical industries causing colossal loss of production and consequent inability of the industry to keep pace with the demand for life saving drugs.

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It may not be considered as a hollow threat but the fact remains that in case the Assam Government goes ahead with implementing this notification, the industry shall be constrained to withdraw its business activities from the State and to deal with the hospitals, doctors, chemists etc directly without the help of Sales Promotion employees. No doubt this will deplete sales of the industry in the State of Assam, but at the same time the loss so suffered will be much less than the adverse affects the industry will have to face in case the notification is implemented.

Not only the Pharmaceutical Industry but it shall be extremely harmful for the interests of the State of Assam itself, its people and its health services. The latest technology and innovations in medicines will not be immediately available to the hospitals and they will have to be educated through electronic and other time consuming modes instead of personal visits by the sale promotion employees. The people of Assam will be deprived of the latest, modern and better health services. The essential life savings drugs may also not be readily available because of the far reaching effect if the industry decides to withdraw its activities through Sales Promotion Employees in the State of Assam.

In addition to this, it will also create unemployment. Most of the sales promotion employees are local residents and they will have to be shifted to other States, which the management will be within its right to do according to their service conditions. It is quite possible that many of them may not like to leave their home towns and thus look for some other employment opportunities. All these factors are not conducive for the State of Assam just because of the whimsical, arbitrary and dictatorial decision to fix the minimum rates of wages at an exorbitant amount of Rs.12500/- besides 75% of the variable dearness allowance adjustable.

Further the proposed notification is also against the settled principles of law and lacks the application of prescribed procedure as laid down under the Minimum Wages Act. We have following points to submit:

1. The Minimum Wages Act provide for fixing of the minimum wages in certain establishments. The statement of objects and reasons inter alia provides as under.

**“The bill provides for fixation, by the Provincial Governments, of minimum wages for employments covered by the Schedule to the bill. The items in the Schedule are those where sweated labour is most prevalent or where there is a big chance of exploitation of labour. After time, when some experience is gained, more categories of employments can be added and the Bill provides for additions to the Schedule.”**

2. The object of the Act is to notify minimum wages for employment in unorganized industries which are included in the schedule to the Act.
3. Section 2( e ) of the Act defines “employer” as under;

**“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 in respect of which minimum rates of wages have been fixed under this Act.....”**

4. The Hon'ble High Court of Karnataka in the case of A.V.Prakash vs Senior Labour Inspector 1994 LLR 304 has held as under;

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**“Even the definition of employer also makes it clear that it is a restrictive definition and only a person who employes one or more employees in any scheduled employment would be the employer within the meaning of the Act.”**

5. Accordingly the Act will apply only to the employer who has engaged the employees in respect of the employment given in the schedule attached to the Act.
6. Section 2(g) of the Act defines scheduled employment means an employment specified in the schedule or any process or branch of work forming the part of such employment.
7. Section 3 of the Minimum Wages Act stipulates that the appropriate government shall in a manner hereinafter provided fix the minimum rates of wages payable to employees employed in an establishment specified in Part – 1 or Part -2 of the schedule and in an employment added to either part by notification under section 27.
8. Section 27 of the Act stipulates as under;

**“Power of State Government to add to Schedule –** The appropriate Government, after giving by notification in the Official Gazette not less than three months’ notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly”

9. Section 5 of the Act contains the procedure for fixing and revising Minimum Wages in respect of any scheduled employment for the first time under the Act or in revising the minimum rates of wages so fixed. The Act and the rules contain the detailed procedure in this behalf.
10. A conjoint reading of the above provision would show that;
  - The Minimum Wages Act would apply only to the scheduled employment as given in the schedule.
  - The appropriate government under section 27 is empowered to include any of the industries in the scheduled employment and thus Add to the schedule of employment.
  - The State Government is empowered to fix the minimum wages only for the scheduled employment.
  - The State Government is required to follow procedure prescribed under section 5 for fixing and revising the minimum wages.
  - Unless the employment is included in the schedule the State Government has no authority to fix the minimum wages. In other words State Government can fix the minimum wages and revise it only in respect of the scheduled employment given in the schedule. Any other activities are outside the scope of the Act and beyond the jurisdiction of the State Government. In this behalf reference may be invited to the decision of the Hon’ble High Court Karnataka in the case of A.V.Prakash vs Senior Labour Inspector, 1994 LLR 304 wherein the Hon’ble High Court has held as under;

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**“The Security and Detective services is again not one of the employments detailed in these sub-sections. In the absence of this type of services rendered by the accused being included in any of the Parts of the Schedule to the Act and in the absence of the same being mentioned in any of the sub-sections of Section 2(c)(i) to (iv) of the Act and further when undisputedly, no notification has been issued by the State Government under Section 27 of the Act to bring this type of establishment within the purview of the provisions of the Act, it is clear that there was absolutely no scope for anyone to contend that the accused ought to have complied with the provisions of the Act or the non-compliance amounts to an offence. In that view of the matter it is clear that the entire proceedings initiated before the learned Magistrate by the complainant are misconceived and are liable to be quashed.”**

- The above position in law has been reiterated by the Hon'ble High Court of Karnataka in the case of Lingegowda Detective and Security Chamber Pvt. Ltd., and another vs Authority under Minimum Wages Act and others 1998 LLR 77.
- Reverting to the draft notification, it is submitted that the government of Assam has not included the employment in sales promotion in the Pharmaceuticals industries in the schedule attached to the Minimum Wages Act. There should have been a notification issued under section 27 of the Minimum Wages Act adding the employment in sales promotion in the pharmaceuticals industry in the schedule to the Act. No such notification has been issued by the Government of Assam. The condition precedent for fixation of minimum wages by the Government of Assam under the Minimum Wages Act is not satisfied in this case. The draft notification is therefore beyond the authority conferred on the State Government under the Act. The draft notification issued is without jurisdiction. In this behalf reference may be invited to the decision of the Hon'ble Supreme Court in the case of Madhya Pradesh Mineral Industry Association vs Regional Labour Commissioner, AIR 1960, S. C. 1968 wherein the Hon'ble Supreme Court has held as under;

**“The Power conferred under section 5 on the appropriate Government can be exercised only if the employment in question is specified in the Schedule.”**

11. The notification dated 18.9.2013 reads as “..... Pleased to make the following draft proposal to fix the minimum rates of wages for the employees employed in the sales promotion establishments which includes in addition to pharmaceuticals industry the following industries/employments as per the Government of India notification No. SO 217 (E) dated 31.1.2011 published in the Gazette of India extraordinary part – 2 dated 1.2.2011”.
12. We further state that the Sales Promotion Employees (Conditions of Service) Act, 1976 was promulgated by the Government of India in the year 1976 with the objective of having a separate legislation for governing the service of the sales promotion employees, instead of amending the Industrial Disputes Act, 1947 to bring such employees within its purview. Admittedly the section 6 (3) of the act states that “The provisions of the Minimum Wages Act, 1948 (11 of 1948), as in force for the time being, shall apply to, or in relation to, employees within the meaning of that Act.” Though the Sales Promotion Employees Act is a central act the central government has so far not included the Sales Promotion Employees under scheduled employment under the Minimum Wages Act. A point to be noted here is that after promulgation of the Sales Promotion Employees Act the schedule of the Minimum Wages Act was amended by the central government several time and the last inclusion was in the year 2011. This indicates that even the central government also doesn't consider the Sales Promotion Employees as unorganized labour and had not considered it necessary to include the Sales Promotion Employees under the schedule.

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13. We submit that the above notification of Government of India declares the said industries to be notified for the purpose of Sales Promotion Employees (Conditions of Service) Act 1976. The said notification has been issued by the Government of India under section 3 of the Act. Section 3 of the Act empowers the Central Government to declare certain industries to be notified industries for the purpose of application of the provisions of the Sales Promotion Employees (Condition of Service) Act 1976. Such notification does not ifsofacto amount to inclusion of the said industries in the schedule to the Minimum Wages Act and thus empower the State Government to fix the Minimum Wages for employment in sales promotion in pharmaceutical industries and other industries.
14. Even if it is proposed to include the pharmaceutical industry in the schedule the same is against the stated objectives of the Minimum Wages Act. The employees in the pharmaceutical industry are well organized not only within the State but on all India level. The employers in the pharmaceutical industry are the Corporate and they have a well laid down policy regarding employees' compensation and other benefits. Further the wages and the other benefits in most of the pharmaceutical establishment has been fixed by way of a settlement with the unions and on account of the successive settlements and increase in wages thereof, the salary of the employees in the sales promotion in the industry is much more than the Minimum Wages prescribed by the State Government in different employments. Where the wages have been agreed to under the settlement and over and above the minimum wages prevailing across the industries, it cannot be said to be sweated wages.
15. More over the sales promotion employees in the pharmaceutical companies are posted in different parts of India. They are liable to be transferred across the country as per the business requirement of the corporation. If the minimum wages are prescribed for such categories of the employees state wise it would only lead to anomaly and multiple difficulties for the employees as well as for the companies.
16. We therefore strongly object to the proposal for fixation of Minimum Wages for sales promotion employees in the pharmaceutical industry for the following reasons.
  - The employment in sales promotion in the pharmaceutical industry is not included in the schedule to the Minimum Wages Act.
  - In the absence of such inclusion the State Government has no authority to fix the Minimum Wages under the Act.
  - Even on merits the employees employed in the sales promotion in the pharmaceutical industry are well organized and the establishment have entered in to settlements with the employees in most of the cases and the wages being paid is over and above the minimum wages fixed for different sectors of industry covered under the schedules employment as listed in the schedule to the Minimum Wages Act. There is no case for including the employment in the sales promotion in the pharmaceutical industry in the schedule.
  - Further the inclusion in the schedule to the Act of any employment and fixation of minimum wages are two different aspects. Fixation of Minimum Wages should be preceded by the inclusion of the employment in question in the schedule of employment attached to the Act. There are no necessities to include them under the schedule as it is not a sweated labour.

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- Thus from any angle the draft proposal is not in accordance with law and cannot be given effect to.

**To conclude we earnestly suggest that the notification should not be implemented at all in view of the above stated facts and, if at all, the Government of Assam is adamant to fix the minimum rates of wages for Sales Promotion employees it should be compatible with other employments in the state of Assam and compatible with the rate of minimum wages for Sales Promotion Employees in the other States for which details have already been given above. The rates fixed must be inclusive of VDA.**

**We therefore request the Government to consider the above objections and drop the proposal to fix the Minimum Wages for employment in sales promotion in the pharmaceutical industry and suggest that the proposed notification should not be implemented at all in view of the above stated facts. We are confident that the factual position as explained above shall be positively considered by the Government before taking a final decision and nothing will be done in haste so that the damage done may become irretrievable and would not compel us to enter into an avoidable litigation in the matter.**

Thanking you,

Yours faithfully,



**Daara B. Patel**  
Secretary – General

Encl:

1. Copy our letter dated 12<sup>th</sup> November, 2013 submitted to your office
2. The printout of the judgment obtained from the website of the High Court of West Bengal