

Civil Appeal No. 1279 of 2001
Civil Appeal No. 1278 of 2001
Civil Appeal No. 4569 of 2002
SLP (C) No. – 1857 of 2016

Additional Submissions on behalf of the Respondent on “Industry” with reference to the Court Record

Volume IV B

- The Directive Principles of State policy on Part IV of the Constitution provide for Article 38(2), 41 and 43A of the Constitution, which provide for the measures to be taken by the Government to provide social justice and equality to the citizens of India. **(Vol IV B, pg. 52)**
- The definition of Industry in the Industrial Disputes Act is:
“ “Industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.” **(Vol II, pg. 122)**
- The definition of Industry in the Industrial Amendment Act, 1982 is:

“(c)for clause (j), the following clause shall be substituted, namely:-

'(j) "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,-(i)any capital has been invested for the purpose of carrying on such activity; or (ii)such activity is carried on with a motive to make any gain or profit, and includes-

(a)any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948.);

(b)any activity relating to the promotion of sales or business or both carried on by an establishment, but does not include-

(1)any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

Explanation.- For the purposes of this sub-clause, "agricultural operation" does not includes any activity carried on in a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951.); or

(2)hospitals or dispensaries; or

(3)educational, scientific, research or training institutions; or

(4)institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(5)khadi or village industries; or

(6)any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(7)any domestic service; or

(8) any activity, being a profession practised by an individual or body of individuals, if the number of persons employed by the individual or body of individual or body of individuals in relation to such profession is less than ten; or

(9) any activity, being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten;” (Vol IV B, pg. 685)

- The definition of Industry in the Industrial Relations Code is:

“(p) “industry” means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, but does not include—

(i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(ii) any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(iii) any domestic service; or

(iv) any other activity as may be notified by the Central Government;” (Vol IV B, pg. 701)

- The Industrial Relations Code was notified on 16.02.2026.
- It is seen that the Amendments and Code have given a narrower interpretation in defining industry.
- The provisions of the Industrial Dispute Act are safeguarding and a wider interpretation is required to be given.

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Bangalore Water Supply Case

- Page 73 para 143 provides the nature of the test.
- Para 145 provides guidelines on the principle that parliament has a commitment to legislate promptly.
- Reference is also made to Para 163 and 187.

VOLUME II

- Written Submissions – Page 121-136, 139–149 and 217–223.
- The cases are of the department of forest and zilla parishad, while engaging/employing workman, the interest of a person employed should also be safeguarded and there should not be any scope left for exploitation in the name of performing sovereign functions. The

sovereign activities while employing a workman should be safeguarded as provided in para 143 of the Bangalore Water Supply Case.

- The question is whether all functions of the department will be deemed to be excluded in the definition of industry. Whether the engagement/employment persons are separable from the cause for which the social/charitable organization is constituted.
- The Subsequent legislation has interpreted the word 'industry' to exclude any activity, as the Central Government may notify, which gives unlimited powers to the Central Government.
- Therefore, there is a need to provide a wider interpretation to the definition of industry.



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