

State of Maharashtra & Anr v. Serva Shramik Sangh

(Item No 901.11)

**Submissions of Colin Gonsalves**

(For the Respondent in Item No. 901.11)

1. The main submission is that the decision under review is perfectly correct and did not warrant a reference to a larger hon'ble bench.
2. The summary of conclusions in **para 140** is also perfectly correct and requires no modification.
3. Industry is a **cooperative endeavor between employers and workmen for the production of material goods and services.**
4. The method of interpretation is by way of “a statutory dictionary not popular parlance”. Parliament and the Court gave the definition “**a wider and more comprehensive import to meet the requirement of rapid industrialisation and to bring about industrial peace and economy and a satisfactory adjustment of relations between employers and workmen in a variety of fields of activity**”. (para-26)
5. “**If the mutual relations, the method of employment and the process of cooperation in the carrying out of work bears close resemblance to the relationship of employer and employee then it is an industry. This is the kernel of the decision. An activity oriented and not motive based analysis (Para38)**
6. **Corporations** are an industry. (Para62 onwards)
7. The **health department** is an industry (Para66)
8. “**Free and charitable hospital**” are also industry (Para 71)
9. **Solicitors firm:** industry. (Para 74 onwards) (**Secretaries, librarians, steno typists, telephone operators** at para-86)
10. **Gymkhana:** industry(Para78) (**Janitor, mali, cooks**)

11. **Universities** (Para89 onwards) (**Large fleet of transport buses, clerical carder, sweepers and cleaners** etc. at para-96)
12. **Charitable institutions** (“so far as workmen are concerned it matters little whether the employer makes available the products free to the poor. They contribute labour in return for wages like a commercial minded employer. Both exact hard work. Both pay similar wages. Both treat them as human machines cogs and nothing more...from the point of view of the workmen there is no charity. For him charity must begin at home”) (para107).
13. **Clubs** (para115,120 onwards) (Cricket Club of India)

**Two consequences of changing the interpretation of “industry”**

14. References for adjudication of workmen disputes will come to an end.
15. Restrains on closures of establishment and retrenchment of workers will be done away with. This provision has been upheld by the Constitution Bench of the Supreme Court.