

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. 79616 OF 2026
IN
CIVIL APPEAL NO. 897 OF 2002

IN THE MATTER OF:

STATE OF U.P. ...APPELLANT

VERSUS

JAI BIR SINGH ...RESPONDENT

AND IN THE MATTER OF:

THAMATE, CENTRE FOR RURAL EMPOWERMENT
REPRESENTED BY ITS SECRETARY

MR. K.B. OBALESHA ...APPLICANT

ADDITIONAL WRITTEN SUBMISSIONS BY

SR. ADVOCATE JAYNA KOTHARI

1. **The definition of ‘industry’ should be interpreted from the perspective of the aims of the statute which is to protect workers and the weaker sections:**

- 1.1 The definition of ‘industry’ must be looked at in the context of the statute in which it finds its place, being the Industrial Disputes Act 1947 (“ID Act”). While the meaning should be

ascertained from the words employed in the definition, the set-up and context are also relevant for ascertaining what exactly was meant to be conveyed by the terminology employed. (Para 15, *D.N.Banerji v. P.R. Mukherji* AIR 1953 SC 58)

- 1.2 In *Bangalore Water Supply*, J. Krishna Iyer held that the ID Act is a worker-oriented statute and must receive a construction where conceptually the key thought must be the worker and the community, based on Articles 38,39 and 43 of the Constitution (Para 12, *Bangalore Water Supply*). The Preamble to the Act refers to ‘the investigation and settlement of industrial disputes’. The definition of industry has to be looked at in this background, and betterment of workers, as the goal of the statute is the amelioration of the conditions of workers, and peaceful co-existence of workers and employers. It is not a neutral position but concern for the welfare of the weaker section. Thus, when we approach the definition in Section 2 (j) of ‘industry’, it must be informed by these values. Further, Part IV of the Directive

Principles must guide the Court in interpreting all social legislation (Para 17, 18, *Bangalore Water Supply*).

1.3 The Court specifically held:

“To sum up, the personality of the whole statute, be it remembered, has a welfare basis, it being a beneficial legislation which protects labour, promotes their contentment and regulates situations of crisis and tension where production may be imperiled by untenable strikes and blackmail lock-outs. The mechanism of the Act is geared to conferment of regulated benefits to workmen and resolution, according to a sympathetic rule of law, of the conflicts, actual or potential, between managements and workmen. Its goal is amelioration of the conditions of workers, tempered by a practical sense of peaceful co-existence, to the benefit of both - not a neutral position but restraints on laissez faire and concern for the welfare of the weaker lot. Empathy with the statute is necessary to understand not merely its spirit but also its sense. One of the vital concepts on which the whole statute is built, is 'industry' and when we approach the definition in Section 2 (j), we must be informed by these values.” [para 18]

1.4 Other decisions of this Hon'ble Court also refer to the ID Act

being a social welfare legislation in **S. K. Verma vs Mahesh**

Chandra And Another, AIR 1984 SC 1462, this Court held:

“It is trite to say that the Industrial Disputes Act is a legislation intended to bring about peace and harmony between labour and management in all industry and for that purpose, it makes provision for the investigation and settlement of industrial disputes. It is, therefore, necessary to interpret the definitions of 'industry', 'workman', 'industrial dispute', etc. so as not to whittle down, but to advance the object of the Act. Disputes between the forces of labour and management are not to be excluded from the operation of the Act by giving

narrow and restricted meanings to expressions in the Act. The Parliament could never be credited with the intention of keeping out of the purview of the legislation small bands of employees.....”

In *Workmen of Indian Standards Institution v. Management of Indian Standards Institution* AIR 1976 SC 145, this Court held,

"..... It is necessary to remember that the Industrial Disputes Act 1947, is a legislation intended to bring about peace and harmony between management and labour in an 'industry' so that production does not suffer and at the same time, labour is not exploited and discontented and, therefore, the tests must be so applied as to give the widest possible connotation to the term 'industry'. Whenever a question arises whether a particular concern is an 'industry' the approach must be broad and liberal and not rigid or doctrinaire. We cannot forget that it is a social welfare legislation we are interpreting and we must place such an interpretation as would advance the object and purpose of the legislation and give full meaning and effect to it in the achievement of its avowed social objective." [Paras 5 and 6]

1.5 In ***Ajaib Singh v. Sirhind Coop. Marketing-Cum-Processing Service Society Ltd. and Anr.*** 1999 (6) SCC 82

this Hon'ble Court held,

“The object of the Act is to improve the service conditions of industrial labour so as to provide for them the ordinary amenities of life and by the process, to bring about industrial peace which would in its turn accelerate productive activity of the country resulting in its prosperity.....The Act provides to ensure fair terms to workmen and to prevent disputes between the employer and the employees so that the large interests of the public may not suffer. The provisions of the Act have to be interpreted in a manner which advances the object of the Legislature contemplated in the statement of objects and reasons. While interpreting different provisions of the Act attempt should be made

to avoid industrial un-rest, secure industrial peace and to provide machinery to secure the end. Conciliation is most important and desirable way to secure that end. In dealing with industrial disputes, the courts have always, emphasized doctrine of social justice, which is founded on basic ideal of socio-economic equality as enshrined in the Preamble of our Constitution.”

“...The emergence of the concept of welfare state implies an end to exploitation of workmen and as a corollary to that collective bargaining came into its own. The Legislature had intended to protect workmen against victimization and exploitation by the employer and to ensure termination of industrial disputes in peaceful manner.

The object of the Act, therefore, is to give succor to weaker sections of the society which is a pre-requisite for a welfare State.The Act provides a machinery for investigation and settlement of industrial disputes ignoring the legal technicalities with a view to avoid delays, by specially authorised courts which are not supposed to deny the relief on account of the procedural wrangles. The Act contemplates realistic and effective negotiations, conciliation and adjudication as per the need of the society keeping in view the fast-changing social norms of the developing country like India.” [Paras 5-7]

- 1.6 In *State of UP v. Jai Bir Singh*, the observations that an over-expansive interpretation of the definition of ‘industry’ might be a deterrent to private enterprise in India, cannot be the focus of the statute to guide the interpretation of “industry”. The observations that the ID Act cannot be looked at as a worker-oriented statute, and that the interests of employers, employees and people who are the ultimate beneficiaries of the industrial activities has to be kept in

mind in the interpretation (para 33, *Jai Bir Singh*), cannot be the lens for the interpretation of 'industry', with utmost respect, as it does not take into consideration that the ID Act is a welfare legislation.

- 1.7 It also fails to take into account the binding obligations of Articles 38, 39, 42, 43, 43A of the constitution, under Part IV, which aim to provide for all workers, a decent living wage, conditions of work ensuring a decent standard of life. This core and overarching interest has to be seen as the larger framework for the interpretation.

2. What state activities will be covered by the expression 'sovereign function', which will fall outside the purview of the Section 2 (j) - definition of 'Industry' would cover the public utility and welfare activities of the government and local authorities and cannot be excluded:

- 2.1 In the Bangalore Water Supply case, it was held that the Government and its Departments while exercising its 'sovereign functions' have been excluded from the definition of 'industry'.

2.2 The observation in *Jai Bir Singh* that wherever the government undertakes public welfare activities in discharge of its public functions in Part IV of the Constitution, such activities should be treated as activities in discharge of its sovereign functions and falling outside the purview of “industry”. This cannot be the understanding of “sovereign functions”, and to be excluded from the meaning of ‘industry’.

2.3 Public Utilities: Merely because state departments or municipal authorities are entrusted with certain duties or functions, that cannot take them out of the purview of ‘industry’. In fact, the ID Act specifically includes public utilities which are included as industry. Thus functions of public utilities have always been understood to come within the ambit of industry (para 20, *D.N. Banerji* and para 163 and 164 *Bangalore Water Supply*).

2.4 In *Bangalore Water Supply*, this Hon’ble Court held that ‘industry’ under Section 2 (j) of the Industrial Disputes Act 1947 has wide import. Industry is one where there is systematic activity organised by co-operation between employer and employee for production and distribution of goods and services calculated to satisfy human wants and

wishes. The true focus is functional, and decisive test is nature of the activity with special emphasis on employer-employee relationship. It also held that an organization does not cease to be trade and business merely because it is engaged in philanthropic activities. J. Krishna Iyer laid down:

- (a) Sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.
- (b) Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within Section 2(j).
- (c) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby.

2.5 In the context of whether the government should be covered or not, it was held that:

“There is no justification for excepting the categories of public utility activities undertaken by the Government in the

exercise of its inalienable function, under the constitution, call it regal or sovereign or by any other name, from the definition of "industry". If it be true that one must have regard to the nature of the activity and not to who engages in it, it is beside the point to enquire whether the activity is undertaken by the State, and further, if so, whether it is undertaken in fulfilment of the State's constitutional obligations or in discharge of its constitutional functions.....If the State's inalienable functions are excepted from the sweep of the definition contained in section 2(j), one shall have it is the nature of the activity is an industry. Indeed, in this respect, it should make no difference whether on the one hand, an activity is undertaken by a corporate body in the discharge of its statutory functions or, on the other, by the State itself in the exercise of its inalienable functions.” [para 164]

2.6 Thus, an organization would not cease to be industry merely because it is the government/local urban authorities and bodies.

2.7 It also held that welfare activities of an economic nature undertaken by Government come within meaning of industry - even in departments discharging sovereign functions if there are units which are industries and they are substantially severable then they can be considered to come within Section 2 (j) of the Act. This Court therefore allowed for inclusion of welfare activities or economic adventures of the government. It also held that units that are substantially severable - can be held to be industry. If there are industrial units severable from

the essential functions and possess an entity of their own, the employees of those units are workmen and those undertakings are industries.

2.8 Widening the scope of sovereign functions of the government will lead to a legal vacuum and vanishing of remedies available to those engaged in public utility and other work with the government. As such, employees such as sanitation and utility workers who lie at the lowest rungs will be left without appropriate forums as they would not be covered under the Administrative Tribunals Act, 1985 and neither will they be entitled to remedies such as reinstatement, back wages, compensation for retrenchment and decent work conditions. These are substantive industrial remedies that workers would be left without, and hence they cannot be included within 'sovereign functions'.

3. Workers engaged in Manual scavenging and Hazardous cleaning and Sanitation workers form a key workforce and provide service and need to be covered under the definition of 'industry' and cannot be excluded"

- 3.1 Manual scavenging and hazardous cleaning is an activity that continues widely in the country, despite being prohibited by the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (“PEMSRA”) and persons are being continued to be employed and engaged as manual scavengers and their families continue to be denied rehabilitative benefits due to the non-implementation of the law – by municipalities and local bodies and also by private parties.
- 3.2 Courts have recognized that sanitation workers occupy a unique position as workers. In *Municipal Corporation of Greater Mumbai v. Kachara Vahtuk Shramik Sangh* (2023:BHC-AS:40047), the Bombay High Court held that the case of sanitation workers is sui generis and cannot be compared to ordinary contract labour disputes due to their “extreme backwardness tied up with the caste system and lowly menial work they are forced to engage in”
- 3.3 The central government alone employs over 32 lakh employees as sanitation workers across 80 ministries as per the latest Department of Personnel and Training Report 2024-25. The

same report highlights that 66% of the Group-C sanitation workers employed in the Central Government belong to SC, ST and OBC groups. 92% of workers cleaning urban sewers and septic tanks employed by urban local bodies are from SC, ST and OBC groups (@Annexure A-2 and A-3 of the captioned Impleading Application).

3.4 Not only are workers engaged for hazardous cleaning and manual scavenging by private parties, they are also engaged by government authorities and local bodies for manual and hazardous cleaning of sewers, Gram Panchayats and/or parastatal bodies like Sewerage Boards.

3.5 Sanitation work is inherently hazardous, often proving to be fatal. A recent audit of 54 cases of deaths of sanitation workers commissioned by Government of India found that in 47 cases, the workers were not provided with safety gears or mechanical equipment. In 49 out of 54 cases, the workers were not wearing any safety kit at the time of death. Collective bargaining mechanisms provided under the ID Act are important means for such precariously placed workers to seek improvement in their working conditions and mitigate

occupational and health risks associated with their work. This was the primary legal shield that allowed them to be recognized as "workmen".

3.6 If government departments/municipal authorities/urban local bodies and their units are not covered by the ID Act, and do not come within the definition of 'industry', these workers will have no remedy as workmen, apart from access to criminal law, which is only when the worker has died due to hazardous cleaning.

3.7 The constitutional concerns for workers reflected in Articles 38, 39, and 43. Article 42 mandates the State to secure just and humane conditions of work. Workers engaged in hazardous cleaning face the highest occupational risks, including deaths from toxic gases in sewers, which occur every five days in India. A restrictive definition of 'industry' would thus deny them the protections of industrial and labour law and hence the interpretation of 'industry' needs to be broad to include them.

4. It is also submitted that social welfare activities and schemes or other enterprises undertaken by the Government Departments or their instrumentalities should in fact be construed to be “industrial activities” for the purpose of Section 2(j) of the ID Act.

5. Thus, it is submitted that the test laid down in paragraphs 140 to 144 in the opinion rendered by Hon’ble Mr. Justice V.R. Krishna Iyer in Bangalore Water Supply case to determine if an undertaking or enterprise falls within the definition of “industry” lays down is correct law.

Place: New Delhi

Date: 18.3.2026

Counsel for the Applicant

Comparative table of definitions

Industrial Disputes Act, 1947	Amendment Act 1982	2020 Code
<p>2 (j) “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;</p>	<p>2 (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,—</p> <p>(i) any capital has been invested for the purpose of carrying on such activity; or</p> <p>(ii) such activity is carried on with a motive to make any gain or profit, and includes—</p> <p>(a) any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);</p> <p>(b) any activity relating to the promotion of sales or</p>	<p>2 (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,—</p> <p>(i) any capital has been invested for the purpose of carrying on such activity; or</p> <p>(ii) such activity is carried on with a motive to make any gain or profit, but does not include —</p> <p>(i) institutions owned or managed by</p>

	<p>business or both carried on by an establishment, but does not include—</p> <p>(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.</p> <p>Explanation:—For the purposes of this sub-clause, “agricultural operation” does not include 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</p> <p>(2) hospitals or dispensaries; or</p> <p>(3) educational, scientific, research or</p>	<p>organisations wholly or substantially engaged in any charitable, social or philanthropic service; or</p> <p>(ii) any activity of the appropriate Government relating 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</p> <p>(iii) any domestic service; or</p> <p>(iv) any other activity as may be notified by the Central Government;</p>
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	<p>training institutions; or</p> <p>(4) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or</p> <p>(5) khadi or village industries; or</p> <p>(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</p> <p>(7) any domestic service; or</p> <p>(8) any activity, being a profession practised by an individual or body of individuals, if the number of persons employed by the</p>	
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	<p>individual or body of individuals in relation to such profession is less than ten; or</p> <p>(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;</p>	
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