2026 INSC 897

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 897 / 2002

State of Uttar Pradesh **...Appellant(s)**

Versus

Jai Bir Singh **...Respondent(s)**

with

Civil Appeal No. 4646 / 2007

Civil Appeal No. 3647 / 2007

Special Leave Petition (Civil) No. 1112 / 2009

Civil Appeal No. 3920 / 2010

Civil Appeal No. 3119 / 2011

Civil Appeal No. 6114 / 2001

Civil Appeal No. 6108 / 2002

Civil Appeal No. 1276 / 2001

Civil Appeal No. 1279 / 2001

Civil Appeal No. 1278 / 2001

Civil Appeal No. 6471 / 2002

Civil Appeal No. 2506 / 2002

Civil Appeal No. 8597 / 2001

Civil Appeal No. 4569 / 2002

Civil Appeal No. 5101 / 2002

Civil Appeal No. 2409 / 2002

Special Leave Petition (Civil) No. 20982 / 2002

Civil Appeal Nos. 355-358 / 2003

Special Leave Petition (Civil) No. 14085 / 2004

Special Leave Petition (Civil) No. 11291 / 2004

Special Leave Petition (Civil) No. 14127 / 2004

Civil Appeal No. 7994 / 2004

Special Leave Petition (Civil) No. 4139 / 2005

Civil Appeal No. 1274 / 2007

Civil Appeal No. 1273 / 2007

Civil Appeal Nos. 1311-1312 / 2008

Special Leave Petition (Civil) No. 16301 / 2007

Special Leave Petition (Civil) No. 3107 / 2008

Special Leave Petition (Civil) No. 4327 / 2008

Special Leave Petition (Civil) No. 4329 / 2008

Special Leave Petition (Civil) No. 4328 / 2008

Civil Appeal No. 296 / 2008

Special Leave Petition (Civil) No. 16276 / 2008

Special Leave Petition (Civil) No. 17224 / 2008

Civil Appeal No. 5519 / 2012

Civil Appeal No. 5681 / 2010

Special Leave Petition (Civil).........CC No. 7990 / 2009

Civil Appeal No. 7757 / 2011

Civil Appeal No. 1131 / 2012

Civil Appeal Nos. 8149-8151 / 2012

Civil Appeal Nos. 4505-4506 / 2013

Civil Appeal Nos. 4507-4508 / 2013

Special Leave Petition (Civil) Nos. 12679-12682 / 2014

Special Leave Petition (Civil) No. 1857 / 2016

Special Leave Petition (Civil) No. 14156 / 2021

TABLE OF CONTENTS

JUDGEMENT

SURYA KANT, CJI. (on behalf of himself, Satish Chandra Sharma J., Alok Aradhe J. and Vipul M. Pancholi J.)

A. OVERTURE

1. The issue concerning the instant batch of appeals can be consolidated into a singular judicial inquiry, namely, whether the Social Forestry Department of the Appellant State, having been created as a welfare-oriented initiative aimed at environmental amelioration, falls within the ambit of the term 'industry' as defined under Section 2(j) of the Industrial Disputes Act, 1947 (**ID Act, 1947**).

2. More pointedly, the legal issue, particularly the interpretive scope of the abovementioned term 'industry', constitutes a question that has persistently engaged the attention of this Court over an extended temporal period. Indeed, it would not be inapt to characterise this conundrum as a proverbial albatross fastened to the Court's metaphorical neck, continuing to demand judicial clarification.

3. The question may appear at first blush disarmingly straightforward; yet, upon closer scrutiny, it discloses a far more intricate and layered inquiry. For decades, the manner of its definition has, in tangible and determinative terms, governed which entities fall within the statutory fold and, correspondingly, who may legitimately invoke the rights and protections it confers.

4. It becomes necessary at this juncture to acknowledge that subsequent legislative developments have altered the statutory landscape. The provision whose interpretation has, for years on end, engaged sustained judicial attention is no longer in force, and this, in itself, presents an additional question warranting adjudication. However, the present batch of petitions, having been instituted prior to these legislative changes, does not fall within the ambit of the regime now governing the field, namely the Industrial Relations Code, 2020 (**IR Code**).

5. These developments, it must be noted, transpired after the reference of the present matters to a Bench of Nine Judges, at a time when the interpretive contours of Section 2(j) of the ID Act continued to carry determinative significance. Yet, the considerable passage of time, coupled with the intervening statutory transformation, has resulted in a state of doctrinal and procedural liminality. These appeals stand in a precarious interstice, being neither governed by the new legislative framework nor conclusively resolved under the erstwhile definition of 'industry' contained in Section 2(j).

6. As the Court of last resort, we remain acutely conscious that the interpretive exercise now being undertaken may not, in the contemporary statutory context, yield consequences of far-reaching practical application. Nonetheless, the discharge of this function is neither optional nor contingent upon its immediate utility. It is a responsibility that inheres in the judicial office, particularly where a reference has been authoritatively made. The principle, long embedded in our jurisprudential tradition, that justice must not only be done but must manifestly be seen to be done, acquires particular salience in such circumstances.

7. When a reference has been entrusted to this Court by learned Judges, acting in view of the exigencies and uncertainties prevailing at the relevant time, it would be neither institutionally appropriate nor jurisprudentially sound to permit the matter to remain in abeyance. To do so would, metaphorically speaking, be akin to burying the body before conducting the post-mortem, leaving the very cause of the controversy forever unexplored. To defer or deny its resolution any further would be to countenance a state of avoidable indeterminacy. It is, therefore, incumbent upon us to finally adjudicate the issue and bring the matter to a reasoned and authoritative *quietus*.

8. We have, therefore, endeavoured to discharge our constitutional obligation by addressing the question referred to the Nine-Judge Bench. The exercise of this jurisdiction is not discretionary in character; it is anchored in the imperatives of the Constitution and the foundational precepts of the Rule of Law. The Court cannot resile from the performance of its duty merely because, in the subjective estimation of the adjudicator, the issue may appear to admit of gradations of importance.

9. The constitutional function entrusted to this Court admits of no such artificial hierarchies. Once a question is validly referred, it commands authoritative determination, and it would be contrary to settled principle for the Court to decline adjudication on the basis of perceived relative significance.

B. INTERPRETATIONAL HISTORY OF THE 'INDUSTRY' DEFINITION

10. In that view of the matter, before embarking upon an analysis of the issues that presently fall for our consideration, it is imperative to trace the trajectory traversed by this Court over time, and to examine the manner in which the definition in question has evolved through successive judicial pronouncements. A careful engagement with this evolutionary process will furnish the necessary analytical foundation and illuminate the interpretive choices that now confront us, thereby enabling a more coherent and methodical resolution of the questions at hand.

11. It is apposite at the outset to advert to the language employed in Section 2(j) of the ID Act, according to which, "*'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.*"

12. Section 2(j) defines 'industry' in a bifurcated manner, employing two distinct yet complementary limbs. The first proceeds from the standpoint of the employer and extends to "*any business, trade, undertaking, manufacture or calling of employers.*" The second is cast from the perspective of the workman and encompasses "*any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.*" The phraseology employed is of the widest amplitude, having been drawn in substantial measure from Section 4 of the Commonwealth Conciliation and Arbitration Act of Australia, and has, in consequence, invited sustained judicial engagement in the course of its interpretation.

B.1. Bangalore Water Supply (supra): A truly watershed moment

13. There can, of course, be no gainsaying that any meaningful consideration of the definition of the term 'industry' must necessarily entail an examination of the formulation articulated by a Seven Judge Bench in ***Bangalore Water Supply and Sewerage Board v. A. Rajappa***.[1]

14. The controversy therein originally arose when certain employees of the Bangalore Water Supply and Sewerage Board (**Board**) were subjected to penalties in the form of fines for alleged misconduct. Aggrieved thereby, they instituted proceedings before the Labour Court under Section 33C (2) of the ID Act. In response, the Board therein raised a preliminary objection to the maintainability of the proceedings, contending that it was engaged in the discharge of essentially 'regal' or governmental functions by providing basic civic amenities to the public and, consequently, could not be regarded as an 'industry' within the meaning of Section 2(j). It was argued that, if the Board itself fell outside the ambit of the Act, the employees could not claim the status of 'workmen' thereunder and, correspondingly, the Labour Court would lack jurisdiction to entertain or adjudicate their claims.

15. The dispute thereafter traversed first before the Karnataka High Court and subsequently before this Court. By that stage, the question concerning the meaning and scope of 'industry' under Section 2(j) had already become the subject of substantial judicial

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[1] (1978) 2 SCC 213.

debate, with divergent strands of authority emerging from different decisions of this Court. In light of this interpretative discordance and the significance of the issues involved, the matter ultimately came to be placed before a larger Bench for an authoritative determination of the law.

16. It was in these circumstances that the judgment now universally recognised as ***Bangalore Water Supply (supra)*** came to be rendered, a decision that would sagaciously influence the course of industrial jurisprudence in India and remain the focal point of reference in debates concerning the meaning of the term 'industry' for decades thereafter.

17. To state briefly, in that decision, a majority of Five Judges, speaking through the seminal exposition authored by Krishna Iyer, J. and comprising himself, P.N. Bhagwati, J. and D.A. Desai, J., adopted an expansive construction of the term by propounding what has since come to be recognised as the '***Triple Test***'.

18. The leading judgment was accompanied by a concurring opinion authored by M. H. Beg, C.J., together with a brief order delivered by Y. V. Chandrachud, J. (*as he then was*), on behalf of himself, Jaswant Singh, J. and V. D. Tulzapurkar, J., which was delivered on 21.02.1978, clarifying that their detailed reasoning would follow. *Vide* the main judgment, the learned concurring Judges recorded their respectful agreement with the principal opinion authored by Krishna Iyer, J., agreeing with the ultimate conclusion that the matter ought to be dismissed, while observing that reasons would be furnished subsequently to delineate the areas of concurrence and divergence, if any, on the questions in controversy addressed in the leading judgment.

19. Thereafter, on 07.04.1978, Y. V. Chandrachud J. (*as he then was*), delivered his detailed reasons, while Jaswant Singh J., speaking for himself and V. D. Tulzapurkar J., rendered a partly dissenting opinion, thereby crystallising the effective majority of the judgment at 5:2.

B.1.1. Reasons prompting reference to a larger Bench

20. The reference to a Bench of Seven Judges was itself occasioned, as explained by Krishna Iyer, J., by "*the urgent need for an authoritative resolution of this confused position which has survived indeed, has been accentuated by-the judgment of this six-member bench in Safdarjung, if we may say so with deep respect, has led to a reference to a larger bench of this diehard dispute as to what an 'industry' under Section 2(j) means.*"

21. The respected Judge, speaking with his characteristic candour, noted that the prevailing uncertainty had necessitated what had become a persistent and intractable dispute as to the meaning of industry under Section 2(j) of the ID Act.

22. There thus appears to have been no divergence of opinion among the learned Judges on this aspect, namely, that the persistent deviation in judicial interpretation ought to be clarified immediately. It was also broadly acknowledged that, in an ideal course, legislative intervention by Parliament, through an appropriate amendment, would have been desirable to bring clarity and resolution to the prevailing state of ambiguity.

B.1.2. Laying down the Triple Test

23. The majority, in the leading judgment, having undertaken an exhaustive survey of the preceding authorities that had shaped the interpretation of the expression 'industry', proceeded to articulate the Triple Test as the governing standard for determining whether a particular body or entity would fall within its ambit.

24. The Triple Test postulates the existence of: (***i***) a systematic and organised activity; (***ii***) cooperation between employer and employee in the conduct of such activity; and (***iii***) the production or distribution of goods and services directed towards the satisfaction of human wants and wishes. The formulation was consciously designed to avoid an unduly restrictive construction and to capture within its ambit a wide spectrum of organised economic and quasi-economic undertakings.

25. It is of particular significance that, in explicating the element of cooperation between employer and employee, the Court rejected the necessity of establishing any direct or proximate nexus of a rigid character, regarding such a requirement as illusory and normatively untenable. Further, the phrase "*goods and services calculated to satisfy human wants and wishes*" was construed in a manner that excluded activities of a purely spiritual or religious character, while encompassing material goods and services intended to confer tangible, temporal benefit. Illustratively, activities such as the large-scale preparation and distribution of food, including prasad, were held to fall within the inclusive sweep of the definition of industry.

26. The absence of a profit motive or any gainful objective was held to be immaterial, and it was clarified that an enterprise could fall within the ambit of 'industry' irrespective of whether it operated in the public, joint, private, or any other sector. The emphasis, therefore, was placed squarely on the functional character of the activity, with the decisive inquiry centring on its nature, particularly as manifested through the relationship of cooperation between employer and employee.

27. The Triple Test appears to have secured broad acceptance among all seven learned Judges, with the divergence being confined not to its formulation, but to the manner and extent of its application. Thus, while the foundational elements of the test were not in serious dispute, differences arose as to the manner in which particular factual settings ought to be treated. For instance, Chandrachud J. (*as he then was*), agreed with the activity test but highlighted that the determinative inquiry ought to instead be based on "*whether the activity, considered objectively, is organised or arranged in a manner in which trade or business is normally organised or arranged.*"

28. Even in the dissenting opinion of Jaswant Singh J., for himself and Tulzapurkar J., substantially accepted the three constituent elements of the Triple Test, but proceeded to superimpose an additional requirement. According to the learned Judges, the activity in question must further be carried on "*on commercial lines by private entrepreneurs.*"

<u>B.1.3 Reading down 'Undertaking'</u>

29. An important facet of the decision in ***Bangalore Water Supply (supra)*** lies in the illumination it provides on the scope and ambit of the term 'undertaking'. The leading opinion made it clear that the construction of Section 2(j) of the ID Act could not be extended to the point that it 'skids into a domain too rarified to be realistic'. Put in more lucid terms, while the provision was to be accorded a broad and purposive interpretation, it was not to be so unbounded as to assume an all-encompassing character that would indiscriminately draw every conceivable activity within its sweep.

30. This ultimately resulted in the recognition of the second guideline that:

> *"Undertaking must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I, although not trade or business, may still be 'industry' provided the nature of the activity, viz. the employer-employee basis, bears resemblance to what we find in trade or business. … All features, other than the methodology of carrying on the activity viz. in organizing the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy."*

31. The logical corollary of this guideline was thus that any organised activity satisfying the constituent elements of the Triple Test, though not strictly amounting to trade or business, may nevertheless qualify as an 'industry', provided that the essential character of the activity, particularly the employer–employee relationship, bears a discernible resemblance to that which ordinarily obtains in trade or business. The consideration thus lies in the manner in which the activity is organised, specifically the structured cooperation between employer and employee.

32. The majority decision further emphasized that the application of these guiding principles must not be curtailed by subjective considerations, whether arising from ideological predilections, institutional character, or perceived incongruity between the nature of the activity and its economic consequences. The interpretive exercise must remain faithful to the statutory purpose, namely, the promotion of industrial peace and the orderly regulation and resolution of disputes between employers and workmen.

33. On this basis, it was made clear that a wide range of organised activities, including professions, clubs, educational institutions, cooperatives, research bodies, charitable undertakings, and other analogous ventures, cannot be excluded from the ambit of Section 2(j) merely by reason of their form or avowed purpose, so long as they satisfy the requirements of the Triple Test.

34. At the same time, a limited category of such institutions may stand outside the definition where, applying the dominant nature test, the activity is essentially carried on without the employment of a substantive workforce, and only minimal or marginal engagement of labour is involved. In such cases, the absence of a structured employer–employee relationship of any real significance would preclude their characterisation as an 'industry'.

35. Thus, as a manner of illustration, the decision put forth that institutions founded upon a fundamentally altruistic or eleemosynary basis may fall outside the ambit of 'industry' in narrowly circumscribed circumstances. Where the activity is carried on predominantly by individuals who associate themselves with the endeavour out of a sense of service, commitment to a cause, or spiritual or ideological motivation, and who render their services either gratuitously or for nominal honoraria, the essential metric of an employer–employee relationship may be absent.

36. This would also encompass situations such as voluntary legal aid initiatives, free medical services rendered by professionals in their spare time, or institutions sustained by individuals working in furtherance of a shared spiritual or charitable purpose. In such cases, where services are provided free of charge or at nominal cost, and those engaged are not employed on terms indicative of a master–servant relationship, the organisation would not qualify as an 'industry', notwithstanding the engagement of a limited number of ancillary or technical staff.

37. This exemption, however, was confined to such genuinely charitable or eleemosynary undertakings. It does not extend to activities merely because they are animated by generosity, compassion, or developmental objectives, where the organisational structure otherwise satisfies the criteria of the statutory definition or the Triple Test.

B.1.4. The creation of the Dominant Nature Test

38. Krishna Iyer J., in his lead judgment, further articulated what has come to be recognised as the ‘dominant nature test’ in order to address situations involving a composite or multifaceted undertaking.

39. Where an organisation comprises a complex of activities, some of which may, if viewed in isolation, fall outside the definition, while others clearly fall within it, the determinative inquiry must centre on the predominant character of the enterprise as a whole. If the dominant nature of the activity, viewed in its integrated form, satisfies the criteria of an ‘industry’, the entire undertaking would ordinarily be so characterised, notwithstanding that certain components or personnel may not independently meet the statutory definition.

B.1.5. The Sovereign Functions Exception

40. The Court also clarified that the exemption carved out for sovereign functions must be narrowly construed and confined to functions strictly understood as sovereign in character. Welfare activities or economic ventures undertaken by the State or its instrumentalities do not, merely by reason of their governmental provenance, attract such immunity.

41. Further, even within departments discharging sovereign functions, distinct and severable units which independently satisfy the indicia of an 'industry' may fall within the ambit of Section 2(j) of the ID Act. Lastly, it was recognised that the Legislature, acting within its constitutional competence, retains the authority to expressly exclude categories of activities from the operation of the Act, even if they would otherwise fall within its definitional scope. While this is only a brief synopsis of the ratio in ***Bangalore Water Supply (supra)***, the reasoning buttressing its findings has been dealt with in greater detail in the later part of this judgment.

42. That being so, the decision in ***Bangalore Water Supply (supra)*** was by no means the first occasion on which this Court undertook an authoritative exposition of the term 'industry'. The interpretive enterprise predates that pronouncement and is marked by a series of decisions that sought to delineate the contours of the definition in varying factual settings. In order to bring analytical coherence to this body of precedent, it is both convenient and conceptually sound to classify the trajectory of the case law into two distinct phases: ***first***, the jurisprudence preceding ***Bangalore Water Supply (supra)***; and ***second***, the jurisprudence that has developed in its aftermath.

B.2. The Pre-Bangalore Water Supply (supra) Jurisprudence

43. Prior to the authoritative pronouncement of ***Bangalore Water Supply (supra)***, the construction of the provision 'industry' exhibited a marked oscillation between two competing interpretive approaches. On the one hand, a liberal construction sought to bring within its sweep a broad spectrum of organised activity; on the other, a more restrictive approach endeavoured to confine its application to undertakings of a predominantly commercial character.

B.2.1. Casting the Net Wide: The Early Expansion of the term 'Industry'

44. One of the earliest decisions in this line of authority is that of ***D.N. Banerji v. P.R. Mukherjee***,[2] wherein a Five-Judge Bench held that a municipal body could fall within the ambit of 'industry', and in doing so articulated what has come to be described as the 'analogous to trade or business' test. The Court observed that it is sufficient if the activity in question bears a functional resemblance

[2] AIR 1953 SC 58.

to the carrying on of trade or business and is carried on through cooperation between employers and employees.

45. This approach marked a deliberate departure from a narrow, profit-centric understanding. It was held that an activity need not be undertaken by a private enterprise, nor must it be strictly commercial in character or profit-generating, in order to attract the statutory definition. In a significant interpretive move, the Court also rejected the contention that the expression 'undertaking' must take its colour *ejusdem generis* from the preceding words 'business, trade, manufacture or calling'. Such a construction, it was reasoned, would unduly constrict the scope of the provision and render both the term 'undertaking' and the second limb of the definition otiose.

46. The expression 'undertaking', within the meaning of Section 2(j), was accordingly construed in expansive terms to denote any business, work, or project that is undertaken as an enterprise, so long as it is analogous in its organisation and operation to trade or business.

47. Thereafter, the decision in ***State of Bombay v. Hospital Mazdoor Sabha***[3] marked a significant stage in the evolution of the

[3] AIR 1960 SC 610.

jurisprudence. In that case, a Three Judge Bench held that a government-run hospital would fall within the ambit of an 'industry', while simultaneously refining the principles earlier enunciated in ***D.N. Banerji (supra)***. It articulated a more structured formulation of what would constitute an 'undertaking' within the meaning of Section 2(j). Accordingly, an activity would so qualify where: (***a***) it is systematically or habitually undertaken; (***b***) directed towards the production or distribution of goods, or the rendering of material services to the community, whether in whole or in part; (***c***) carried on with the assistance of employees; (***d***) organised in a manner analogous to trade or business; and (***e***) not of a casual character, nor undertaken for personal consumption or pleasure. Significantly, the presence of a profit motive or the investment of capital was held to be non-essential to the characterisation.

48. This Court was, however, careful in emphasising that the amplitude of the definition was not without limits. A principled line of demarcation was recognised, excluding from its ambit activities that are purely domestic, personal, or casual in nature.

49. Following closely on the heels of ***Hospital Mazdoor Sabha (supra)*** was the judgment rendered in ***Corporation of the City of Nagpur***

v. Its Employees,[4] wherein a municipal corporation was construed to be an 'industry' with two qualifications justifying such categorisation. The ***first*** was a narrow sovereign function exception, confined to the 'primary and inalienable functions of a constitutional government', namely, the legislative power, the administration of law, and the exercise of the judicial power; these were held to remain excluded even when statutorily delegated to a corporation. The ***second*** was the predominant function test for composite departments, under which a department discharging both industrial and non-industrial activities takes its character from its predominant nature of function. On the anvil of that test, the Octroi Department was held not to be an industry, whereas the Fire Brigade service of a municipal committee was. Once again, it was observed that neither investment of capital nor a profit motive is a necessary element in the modern conception of industry, and that monetary consideration for service is not an essential characteristic of industry in a modern State.

50. Soon after, the decision in ***Ahmedabad Textile Industry's Research Association v. State of Bombay***,[5] following the ratio laid down in ***Hospital Mazdoor Sabha (supra)***, classified a Research Association set up by the textile mills of Ahmedabad to

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[4] AIR 1960 SC 675
[5] AIR 1961 SC 484.

be an 'industry'. It founded its decision on the basis that: (***i***) the activity of the research association had been systematically taken; (***ii***) it rendered material services to a part of the community by discovering manufacturing processes to improve efficiency and reduce costs; and (***iii***) it was carried out with the help of technical personnel. The Court further imbued that the association's activities did not have much in common with the activities of what may be construed to be a purely educational institution, thereby leaving the legal status of ordinary educational institutions open.

<u>B.2.2. The Turning of the Tide: The retrenchment of the expansive approach</u>

51. In ***National Union of Commercial Employees v. M.R. Meher***,[6] this Court held a firm of solicitors not to be an 'industry', and thereby inaugurated the restrictive turn, marking a turn in the tide. The third prong of the working principle in ***Hospital Mazdoor Sabha (supra)*** was qualified by the further requirement that the cooperation between employer and employee must have a 'direct' nexus with the goods or services produced. To that end, the court reasoned that a solicitor's output depends on his personal professional equipment, knowledge and efficiency; the clerical work of his staff is incidental and has no direct or essential nexus with

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[6] AIR 1962 SC 1080.

the advice rendered to the client. On that reasoning, the learned professions more generally were excluded from the definition.

52. In a similar vein, this Court in ***University of Delhi v. Ram Nath***,[7] held a university to not be an 'industry' within the bounds of Section 2(j) of the ID Act. The work of imparting education was, the Court observed, more of a 'mission' and a vocation than a profession or trade or business. Moreover, it was held that the majority of a university's employees (the teachers) do not qualify as 'workmen' under the Act. The Court stated that its decision was not to be understood as laying down a general proposition, but the effect of the ruling was to take educational institutions as a class out of Section 2(j).

53. Thereafter, in ***Madras Gymkhana Club Employees' Union v. Madras Gymkhana Club***,[8] a Three Judge Bench of this Court held that a self-serving members' club, albeit organised on a substantial scale and comprising approximately 1,200 members with a fully equipped catering department, would not fall within the ambit of an "industry." The Court proceeded on the basis that, notwithstanding the provision of material services to a defined

[7] AIR 1963 SC 1873.
[8] AIR 1968 SC 554.

section of the community, such activities were not undertaken in the course of trade or business, nor were they analogous thereto.

54. In arriving at the aforesaid conclusion, the Court declined to adopt the formulation articulated in ***Hospital Mazdoor Sabha (supra)***, particularly insofar as it introduced the criterion of whether the activity in question could, in principle, be carried on by a private individual. This qualification was regarded as conceptually unsound, on the footing that there exist few, if any, activities incapable of being undertaken by private enterprise. The interpretive consequence of this approach was to accord primacy to the first limb of the definition contained in Section 2(j), thereby substantially attenuating the independent significance of the second limb and narrowing the scope of the provision.

55. A similar view was then taken in ***Cricket Club of India v. Bombay Labour Union***,[9] wherein the Cricket Club of India was held not to be an industry.

56. Thereafter came the decision in ***Safdarjung Hospital v. Kuldip Singh Sethi***,[10] which can be safely regarded as inscribing the high-water mark of the restrictive approach. In that case, a Six-Judge Bench of this Court expressly overruled the earlier decision in

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[9] AIR 1969 SC 276.
[10] (1970) 1 SCC 735.

Hospital Mazdoor Sabha (supra) and significantly narrowed the scope of the definition of 'industry'. The Court was concerned with three institutions: the Safdarjung Hospital, which operated as a governmental department; the Tuberculosis Hospital, functioning as a wholly charitable and research-oriented institution; and the Kurji Holy Family Hospital, a charitable establishment expressly precluded from generating profit. All three were held not to fall within the ambit of an 'industry'.

57. The central proposition articulated was that, although the presence of a profit motive is not determinative, an activity must nonetheless bear a close analogy to trade or business in a commercial sense in order to qualify as an 'industry'. It must be directed towards the production of material goods or the provision of material services possessing commercial value. In this context, 'material services' were understood to denote organised activities carried on through the cooperation of employers and employees to provide the community with the use of essential utilities, such as electricity, water, transportation, postal services, and telecommunication. This formulation imposed a distinctly higher threshold, reintroducing, albeit in a nuanced form, a commercial character as a limiting principle, and thereby consolidating the restrictive trajectory in the interpretation of Section 2(j) of the ID Act.

58. The judicial path thus reveals that different Benches of this Court adopted a multiplicity of distinct and, at times, divergent approaches in determining whether particular institutions, such as Hospitals, Clubs, Universities, and Governmental Departments, would satisfy the substantive import of the definition of 'industry' under Section 2(j) of the ID Act.

B.3. The Post-Bangalore Water Supply (supra) jurisprudence

59. In the aftermath of the decision in ***Bangalore Water Supply (supra)***, the jurisprudence appeared, for a time, to attain a measure of doctrinal stability, if not complete finality. This interlude of relative calm was, however, short-lived. Subsequent developments once again unsettled the field and rekindled debate regarding the correctness, scope, and continuing viability of the interpretation accorded to the term 'industry'.

60. These developments may, for analytical clarity, be organised into four broad categories: (***i***), the initial legislative response; (***ii***), the contestation surrounding the ambit of the sovereign functions exception; (***iii***), the treatment and status of research institutions; and (***iv***), the recurring judicial calls for a reconsideration of the principles laid down in ***Bangalore Water Supply (supra)*** itself.

B.3.1. The Initial Legislative Response

61. The Parliament, by way of the Industrial Disputes (Amendment) Act 46 of 1982, amended Section 2(j). The amendment retained the core of the Triple Test enunciated in ***Bangalore Water Supply (supra)***, clarified that the employer-and-employee relationship includes workmen employed through a contractor, though it carved out exceptions, such as: (1) agricultural operations (save where integrated with industrial activity); (2) hospitals and dispensaries; (3) educational, scientific, research or training institutions; (4) institutions engaged in charitable, social or philanthropic service; (5) khadi or village industries; (6) activities of the Government relatable to its sovereign functions, including the departments dealing with defence research, atomic energy and space; (7) domestic service; (8) professions practised by an individual or body of individuals employing fewer than ten persons; and (9) cooperative societies, clubs or like bodies employing fewer than ten persons.

62. Although the above-quoted amendment was passed on 21.08.1984, the amended definition of 'industry' was never notified and thus the amended provision did not see the light of day.

B.3.2. The discord regarding the Sovereign Function Exception

63. Subsequently, a phase of friction emerged in relation to the exceptions carved out for sovereign functions as articulated in ***Bangalore Water Supply (supra)***. This divergence was occasioned by the coexistence of two distinct judicial approaches: one line of authority adhered to the narrow construction adopted in ***Bangalore Water Supply (supra)***, while another sought to expand the contours of the exception, thereby enlarging the category of activities insulated from the definition of 'industry'.

64. To explicate, the narrow construction of the sovereign functions exception found early articulation in ***Chief Conservator of Forests v. Jagannath Maruti Kondhare***,[11] wherein a Three Judge Bench held that the State's Social Forestry Department would fall within the ambit of an 'industry'.

65. However, such divergence became manifest when a Two Judge Bench, in ***Sub Divisional Inspector of Post, Vaikam v. Theyyam Joseph***,[12] adopted a broader construction of the exemptions provided to sovereign functions and held the Postal Department would fall within the domain of welfare functions envisaged under Part IV of the Constitution. Such functions, being sovereign in

[11] (1996) 8 SCC 489.
[12] (1996) 2 SCC 293.

character, were held to lie outside the ambit of an 'industry'. This line of reasoning was subsequently followed by another Two Judge Bench in ***Bombay Telephone Canteen Employees' Association v. Union of India***,[13] wherein the departmental canteen attached to the Prabhadevi Telephone Exchange was likewise held not to constitute an 'industry'.

66. Indeed, in the latter decision, the Court went on to observe that a strict and unqualified application of the ratio laid down in ***Bangalore Water Supply (supra)*** could potentially give rise to consequences of a far-reaching and, perhaps, catastrophic nature.

67. However, this dissonance came to be resolved by a Three Judge Bench in ***General Manager, Telecom v. A. Srinivasa Rao***,[14] which held that the Telecommunication Department of the Union would fall within the ambit of an 'industry', having regard to the fact that it was engaged in activities of a commercial character and was not discharging functions of a sovereign nature.

68. In the course of its analysis, the Court unequivocally declined to endorse the broader construction of the sovereign functions exception. It observed that such an approach stood in direct conflict with the binding authority of the Seven-Judge Bench

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[13] AIR 1997 SC 2817.

[14] (1997) 8 SCC 767.

decision in ***Bangalore Water Supply (supra)***, which continued to hold the field. The Court emphasised that it would be impermissible for a Bench of lesser strength to either depart from or circumvent a binding precedent of a larger Bench. The decisions in ***Theyyam Joseph (supra)*** and ***Bombay Telephone Canteen (supra)*** were accordingly held not to lay down the correct position in law.

69. The decision in ***Srinivasa Rao (supra)*** was subsequently followed and reaffirmed firstly by a Two Judge Bench in ***All India Radio v. Santosh Kumar***,[15] which held that All India Radio and Doordarshan would qualify as 'industries'. The reasoning assigned was that the broadcasting of commercial advertisements for profit could not be characterised as a purely sovereign function. Similarly, in ***Agricultural Produce Market Committee v. Ashok Harikuni***,[16] another Two Judge Bench held that a Market Committee constituted under the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966 would fall within the ambit of an 'industry', noting that none of its functions could be regarded as sovereign or inalienable, and that the presence or absence of profit-making was not determinative.

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[15] (1998) 3 SCC 237.
[16] (2000) 8 SCC 61.

70. What emerges from this line of authority is a consistent recognition that merely because an activity is undertaken by the State, whether in furtherance of welfare objectives or through departmental organisation, does not, by itself, attract the sovereign functions exception, particularly where such activity bears the *indicia* of organised service or commercial engagement.

B.3.3. The treatment and status of Research Institutions

71. The expansive construction accorded to the term 'industry' in ***Bangalore Water Supply (supra)***, particularly in its application to research institutions, proved to be a significant point of inflection in jurisprudence. The proposition that such bodies could, in principle, fall within the statutory definition if they satisfied the governing criteria introduced a degree of latitude that subsequently invited reconsideration.

72. This came to the fore in the Two Judge Bench decision in ***Physical Research Laboratory v. K.G. Sharma***,[17] where the Court held that the Physical Research Laboratory would not constitute an 'industry'. The determination rested on the footing that the institution was engaged in pure research, discharging functions of

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[17] (1997) 4 SCC 257.

a governmental character, notwithstanding the fact that it employed personnel in furtherance of its objectives.

73. The reasoning in ***Physical Research Laboratory (supra)*** thus stood in discernible tension with the ratio of ***Bangalore Water Supply (supra)***, and sought to be an early indication of the judicial unease that began to surface with respect to the prevailing dictum.

B.3.4 The calls for reconsideration of the decision in ***Bangalore Water Supply (supra)***

74. A Two Judge Bench in ***Coir Board, Ernakulam v. Indira Devi P.S***,[18] while adjudicating the question as to whether or not the Coir Board constituted an industry, referred the decision in ***Bangalore Water Supply (supra)*** for reconsideration by a larger bench, pointing to the '*damaging effect*' of the extended meaning given to 'industry' and dissenting from the view laid down in that case.

75. The Bench observed that the experience of the two decades since ***Bangalore Water Supply (supra)*** had done more damage than good, not merely to the organisations but also to the employees by the curtailment of employment opportunities. It noted that the elimination of the profit motive had caused a large number of philanthropic and charitable activities to be unable to cope with

[18] (1998) 3 SCC 259.

their requirements, with the consequence that welfare activities were discontinued, the community was deprived of their benefit and the employees of their livelihood. As to the Coir Board itself, the Bench observed that its function was to promote the coir industry, not to run one, and that it would not be an "industry" on a predominant-purpose test, though it would have to be so characterised on the sweeping test in ***Bangalore Water Supply (supra)***.

76. Thereupon, a Three-Judge Bench of this Court, presided over by the then Chief Justice, declined the reference on the basis that ***Bangalore Water Supply (supra)*** did not require reconsideration merely because of a reference made by a Two-Judge Bench, which was bound by the larger bench.[19]

77. Nonetheless, ***Bangalore Water Supply*** **(supra)** was subsequently referred for reconsideration to a larger Bench initially by a Three-Judge Bench on 31.01.2001 in ***State of Uttar Pradesh v. Jai Bir Singh***.[20] This reference was founded upon an apparent conflict in precedent. On one hand, the Three-Judge Bench in ***Jagannath Maruti Kondhare (supra)*** had taken an expansive view, holding that a Social Forestry Department would fall within the ambit of an

[19] Coir Board Ernakulum State of Kerala v. Indira Devi P.S. (II), (2000) 1 SCC 224.
[20] (2005) 5 SCC 1.

'industry'. On the other hand, the Two-Judge Bench in ***State of Gujarat v. Pratamsingh Narsinh Parmar***[21] adopted a more restrictive interpretation. The divergence between these decisions necessitated authoritative clarification by a larger Bench.

78. The Five Judge Bench in ***State of Uttar Pradesh v. Jai Bir Singh***,[22] while considering the issue, held that there were various competing interests which would make it prudent to reconsider the correctness of ***Bangalore Water Supply (supra)*** and refer it to a larger bench. ***First***, the decision in ***Bangalore Water Supply (supra)*** was not unanimous; within the majority of five, three joined in the opinion of Krishna Iyer J., while Beg C.J. and Chandrachud J. (*as he then was*) wrote separately, with views partly different from the other three. ***Second***, the majority itself had recorded that the definition clause was 'so wide and vague that it is not susceptible to a very definite and precise meaning', and had described its interpretation as tentative and temporary, till the legislature stepped in. ***Third***, the Act being social legislation, the interests of employers, employees and the public, as the ultimate beneficiaries of industrial activity, must be kept in view; a worker-oriented approach unmindful of employer and public interest is one-sided. ***Fourth***, experience had shown that the majority view

[21] (2001) 9 SCC 713.
[22] (2005) 5 SCC 1.

had produced large awards of reinstatement and back-wages, which compelled employers of moderate means to close down their industries, harming employers, workers and the public alike. ***Fifth***, though the Act was amended in 1982, the amendment had remained unenforced. ***Sixth***, an over-expansive interpretation was a deterrent to private enterprise in a country of scarce public employment, and the engulfing of liberal professions (lawyers, architects, doctors, chartered accountants) within the definition was experienced as a hurdle; such professions require regulation, but by separate legislation. ***Seventh***, the concept of a sovereign function ought not, in a constitutional democracy, be confined to its traditional compass; rather it should comprehend the public welfare activities which Government undertakes in discharge of its constitutional obligations under Part IV, and such activities should fall outside 'industry'.

79. The cases were thus directed to be placed before the Chief Justice of India for the constitution of a suitable larger bench. Thereupon, on 02.01.2017, a Seven-Judge Bench led by the then Chief Justice of India directed that a Nine-Judge Bench would hear the matter.

80. The matter was thereafter listed on 12.10.2023 for final hearing. In that regard, this Court issued directions for the preparation of a common compilation of pleadings, written submissions, documents and precedents, to be filed on or before 20.11.2023. However, no further progress ensued in the matter thereafter.

81. In the *interregnum*, the IR Code, 2020, was brought into force on 21.11.2025, and on 02.02.2026, the ID Act was formally repealed.

82. Subsequently, this Court, by order dated 16.02.2026, with a view to bringing *quietus* to the instant controversy, framed the following questions for consideration:

i. Whether the Triple Test, as laid down in ***Bangalore Water Supply (supra)***, is correct law;

ii. Whether the Industrial Disputes (Amendment) Act, 1982 and the Industrial Relations Code, 2020 (**IR Code, 2020**) have any legal impact upon the interpretation of "industry" as contained in the Principal Act;

iii. Whether the social welfare activities and schemes of Government Departments or their instrumentalities can be construed to be "industrial activities" for the purpose of Section 2(j); and

iv. What are the "sovereign functions" of the State that fall outside the purview of Section 2(j).

83. The matter was thereupon heard continuously on 17.03.2026, 18.03.2026 and 19.03.2026, and consequently reserved for judgment.

C. THE PREFATORY QUESTION OF MAINTAINABILITY

84. The issue concerning the correctness of the reference itself was neither considered germane nor framed as a question for determination, as is evident from paragraph 82 above.

85. However, during the course of the hearing, learned senior counsel(s) and counsel(s) appearing for the Respondent-workmen raised a preliminary objection to the maintainability of the present reference to a Nine-Judge Bench. It was submitted that the appeals instituted by the State, its instrumentalities, and other employers were liable to be rejected at the threshold on the ground of maintainability. Consequently, according to the Respondents, this Court was not required to venture into the merits of the controversy or answer the questions formulated by the order dated 16.02.2026.

86. The Respondents further contended that, having held the field for nearly five decades, the decision in ***Bangalore Water Supply (supra)*** has attained a degree of jurisprudential stability that squarely attracts the principle of *stare decisis*. It was submitted that there exists no compelling necessity to reopen or reconsider the interpretation adopted therein, and that the mere existence of divergent judicial opinions or subsequent expressions of doubt does not, by itself, constitute sufficient justification for a comprehensive reappraisal of the correctness of the decision.

87. The Appellants, in response, supported the reference made to a Nine Judge Bench *vide* judgments dated 05.05.2005 and 02.01.2017, contending that it was done as per procedure, especially given that the Chief Justice of India had appropriately constituted larger benches to deal with the issues raised.

88. Having regard to these rival asseverations, we deem it appropriate to address this aspect, notwithstanding that no issue was framed to this effect on 16.02.2026 nor intended to be considered as a distinct issue. In view of the fact that several of the learned counsels have engaged with it and have relied upon it as a basis to decline the reference, it becomes necessary for us to examine the matter and record our reasons as well.

89. We have thus given our thoughtful consideration to the preliminary objection regarding the maintainability of the reference. We are, however, unable to accept the same and are inclined to reject it at the outset, *inter alia,* on two principal grounds, namely: (***i***) the procedure adopted and the correctness of the reference; and (***ii***) the broader considerations of institutional propriety that must rationally govern the adjudication of such matters.

C.1. Correctness of the manner in which Reference was made

90. Before proceeding to examine the correctness of the instant reference, it is necessary to advert to the general principles that govern the manner in which a Bench of lesser strength may refer questions for consideration by a larger Bench. The contours of this procedural mechanism are neither uncertain nor obscure. There exists a consistent line of authority that illuminates the governing norms and provides a principled framework within which such references are to be made and adjudicated.

C.1.1. The framework governing Larger Bench References

91. One need not set out on an odyssey to appreciate the governing principle. It would suffice to advert to the seminal Constitution Bench decision in ***Central Board of Dawoodi Bohra Community v. State of Maharashtra***,[23] wherein the Court authoritatively and conclusively settled the legal position governing references to a larger Bench in the following explicit terms:

> *"12. (1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.*

[23] (2005) 2 SCC 673.

(2) A Bench of lesser quorum cannot disagree or dissent from the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of co-equal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of co-equal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.
(3) The above rules are subject to two exceptions:
(i) The abovesaid rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and
(ii) In spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons given by it, it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of the Chief Justice constituting the Bench and such listing."

[Emphasis supplied]

92. What has been so cogently articulated in ***Dawoodi Bohra (supra)***, and which continues to hold the field on the manner in which references to a larger Bench are to be made, is sufficiently clear and admits of no further elaboration. There is no gainsaying that ***Dawoodi Bohra (supra)*** was occasioned by a series of instances that struck at the very foundation of judicial propriety and institutional discipline. The Five-Judge Bench therein sought to clarify that any challenge to the decision rendered in ***Sardar Syedna Taher Saifuddin Saheb vs The State of Bombay***,[24] which pertained to a case on excommunication, would have to be heard by a Five-Judge or larger bench.

93. It was in that backdrop that the Constitution Bench therein considered it necessary to formulate comprehensive principles governing references to larger Benches, which in turn were firmly anchored in the doctrines of precedent, judicial decorum, and institutional discipline. In essence, the judgment reaffirmed that a Bench of lesser strength cannot disregard or depart from the law declared by a Bench of greater strength. If a smaller Bench entertains doubts as to the correctness of a larger Bench decision, the proper judicial course is not to overlook or sidestep the binding precedent, but to refer the matter to the Chief Justice for constitution of an appropriate larger Bench to authoritatively consider the issue.

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[24] 1962 AIR 853.

94. Indeed, one of us (Surya Kant, J. (*as he then was*)) relied upon ***Dawoodi Bohra (supra)*** in his dissenting opinion in ***Aligarh Muslim University v. Naresh Agarwal***[25] to reject the maintainability of the reference therein. To elucidate, in ***Aligarh Muslim University (supra)***, the issue concerned a Two-Judge Bench, having expressed reservations regarding the correctness of an earlier decision rendered by a Three-Judge Bench, directly referred the matter for reconsideration by a Seven-Judge Bench. This course of action was viewed, with the utmost respect, as constituting a clear departure from the settled discipline governing judicial precedents and the procedure for references.

95. In the dissenting opinion in ***Aligarh Muslim University (supra)***, it was held that such a reference by a Two-Judge Bench directly to a Seven-Judge Bench was not maintainable. It was observed that a Bench of lesser strength could not, of its own accord, bypass the established institutional procedure for constituting larger Benches.

96. There can thus be no doubt with respect to the robust foundations upon which the principles illustrated in ***Dawoodi Bohra (supra)*** are built.

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[25] (2025) 6 SCC 1.

C.1.2. Testing the Reference on the anvil of ***Dawoodi Bohra (supra)***

97. When one turns to the path traversed in the present matter before it ultimately came to be placed before a Bench of Nine Judges, it becomes evident that the reference has travelled through a long and somewhat layered judicial course, engaging different Benches of varying strength at multiple stages before culminating in the present proceedings. The question that consequently arises is whether this journey was undertaken in a manner consistent with and known to established judicial discipline, or whether, at any stage, procedural deviations or perhaps, to put it colloquially, 'shortcuts' were resorted to, that may be said to have contravened the principles authoritatively enunciated in ***Dawoodi Bohra (supra)***. In this regard, we propose to examine the course of referral adopted at each stage of the proceedings and to assess whether the procedure so employed by the respective Benches conforms to the said underlying principles.

98. To begin with, the seeming tranquillity and clarity ushered in by ***Bangalore Water Supply (supra)*** gradually began to exhibit fissures owing to the divergence that emerged between the decisions rendered by a Three-Judge Bench in ***Chief Conservator of Forests (supra)*** and a Two-Judge Bench in ***Pratamsinh***

Narsinh Parmar (supra), in the context of whether the Forest Department of the State could be construed as an 'industry'. While the former held that the Social Forestry Department would fall within the ambit of the definition notwithstanding its welfare-oriented functions, the latter adopted a contrary position.

99. In view of this apparent discordance, a Bench of Three Judges while dealing with a similar question of law in ***State of U.P. v. Jai Bir Singh (I)***,[26] considered it appropriate to observe that the issue as to whether a governmental welfare scheme, such as the Social Forestry Department, could be regarded as an 'industry' was a question of considerable public importance warranting consideration by a larger Bench. The matter was accordingly, *vide* order dated 31.01.2002, directed to be placed before the then Chief Justice of India for appropriate orders.

100. If one were then to examine the procedure adopted by the Three-Judge Bench in ***Jai Bir Singh (I) (supra)***, it becomes apparent, at the very threshold, that the Bench merely took cognisance of the conflicting views expressed by Benches of Two and Three Judges, as referred to in paragraph 98. In light of the fact that a substantially similar issue had arisen for consideration before it, coupled with the evident jurisprudential discordance, the Bench,

[26] SLP (C) No. 10411/2001, Order dated 31.01.2002.

being of co-equal strength, was fully justified in expressing doubt as to the correctness of the view taken by the Bench in ***Chief Conservator of Forests (supra)***.

101. We may hasten to add that at that juncture, the correctness of ***Bangalore Water Supply (supra)***, partially or in entirety, was not the subject matter of consideration in ***Jai Bir Singh (I)***.

102. In all fairness, it was argued on behalf of the workmen that the Three-Judge Bench in ***Jai Bir Singh (I) (supra)*** should have adhered to the binding precedent established in ***Bangalore Water Supply (supra)***, to determine that the Social Forestry Department would fall within the scope of Section 2(j) of the ID Act. They contended that, given the larger bench size in ***Bangalore Water Supply (supra)*** compared to ***Jai Bir Singh (I) (supra)***, the former constituted a binding precedent for the latter. However, we find no merit in this submission.

103. We say so for the reason that ***Bangalore Water Supply (supra)*** has not issued any comprehensive declaration that the Social Forestry Department of any State or Union shall automatically be regarded as an 'industry'. Difficulties subsequently arose in applying the test laid down in ***Bangalore Water Supply (supra)***, particularly where a Three-Judge Bench interpreted the law in support of its conclusion that the Social Forestry Department qualifies as an ‘industry’, whereas a Two-Judge Bench arrived at a different conclusion. Faced with this dilemma of diverging views, particularly in re: the treatment of the Social Forestry Department, the Three-Judge Bench in ***Jai Bir Singh (I) (supra)*** appropriately referred the matter to a Five-Judge Bench.

104. It was only when ***Jai Bir Singh (I) (supra)*** came to be placed before a bench of Five Judges that the said Bench observed that the central issue concerned whether a governmental welfare scheme fell within the scope. It may thus be observed that the singular issue regarding whether the Social Forestry Department was an industry or not was expanded by the Five-Judge Bench, thereby broadening the scope of the issue, namely, as to whether all such governmental welfare schemes would be classified as industry or not within the meaning of Section 2(j) of the ID Act.

105. Additionally, ***Jai Bir Singh (I) (supra)*** did not itself purport to depart from or overrule the ratio in ***Bangalore Water Supply (supra)***, but merely directed that the matter be placed before the Chief Justice of India for appropriate orders. Consequently, notwithstanding that the decision in ***Dawoodi Bohra (supra)*** came to be rendered subsequent to the order dated 31.01.2002 passed in ***Jai Bir Singh (I) (supra)***, the procedure adopted cannot be said to have departed from the generally prevailing norms of judicial discipline and propriety.

106. This is what prompted the Five-Judge Bench in ***State of Uttar Pradesh v. Jai Bir Singh (II)***[27] to observe that the judgment in ***Bangalore Water Supply (supra)*** did not exhibit complete unanimity in its reasoning. It further observed that certain portions of the majority opinion appeared to suggest that the formulation adopted therein was intended to operate as an interim judicial arrangement until such time as Parliament enacted an appropriate legislative amendment clarifying the scope and meaning of the term 'industry'. Proceeding on that basis, the Bench expressed reservations as to whether the majority opinion could, in all respects, be treated as laying down a fully conclusive and binding precedent.

107. Further, the Five-Judge Bench supplemented this line of reasoning by expressing concern over the fact that the separate opinions in ***Bangalore Water Supply (supra)*** had been delivered by different learned Judges at different points in time, with the majority opinion having preceded the dissenting opinions and,

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[27] (2005) 5 SCC 1.

therefore, having been rendered without the benefit of considering the reasoning subsequently advanced therein.

108. In addition to these reservations, the Five-Judge Bench in ***Jai Bir Singh (II)*** also articulated broader concerns regarding the substantive approach adopted in ***Bangalore Water Supply (supra)***. It observed that the decision appeared to proceed from an unduly worker-centric perspective, without according sufficient consideration to the competing public interest in safeguarding the viability of industry and the legitimate concerns of employers. The Bench further opined that, within the framework of a constitutional democracy, the conception of 'sovereign functions' ought not to be narrowly confined, particularly when the State undertakes a wide range of welfare-oriented and value-generating activities in furtherance of its constitutional obligations under Parts III and IV of the Constitution.

109. Bearing these considerations in mind, the Five-Judge Bench observed that there existed "***compelling reasons more than one....for making a reference on the interpretation of the definition of 'industry' in Section 2(j) of the Act, to a larger bench and for reconsideration by it, if necessary, of the decision rendered in the case of Bangalore Water Supply (supra).***" Accordingly, it directed that the matters be placed before the Chief Justice of India for the constitution of an appropriate larger Bench to reconsider the judgment in ***Bangalore Water Supply (supra)***.

110. Once again, irrespective of the ultimate correctness or persuasive force of the reasons assigned by the Five-Judge Bench, the significant point is that it unquestionably possessed the authority to direct that the matter be placed before the Chief Justice of India for the constitution of an appropriate larger Bench to reconsider the decision in ***Bangalore Water Supply (supra)***. Indeed, not only did the Five-Judge Bench faithfully follow it, but it has also made express reference to the principles crystallised in ***Dawoodi Bohra (supra)***.

111. There is, therefore, no occasion for us to doubt the procedural propriety adopted by the Five-Judge Bench, particularly having regard to the following circumstances: ***First***, the Bench had originally been constituted to resolve the divergence that had arisen between ***Chief Conservator of Forests (supra)*** and ***Pratamsingh Narsinh Parmar (supra)*** on the question concerning the status of governmental welfare schemes under Section 2(j). ***Second***, in the course of undertaking that exercise, it traced the source of the divergence to the interpretation of 'industry' adopted in ***Bangalore Water Supply (supra)*** and furnished reasons for entertaining doubts as to its correctness. ***Third***, recognising that it was a Bench of lesser numerical strength than the Seven Judge Bench in ***Bangalore Water Supply (supra)***, it adhered to the discipline mandated by ***Dawoodi Bohra (supra)*** and merely directed that the matter be placed before the Chief Justice of India for the constitution of a larger Bench.

112. Thereupon, pursuant to the reference made by the Five-Judge Bench in ***Jai Bir Singh (II)***, the then Chief Justice of India constituted a Bench of Seven Judges to consider the matter. Upon an anxious consideration of the submissions advanced by the parties, the Seven-Judge Bench *vide* its order dated 02.01.2017 observed that, having regard to the "***serious and wide ranging implications of the issues that fall for determination as also the fact that serious doubts have been expressed in the reference order about the correctness of the view taken in Bangalore Water Supply's case (supra), we are of the opinion that these appeals need to be placed before a Bench comprising Nine Judges to be constituted by the Chief Justice.***"

113. Accordingly, the papers were placed before the then Chief Justice of India for the constitution of an appropriate Bench of Nine Judges to answer the questions raised in the reference order rendered by the Five-Judge Bench in ***Jai Bir Singh (II) (supra)***.

114. In this specific scenario, the Bench of Seven Judges observed that, in view of the serious reservations expressed regarding the correctness of ***Bangalore Water Supply (supra)***, the matter warranted reconsideration by a larger Bench. The Bench consequently directed that the papers be placed before the Chief Justice of India for the constitution of a larger Bench. It is pertinent to note that the Seven-Judge Bench, as well as the subsequently constituted Nine-Judge Bench, were both presided over by the then Chief Justice of India.

115. It needs no emphasis that under Order VI Rule 2 of the Supreme Court Rules, 2013, the then Chief Justice of India was vested with absolute power to constitute a larger bench for the hearing of the matter upon reference. Even in the absence of a formal reference to the larger bench by a smaller bench, the matter could thus be placed before a bench of Five to Seven Judges or Seven to Nine Judges by the Chief Justice of India in exercise of his plenary power.

116. Viewed thus, the order of reference squarely satisfies the principles governing judicial discipline and institutional propriety as elucidated in ***Dawoodi Bohra (supra)***. There can, therefore, be no legitimate doubt that the reference in hand has been made fully in accordance with law and incorruptible adherence to the settled norms regulating references to larger Benches.

C.1.3. The *Res Judicata* conundrum?

117. We may now deal with the objection raised by some of the learned counsel(s) that the initial reference from Three Judge to Five Judge Bench was barred by the principle of *Res Judicata*. The submission is premised on the fact that earlier a Two-Judge Bench in ***Coir Board, Ernakulam (I) (supra)***, sought reconsideration of ***Bangalore Water Supply (supra)*** by a larger Bench. However, such an opinion was turned down by a Bench of Three Judges, according to whom the issue already stood concluded by a Seven-Judge Bench in ***Bangalore Water Supply (supra)***. This opinion by the Three-Judge Bench, according to the representatives of workmen, constitutes *res judicata*.

118. *Res judicata* refers to the doctrine that issues and claims decided between competing parties ought not to be re-adjudicated. While this postulate finds legislative recognition in the context of civil suits through Section 11 of the Code of Civil Procedure, 1908, this Court has consistently recognised *res judicata* as a general principle of jurisprudence, applicable to all kinds of disputes adjudicated by different fora in India.[28] It is also a settled position that the principle would apply only when the 'matter in issue' in the subject case is necessarily and substantially decided on a prior occasion by a Court of competent jurisdiction. Here, the 'matter in issue' comprises the rights and claims of the parties to the dispute, originating from the specific cause(s) of action involved. In other words, to successfully raise a plea of *res judicata*, the litigant must demonstrate that the parties involved are the same, the rights and entitlements claimed are the same and they arise from the same cause of action, and that the previous Adjudicating Authority had jurisdictional competence to decide the same.

119. These requirements inevitably lead to the conclusion that *res judicata* would only apply to decisions made *in personam*, i.e., to the rights and claims *inter se* the parties involved in the litigation. The claim of right inherently depends upon the identification of material facts and the application of relevant law thereto. This would include questions of fact, while also involving determination of questions of law. However, the determination made on the question of law does not, in itself, constitute the decision on the 'matter in issue', which necessarily flows from the factual context

[28] Raj Lakshmi Dasi v. Banamali Sen, (1952) 2 SCC 219.

of a cause of action and the specific claims in a case.[29] Rather, such determination of law would amount only to a precedent in law.[30]

120. In the present scenario and as already elucidated in the segment titled "*The Calls for Reconsideration of the Decision in **Bangalore Water Supply (supra)***," the Two-Judge Bench in ***Coir Board, Ernakulam (I) (supra)*** sought reconsideration of the interpretation of 'industry' propounded in ***Bangalore Water Supply (supra)***. While adjudicating upon the question whether the Coir Board would fall within the ambit of Section 2(j), the Bench expressly recorded its disagreement with the broad and expansive construction accorded to the definition in ***Bangalore Water Supply (supra)***.

121. The Bench went so far as to observe that the experience of the two decades following ***Bangalore Water Supply (supra)*** had, in its perception, produced consequences more detrimental than beneficial, not only for institutions and organisations but also for employees themselves, owing to the contraction of employment opportunities. This conclusion was founded upon the view that the elimination of the profit motive as a relevant consideration had

[29] State (NCT of Delhi) v. BSK Realtors LLP, (2024) 7 SCC 370 ***(including 3 of us – Surya Kant, J. (as he then was), Dipankar Datta, J. and Ujjal Bhuyan, J.)***.
[30] Mathura Prasad Bajoo Jaiswal v. Dossibai N.B. Jeejeebhoy, (1970) 1 SCC 613; Malook Singh v. State of Punjab, (2022) 17 SCC 765 ***(including one of us – B.V. Nagarathna, J.)***; State of Rajasthan v. Nemi Chand Mahela, (2019) 14 SCC 179.

rendered numerous philanthropic and charitable bodies incapable of complying with the obligations arising under industrial law. According to the Bench, this had led, in several instances, to the discontinuation of welfare-oriented activities, thereby depriving communities of their benefits and employees of their means of livelihood.

122. In regard to categorising the Coir Board itself, the Two-Judge Bench, having considered that the purpose of the Coir Board was to improve the marketing of coir products and promote its exports by maintaining show rooms and sales depots, held that it was not an industry on a predominant purpose test, although it would have been so characterised on the expansive test laid down in ***Bangalore Water Supply (supra)***. Accordingly, a reference was made to a larger bench by directing that the matter be placed before the Chief Justice of India for consideration.

123. However, a subsequent Three-Judge Bench, presided over by the then Chief Justice of India in ***Coir Board, Ernakulam (II) (supra)***, declined the reference vide its order dated 10.11.1998, stating that ***Bangalore Water Supply (supra)*** does not require reconsideration on a reference made by a Two-Judge Bench, which is itself bound by the larger Bench.

124. The course adopted in ***Coir Board, Ernakulam (I)*** and ***(II) (supra)*** did not pass unnoticed and was expressly adverted to by the Five-Judge Bench in ***Jai Bir Singh (II)***. However, there existed nothing in law that precluded the Constitution Bench in ***Jai Bir Singh (II)***, which had itself been independently constituted to resolve a distinct divergence arising from the interpretation of 'industry' in ***Bangalore Water Supply (supra)***, from examining the matter on its own footing. The proceedings in ***Jai Bir Singh (II) (supra)*** cannot, by any stretch, be regarded as a mere continuation of what had earlier commenced in Coir Board.

125. Although both lines of authority ultimately converged upon concerns relating to the consequences and practical implications of the expansive definition adopted in ***Bangalore Water Supply (supra)***, the foundations upon which such concerns were raised remained materially distinct.

126. Consequently, the refusal by the Three-Judge Bench in ***Coir Board (II) (supra)*** to reconsider ***Bangalore Water Supply (supra)*** cannot be construed as exerting any binding or preclusive effect upon the Five-Judge Bench in ***Jai Bir Singh (II)***, which had been constituted in the context of an altogether different jurisprudential conflict.

127. There can be no occasion to invoke the doctrine of *res judicata* in the present context. To hold otherwise would run counter to the well-settled principles governing judicial precedents, references, and the exercise of constitutional adjudicatory power, as consistently recognised in a catena of decisions of this Court. The doctrine, conceived to lend finality to *inter partes* adjudication, cannot be transposed indiscriminately into a setting involving the determination of pure questions of law by Benches of varying strength.

128. Indeed, any such approach would also militate against the principle of '*fundamental determination*', which has been aptly elucidated by this Court in ***Yadaiah and another v. State of Telangana and others***,[31] wherein this principle was explained in the following terms:

> *45. The effective test to distinguish between a fundamental or collateral determination is hinged on the inquiry of whether the concerned determination was so vital to the decision that without which the decision itself cannot stand independently.* ***Any determination, despite being deliberate or formal, cannot give rise to applicat ion of the doctrine of res judicata if they are not fundamental in nature****.*
>
> [Emphasis supplied]

[31] 2023 INSC 664.

C.1.4. Stare Decisis and the Doctrine of Overruling

129. A passing reference, as already iterated above, was also made to the applicability of the doctrine of *stare decisis*, to buttress the contention that the instant reference is not maintainable. To briefly address this assertion, the doctrine of *stare decisis* is a jurisprudential tenet that underpins consistency in judicial decisions. While many foreign jurisdictions may apply it as an unwritten norm, the Constitution of India embodies it within Article 141, postulating that the law laid down by this Court must be binding in nature. It, thus, follows that when this Court passes judgments, there is some finality in the declaration of law made therein.

130. Be that as it may, this Court has unequivocally held that the doctrine of *stare decisis* does not imply that a judicial decision, once rendered by this Court, is binding for eternity and cannot be subjected to reconsideration by this Court.[32] No historic precedent, however widely used, can be said to have supplied an unalterable decision on the interpretation of law.

131. A judicial pronouncement, although made with the binding force of this Court, may be required to be recalled, overturned, or

[32] Sajjan Singh v. State of Rajasthan, 1964 SCC OnLine SC 25; S. Nagaraj v. State of Karnataka, 1993 Supp (4) SCC 595.

modified due to extraordinary, compelling circumstances. In some cases, such modification has been occasioned due to temporal changes in the social structure and realities of this Country, whereby existing law is framed into the newer contexts.[33] In other cases, erroneous interpretation of statute has been rectified by larger benches of this Court, invoking the inherent power of this Court to review its own decisions.[34] However, the reiteration of this exception to the traditions of precedent is consistent with the doctrine of *stare decisis*. As long as the reconsideration is reasoned and within the norms of judicial procedure, the doctrine of *stare decisis* and the precedential value of the previous decision does not prevent this Court from assessing the correctness of its prior decisions.

132. In this light and on an application of this principle to the present context, there can be no question of any impermissible overlap, nor can it be contended that the issue concerning the reconsideration of ***Bangalore Water Supply (supra)*** was conclusively addressed by ***Coir Board (II) (supra)*** so as to operate as a bar to the reference made in ***Jai Bir Singh (II) (supra)***.

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[33] Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441.
[34] Bengal Immunity Co. Ltd. v. State of Bihar, (1955) 1 SCC 763.

133. The two proceedings represented distinct and independent lines of inquiry, each arising from separate jurisprudential concerns, albeit converging upon the common legal question concerning the scope of the term 'industry' under Section 2(j) of the ID Act. The mere existence of such convergence cannot justify the conclusion that the outcome of one proceeding necessarily foreclosed or exhausted the jurisdictional basis for the other. To hold otherwise would be to conflate distinct references founded upon different causes of judicial doubt and directed towards the resolution of different controversies.

134. In any case, the Five-Judge Bench in ***Jai Bir Singh (II)***, being of superior numerical strength, was not bound by any finding or opinion expressed by the Three-Judge Bench in ***Coir Board (II)***.

135. Accordingly, the decision in ***Coir Board (II) (supra)*** cannot be construed as constituting a definitive impediment to the reference subsequently made in ***Jai Bir Singh (II) (supra)***, nor as depriving the latter Bench of the authority to entertain and examine the questions that arose before it. Therefore, we find no infirmity in the manner in which the present matter came to be referred to a Nine-Judge Bench.

C.2. Treading the razor's edge between technicality and quietus

136. While this conclusion on maintainability necessarily places us at variance with the views that the reference is fundamentally misconceived and not in conformity with the procedure contemplated by law, we are unable, for the reasons already recorded, to subscribe to that view.

137. Having held that the present reference is neither barred by *res judicata* or *stare decisis* nor does it lack maintainability, we also find that there exists a broader institutional consideration that merits articulation. Not every question that reaches a Bench of such exceptional strength is best left unanswered, particularly where it concerns an issue that has occupied judicial attention for decades and has generated substantial uncertainty.

138. In that light, it would be somewhat incongruous if a reference that has traversed multiple Benches over a considerable period of time, and which now stands before a Bench of Nine Judges, were to be terminated solely on the basis of procedural objections of a technical character. Such considerations undoubtedly have their place and must be respected; however, they ought not to become a convenient fig leaf cover behind which the Court declines to engage with a question whose resolution has long awaited authoritative determination. Where the occasion presents itself to settle an issue of recurring importance and bring certainty to the law, institutional prudence may sometimes favour a decision on the merits rather than a retreat into procedural abstention.

139. It is therefore our solemn duty, especially keeping the extraordinary passage of time in view and the considerable expenditure of judicial effort across successive Benches, not to retract from our institutional responsibility that accompanies the exercise of our constitutional jurisdiction.

140. We now proceed to examine the substantive questions that arise for consideration and to set out, in a structured and systematic manner, our views and conclusions thereon.

D. CONTENTIONS OF THE PARTIES

141. Prior to entering into the substantive merits of the controversy, it would be apposite to first delineate the principal submissions advanced by the parties.

D.1. Contentions on behalf of the Appellants

142. We have heard Mr. R. Venkataramani, learned Advocate General for India, Mr. K.M. Nataraj, learned Additional Solicitor General of India, Mr. Shadan Farasat and Mr. Sridhar Potaraju, learned Additional Advocates General, and Mr. Shekhar Naphade and Mr. Sanjay Hegde, learned Senior Counsel appeared on behalf of the

Union of India, and the various States and other entities. Mr. Jaideep Gupta, learned Senior Counsel, and Mr. Saket Sikri, Mr. Anand Verma, and Mr. Krishna Kumar, learned Counsel, represented the other Appellants and Intervenors supporting the Appellants. Mr. Alok Sangwan, learned Senior Additional Advocate General appeared for the State of Haryana. The principal submissions canvassed by them before this Court are as follows:

a. There is a pressing need to reinterpret Section 2(j), since it must draw its meaning from modern Constitutional realities and India's position as a welfare state. In this sense, the ID Act must be interpreted by balancing the interests of the employee and the employer, without permitting either side to dominate the other;

b. This Court in ***Bangalore Water Supply (supra)*** has kept in sight the objectives of worker protection to interpret Section 2(j). It would not be proper to base the interpretation on such considerations de hors the textual contents of the provision. Furthermore, ***Bangalore Water Supply (supra)*** went beyond filling the legislative gaps, amounting to judicial rewriting of the provisions. Hence, the interpretation in ***Bangalore Water Supply (supra)*** warrants reconsideration;

c. The key factor that ought to govern what is included in 'industry' is whether the activity, at its core, involves commercial objectives, in line with trade and business. Reliance in this regard has been placed on ***Safdarjung Hospital (supra)*** to submit that the entity must have a commercial or an analogous objective, notwithstanding the existence of a profit motive. Applying the principle of *noscitur a sociis*, it was urged that the intention of the Legislature was not to include all activities, but only those collectively falling within the import of "business, trade, undertaking, manufacture or calling of employers";

d. The scope of the Triple Test established in Krishna Iyer, J.'s erudite opinion in ***Bangalore Water Supply (supra)*** is very expansive, having the potential to include various essentially non-industrial activities like charity, public research, and government welfare activities. The breadth of the Triple Test is required to be restricted, keeping in mind the over-inclusion. Alternatively, exceptions must be introduced to address the issues raised in the application of ***Bangalore Water Supply (supra)*** in the facts of particular cases;

e. The understanding of 'sovereign functions' as made out in ***Bangalore Water Supply (supra)*** is based on foreign jurisprudence and does not properly reflect the duty-bound role played by the State under the Constitution of India. Activities like forestry, irrigation, education, etc., which are undertaken in light of Part IV of the Constitution or as a statutory duty, do not involve any commercial or commerce-like objectives and ought not to be included within the definition of 'industry'. This is especially so because of the growing welfare legislation and regulatory activities, which are not intended to be included within the scope of 'industry';

f. In the context of Universities, the functions performed by such institutions are to confer degrees and diplomas. It is, essentially, a function emanating from the State's role, involving a regulatory scheme through the University Grants Commission. The undertaking of teaching is also an intellectual and enlightening exercise, not comparable to material services. Thus, the engagement of a University in enabling education and conferring degrees inherently indicates the functions performed by a State, not a commercial activity commensurate to be included within 'industry'; and

g. With reference to temples and private charitable institutions, the law laid down in ***Bangalore Water Supply (supra)*** would also include temples and charitable organisations within 'industry' only because of 'systematic activity involving an employer and employee cooperation', without taking into account the inherent dissonance between the spiritual and philanthropic nature of the establishment and the commercial underpinnings of the ID Act. The test gives no impetus to the predominant nature of the activities undertaken and only pertains to the relationship between the workmen and the employer.

D.2. Contentions on behalf of the Respondents

143. *Per contra*, Ms. Indira Jaising, Mr. Bharat Sangal, Mr. C.U. Singh, Mr. Vijay Hansaria, Mr. Gopal Sankarnarayanan, Mr. PV Surendranath, Ms. Jayana Kothari, Mr. K.S. Chauhan, learned Senior Counsel, and Mr. Ashok Kumar, Mr. Shivam Singh, Ms. Sangeeta Bharti, and Ms. Nidhi, learned Counsel, represented the Respondent-workmen and the Intervenors supporting the Respondents. In a nutshell, they opposed the reference and argued that the majority opinion in ***Bangalore Water Supply (supra)*** is good law:

a. The decision in ***Bangalore Water Supply (supra)*** was rendered by a bench of seven Judges. It is irrelevant whether the bench was unanimous or split in its views. The view of the majority shall carry the weight of the entire bench and has to be treated as a decision of Seven Judges.

b. It must be kept in mind that the Five Judge bench, *vide* ***Jai Bir Singh (II) (supra)***, has only questioned the formulation of the interpretative test for 'industry', not the principles underlying ***Bangalore Water Supply (supra)***.

c. The ID Act is inherently a beneficial legislation. This Court in ***Bangalore Water Supply (supra)*** rightly applied the usual principles of statutory interpretation which would be used for a beneficial legislation.

d. By adopting an expansive and inclusive approach to interpreting the expression of 'industry', the Seven-Judge Bench has ensured that benefits available to workmen under the ID Act, such as job security and remedy of reinstatement, are available to all workmen. If the definition of 'industry' is narrowed or the exceptions to it are expanded, many workmen therein would be deprived of a welfare legislation, the protection of which the Civil Court would not be able to extend to them.

e. The core determinative factor to identify an 'industry' is the character of the activity. The nature of the entity carrying out such activity or the motive behind the same is irrelevant. This is well discernible from Chandrachud, J.'s (*as he then was*) separate concurring opinion in ***Bangalore Water Supply (supra)***.

f. The words in Section 2(j) cannot be understood through their 'common sense' meaning. It is a settled principle of statutory interpretation that words must be treated as deliberate and technical so as to derive character from the preceding and succeeding expressions. The definition of 'industry' will thus draw its colour from the other provisions of the ID Act.

g. As long as the functions carried out by the workmen are similar and are performed in a similarly structured environment, there is no rhyme or reason to discriminate among workmen on the basis that the enterprise is charitable, governmental, or religious rather than commercial. Similarly, if the decision in ***Safdarjung Hospital (supra)*** is to be accepted, the statutory protection envisaged under the ID Act for not only the workers but also the employers and the common public, would only be available in private hospitals, not government or charitable healthcare institutions. While welfare activities, especially those which draw inspiration from Part IV of our Constitution, are aimed at protecting and uplifting weaker sections of society, they cannot be allowed to lead to the deprivation of employment rights of another section of society.

h. There cannot be an absolute bar on governmental activities from being included within 'industry'. The ID Act expressly recognises 'public utility services' under Section 2(n).

i. Since the policy of liberalisation, privatisation, and globalisation has been effected in 1991, many spheres which were earlier restricted to government entities have now been opened to the private sector. In such circumstances, the government cannot claim that these activities, irrespective of whether performed by a private entity or the government, fall beyond the realm of 'industry'.

j. While certain activities performed by the government bear the hallmarks of a sovereign function, such other activities which do not pertain to the sovereign function must be severed from such function and still ensure the benefit of the ID Act to the workmen. In the context of the Sovereign Mint, for example, a workman not concerned with minting of coins need not be excluded from the protections under the ID Act and the test of dominant nature ought to be applied in such cases.

D.3. Contentions on behalf of the Amicus Curiae

144. Mr. Jamshed P. Cama and Mr. Parthasarathi Sengupta, Senior Advocates, were requested to assist this Court as *Amici Curiae*. They graciously agreed and enlightened us exponentially, although their positions on the issues at hand differed substantially.

145. Mr. Cama's submissions focussed on the textual framework of Section 2(j) and submitted that the identification of an 'industry' can only be from the nature and motive behind the activities undertaken. He urged that:

a. The Triple Test, as laid down in ***Bangalore Water Supply (supra)***, is expansive because of its focus on the employer-employee relationship, without any attention towards the nature of activity being undertaken. It does not take into account the actual text of the provision and is guided by the purported intention of the ID Act.

b. The import of the word 'undertaking' has to be derived from the context of "*business, trade, undertaking, manufacture or calling of employers*." Anything can be an undertaking, but only the undertakings having some commercial underpinnings would amount to 'industry'.

c. An industry would, as such, necessarily involve some semblance of commercial activity. Mere charitable distribution of goods and services or operation of a club for its members would not amount to an industry. The majority opinion in ***Bangalore Water Supply (supra)***, would permit such undertakings to be included within 'industry', solely based on the employment of workmen to facilitate a non-industrial activity. The existence of an employee-employer relationship has no bearing on whether the activity amounts to an industry or not.

d. In this context, the interpretation of Section 2(j) must involve an appraisal of the character and intention behind the activity involved, especially in the context of fully altruistic charities and government welfare activities. An intention of revenue and/or profit must belie an industrial activity.

e. Once the nature of activity is considered, the character of the employer becomes irrelevant. The government can also be running an industry, but not all government undertakings will have industrial features.

146. Mr. Sengupta, on the other hand, called attention towards the perspective of the worker to make out a case that the motive behind the activity should not be the determinative factor and vehemently submitted that:

a. The ID Act as a whole consistently recognises that the government can and does operate industries.

b. The coverage under the ID Act is not replaceable by granting remedies before other fora. The Industrial Tribunals and Labour Courts are *sui generis* Authorities and their powers in respect of employers as well as workmen cannot be available to any coordinate authority.

c. The intention of the ID Act being to promote industrial harmony and workman upliftment, the interpretation of Section 2(j) thereof must be guided by these principles.

d. The core identification factor for an industry is the economic relationship between the employee and the employer. So long as such relationship exists, there is no change in the labour expended by the employee, irrespective of whether the employer was motivated by generosity/philanthropy or by commercial gain. There would, thus, be no reason for distinguishing the coverage by the ID Act on the basis of underlying intention behind the activity.

e. The decision in ***Bangalore Water Supply (supra)*** was rendered by a Bench of Seven Judges. It is irrelevant whether the bench was unanimous or split in its views. The view of the majority shall carry the weight of the entire bench and has to be treated as a decision of Seven Judges.

E. ISSUES FOR CONSIDERATION

147. This Court, by its order dated 16.02.2026, crystallised the controversy by formulating four questions for consideration, with a view to securing a final and authoritative resolution of the issues arising in the present reference (*see paragraph 82 where these questions have been reproduced*).

148. Upon a perusal of the questions so framed, it appears to us that the principal analysis on the merits may proceed by addressing Issue Nos. 1, 3, and 4 conjointly. These questions, though differently worded, substantially converge upon the broader inquiry concerning the meaning and scope of the term 'industry' under Section 2(j) of the ID Act, and the nature of the activities and entities that may legitimately fall within its ambit.

149. Issue No. 2, on the other hand, stands on a somewhat distinct footing and may appropriately be dealt with separately at a later stage. This is because both the Industrial Disputes (Amendment)

Act, 1982 and the IR Code, 2020, represent subsequent legislative developments, the relevance and effect of which necessarily depend upon the conclusions reached on the antecedent questions relating to the interpretation of Section 2(j). Their consideration would, therefore, be more appropriately undertaken after the foundational questions arising under Issue Nos. 1, 3, and 4 have been addressed.

F. At the Heart of the Matter: What Constitutes an 'Industry'?

150. As we embark on an analysis of the merits, it would be apposite to set out the statutory provision that lies at the nucleus of the present controversy and has, over the decades, generated such sustained judicial debate. Section 2(j) defines 'industry' to mean '***any business, trade, undertaking, manufacture or calling or employers and includes any calling, service, employment, handicraft, or industrial occupation of avocation of workmen***'.

151. What becomes perceptibly obvious from the above definition is that the ID Act does not leave the term 'industry' rigid or undefined. On the contrary, it is an inclusive clause enshrined within Section 2(j) that furnishes an express catalogue of activities, each of which constitutes an 'industry'. The difficulty, therefore, has never lain in the absence of a definition; rather it is in determining the true scope and reach of the one that the Legislature intended to enact.

152. The controversy arises when one is confronted with the task of discerning which activities or nature thereof fall within the embrace of the definition and which stand beyond its limits. The language employed in Section 2(j) is cast in terms of considerable breadth, lending itself to competing interpretive possibilities. The central inquiry, therefore, is not whether 'industry' has been defined, but how that definition is to be understood and applied. Is it to receive a broad and expansive construction, or a more confined and restrictive one? Is the statutory scheme to be understood as implicitly requiring identifiable categories of inclusion and exclusion? Is the focus to be upon the organisation as an integrated whole, or upon its constituent units viewed in isolation? These are the questions that have persistently engaged judicial attention and have shaped the evolution of the jurisprudence on Section 2(j).

153. All the questions subsumed within Issue Nos. 1, 3, and 4 are, in essence, ancillary to the central task of ascertaining the true meaning, scope, and import of the definition of 'industry' under Section 2(j). They represent different facets of the same overarching inquiry and ultimately converge upon the interpretive exercise that lies at the heart of the present reference. This necessarily entails an examination of the construction adopted in ***Bangalore Water Supply (supra)***, the question whether social welfare and public-oriented organisations fall within the ambit of the definition, and the extent to which the 'sovereign functions' exception operates to exclude certain entities or activities from its reach. Each of these issues is not an end in itself, but rather a constituent element in the broader endeavour of determining what the term 'industry' was intended to encompass.

154. Our analysis shall, therefore, proceed along four broad and interconnected lines of inquiry. ***First***, we shall examine the true meaning and import of the language employed in Section 2(j), viewed in the context of the ID Act as an integrated statutory scheme. ***Second***, we shall undertake a close examination of the ratio laid down in ***Bangalore Water Supply (supra)***, with particular emphasis on the formulation and underlying rationale of the Triple Test. ***Third***, we shall consider the practical and jurisprudential consequences that have flowed from the application of the Triple Test over the years. ***Fourth***, on the basis of the foregoing analysis, we shall determine whether there ought to be a change in the manner in which Section 2(j) is construed and applied.

F.1. The meaning of 'Industry' as encapsulated in the ID Act

155. It may be seen from the definition of 'industry' in Section 2(j) that the term means:

a. Any business, trade, undertaking, manufacture or calling of employers;

b. And it includes any calling, service, employment, handicraft or industrial occupation;

c. Or avocation of workmen.

156. The inclusion of the term 'includes' further characterises the definition as exhaustive; therefore, an activity, regardless of its not being explicitly listed within the definition, but it otherwise satisfies the criteria of an industrial activity, shall also be considered as industry.

157. Further, the provision appears to define a seemingly straightforward concept. However, upon closer examination, it becomes apparent that the definition is itself constructed through a constellation of broad and inherently elastic expressions, many of which are capable of admitting multiple shades of meaning and consequently invite further interpretive inquiry.

158. Expressions such as "business," "trade," "undertaking," "calling," "service," "employment," and "industrial occupation" are not terms of narrow or technical import. Read literally, and in isolation, they are capable of encompassing an extraordinarily wide spectrum of human activity. Be that as it may, a proper understanding of the definition necessarily requires a closer examination of the content and connotation of these constituent expressions.

159. Indeed, the terms are not mere surplusage. Each appears to have been deliberately chosen to capture a distinct facet of organised human endeavour, and it is through their collective interplay, rather than through any one expression in isolation, that the true legislative conception of 'industry' emerges. An inquiry into their meaning is, therefore, not an exercise in semantics alone, but an indispensable step in understanding the expanse, limits, and underlying purpose of Section 2(j). Accordingly, we have taken the opportunity to individually delineate the meaning of each of these terms as follows:

a. The expression 'business', though not defined in the ID Act, is one of considerable breadth. Its expansive character is evident from the definition contained in Section 2(13) of the Income-tax Act, 1961, which defines it to mean "*any trade, commerce or manufacture, or any adventure or concern in the nature of* *trade, commerce or manufacture.*" This broad character is further evidenced by the manner in which its meaning has been expounded in the Oxford English Dictionary, wherein the term business means: (***i***) a person's regular occupation; (***ii***) commercial activity; (***iii***) a commercial organization; (***iv***) work to be done or matters to be attended to; and (***v***) a person's concern.

b. The term trade, similarly, is a fairly wide term with a capacious connotation and has been defined in Black's Law Dictionary as "*the act or business of exchanging commodities by barter; or the business of buying and selling for money; traffic; barter.*" Trade, too, has been broadly interpreted to refer to any organised, continuous activity of either buying, selling or exchanging goods and services with a profit motive in mind and encompasses a spectrum of commercial endeavours.

c. Next, the word 'undertaking' has been mentioned in multiple Statutes including Section 2(35) of the Income Tax Act, 2025, where it has been defined as "*any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity".* It has further been clarified by this Court to mean "*a going* *concern with all its rights, liabilities and assets as distinct from the various rights and assets which compose it… is an amalgam of all ingredients of property and are not capable of being dismembered. That would destroy the essence and innate character of the undertaking. In reality, the undertaking is a complete and complex weft and the various types of business and assets are threads which cannot be taken apart from the weft.”*[35]

d. The expressions ‘manufacture’, ‘calling of employers’, and ‘calling’ are likewise couched in broad and open-textured language. While ‘manufacture’ is generally understood to refer to the process of producing, making, or transforming goods into a commercially recognisable form, the remaining expressions are far less precise and are capable of embracing a diverse range of activities. The term ‘calling’ ordinarily denotes an occupation, vocation, pursuit, or line of endeavour to which a person devotes their labour, skill, or attention. Similarly, the expression ‘calling of employers’ is not confined to any particular category of enterprise and may extend to a wide spectrum of undertakings, professions, occupations, and organised activities pursued by employers.

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[35] Rustom Cavasjee Cooper v. Union of India, AIR 1970 SC 564.

e. The phrases ‘service’, ‘employment’, ‘handicraft’, and ‘industrial occupation’ are, likewise, terms of broad import, each capable of encompassing a wide range of human activity. None of these formulations is inherently self-limiting, nor do they possess a singular or narrowly confined meaning. ‘Service’ is perhaps among the most expansive of these terms, potentially extending to any organised activity undertaken for the benefit of another. ‘Employment’ is equally broad, denoting the engagement of labour or skill in the performance of a task, occupation, or vocation. ‘Handicraft’ traditionally refers to activities involving manual skill or craftsmanship, while ‘industrial occupation’ is capable of embracing a diverse spectrum of occupations connected with productive or organised economic activity. Viewed either individually or collectively, these expressions are sufficiently capacious to encompass an extensive variety of undertakings.

f. The diction ‘industrial occupation’, as its very wording suggests, appears at first glance to be largely self-explanatory. It ordinarily connotes an occupation, vocation, or line of work connected with an industrial activity or undertaking. Yet the term does little to dispel the ambiguity that surrounds the definition as a whole. Rather, it risks reintroducing the very question that it seeks to answer.

g. Finally, one arrives at the expression 'avocation of workmen'. The term 'avocation', in its ordinary and colloquial sense, is capable of referring to an occupation, pursuit, or activity to which an individual devotes time and effort. Since the term 'workman' has been defined in Section 2(s) of the ID Act itself, there is little need to resort to external aids of interpretation. The said term provides that a workman "*means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—*

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding 3 [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

160. The foregoing examination of the constituent expressions employed in Section 2(j) read with Section 2(s) does little to resolve the interpretive dilemma before us. If anything, it serves to reinforce the conclusion that the statutory definition is cast in language of exceptional width and that the individual terms comprising it are themselves marked by a considerable degree of elasticity. Their dissection aids in understanding the textual components of the provision, but offers limited guidance in identifying the principled boundaries of what the Legislature intended the term 'industry' to encompass.

161. The exercise further reveals that the definition, viewed in isolation, is incapable of administering a complete answer to the question(s) before us. The dimensions of the language employed are such that the provision does not, by itself, provide a clear mechanism for distinguishing activities that fall within its ambit from those that lie beyond it.

162. Viewed in this manner, the definition seemingly possesses an almost boundless amplitude, which is capable of bringing within its fold nearly every organised human activity. If one were to adopt a purely literal construction and focus solely on the words employed in Section 2(j), it may plausibly be argued that entities ranging from a solitary street vendor selling fruits and vegetables to sprawling multinational corporations would all fall within the compass of an 'industry'.

163. Yet, such a construction would carry the provision far beyond the realm of plausibility. Statutory interpretation does not proceed on the assumption that Parliament legislates in terms so sweeping as to obliterate all meaningful distinctions between vastly different forms of economic and social activities. If a definition is construed with such extraordinary elasticity, on its literal interpretation, it would risk rendering the concept of 'industry' virtually limitless and, in the process, depriving the provision of any coherent boundaries. It is difficult to conceive that the legislative intent was to cast the net so wide as to encompass every conceivable organised activity without regard to its nature, purpose, or context. The definition undoubtedly does not intend to create unmanageable situations.

164. It is in this context that it becomes necessary to turn to the construction adopted by this Court in various decisions, including in ***Bangalore Water Supply (supra)***. An examination of those formulations and the rationale supplanting them is therefore the logical next step in our analysis.

F.2. The judicial interpretation accorded to 'Industry'

165. Of course, this exercise of closely examining the expressions employed in Section 2(j) and culling out their contextual meaning was undertaken with considerable depth and rigour in ***Bangalore Water Supply (supra)***. The interpretation accorded to the term 'industry' under Section 2(j) by the Seven-Judge Bench in ***Bangalore Water Supply (supra)*** has already been examined in considerable detail in the segment titled "*Bangalore Water Supply (supra): A Truly Watershed Moment.*" That being so, it is equally important to appreciate the considerations that informed the Court's reasoning, which ultimately led to the formulation of the ratio and the Triple Test.

166. To properly understand the decision in ***Bangalore Water Supply (supra)***, one must begin with the factual controversy that confronted the Bench. The principal question was not an abstract inquiry into the meaning of the term 'industry', but whether a statutory body engaged in providing essential public amenities and discharging functions traditionally associated with governmental responsibility could nevertheless fall within the ambit of Section 2(j). More specifically, the Court was required to determine whether such activities, notwithstanding their public character and their connection with the discharge of civic obligations, were to be regarded as lying outside the definition on the footing that they partook of a governmental or regal character.

167. Indeed, the judgment opens with the concurring opinion of Beg, C.J., who embarked upon much the same exercise that presently confronts us, namely, an examination of the language employed in Section 2(j) and an inquiry into whether the assortment of expressions comprising the definition could, by themselves, furnish a satisfactory understanding of what Parliament intended by the term 'industry'. Despite this industrious exercise, Beg, C.J. ultimately arrived at a conclusion not dissimilar to the one that emerges from our own examination.

168. However, Krishna Iyer, J. dealt with it in far greater detail in his majority opinion, wherein he has taken a '*panoramic view of the statute and its jurisprudential bearings*'. In that endeavour, he sought to examine the contextual import of expressions such as 'trade', 'business', and 'undertaking', not as isolated terms, but as constituent elements of a composite statutory scheme intended to regulate industrial relations in a welfare State.

169. In ensuring that he went beyond the mere semantics, considerable reliance was placed upon earlier authorities, particularly the decision in ***D. N. Banerji v. P. R. Mukherjee***,[36] which had, decades earlier, laid the foundations for a broader understanding of the term 'industry'. Drawing upon this jurisprudential lineage, the learned Judge proceeded on the premise that the Industrial Disputes Act is fundamentally a piece of social welfare legislation enacted with the object of securing industrial peace and protecting labour. Consequently, according to this line of reasoning, any interpretive exercise under the Act ought to remain informed by, and aligned with, its welfare-oriented and worker-protective character.

170. This nuanced and purposive analysis ultimately culminated in several landmark interpretive conclusions. Among the most

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[36] 1953 AIR 58.

significant was the treatment of the word 'undertaking', which was held not to be a term of unbounded amplitude. It was observed that, even upon applying the principle of *noscitur a sociis* as a commonsense guide to construction, the meaning of 'undertaking' could not be divorced from the company it keeps, namely, expressions such as 'business', 'trade', 'manufacture', and 'calling'.

171. Accordingly, 'undertaking' was understood as being subject to a contextual limitation, such that it would conform to the restrictive characteristics shared by the associated terms appearing both before and after it in the definition of 'industry' under Section 2(j). The Seven Judge Bench thus rejected an interpretation that would permit the aforesaid term to assume an unrestricted or all-encompassing meaning divorced from its statutory setting.

172. Equally, the Court emphasised that the ID Act, being a social welfare legislation, ought to be construed in harmony with the constitutional vision embodied in Part IV of the Constitution.

173. Drawing sustenance from the ratio in ***Banerji (supra)***, the approach adopted in ***Bangalore Water Supply (supra)***, particularly in the lead decision authored by Krishna Iyer, J., gradually crystallised around the centrality of the employer-employee relationship. The emphasis shifted from the intrinsic nature of the activity undertaken by an enterprise to the organisational structure through which such activity was carried on and, more particularly, to the existence of systematic cooperation between employer and employee.

174. Proceeding on this footing, the judgment took the view that the concept of 'industry' was not to be confined within the conventional boundaries of trade or commerce as ordinarily understood. Rather, it was conceived as a term of considerably wider import, one whose reach extended beyond the narrow confines of commercial enterprise. The expressions 'trade' and 'business', though forming part of the statutory definition, were not regarded as limiting the amplitude of the term 'industry', but merely as illustrative of the broad range of activities that could fall within its ambit.

175. The consequence of this approach was that factors such as the absence of capital investment, profit motive, or commercial gain were held not to be determinative of the inquiry. It was reasoned that an activity may still constitute an 'industry' notwithstanding that it is undertaken on charitable or philanthropic lines, provided that the essential *indicia* of organised activity and employer-employee cooperation are present. In similar terms, educational, vocational, and cultural institutions were held not only to bear an intimate nexus with industrial activity but also to fall squarely within the ambit of 'industry'. Indeed, the majority opinion went so far as to proclaim that '*education is the nidus of industrialization and itself is industry*'.

176. A considerable degree of reliance also appears to have been placed upon the interpretation of the term 'industry' undertaken by this Court in ***Nagpur Corporation (supra)*** and ***Hospital Mazdoor Sabha (supra)***, with these decisions serving to fill the interstitial gaps left by ***Banerji (supra)***. Both these decisions followed ***Banerji (supra)*** in reiterating that the principle of *noscitur a sociis* ought not to be applied so rigidly as to restrict or circumscribe the magnitude of the term 'industry'.

177. These decisions assume added significance, particularly since the same Bench that decided ***Hospital Mazdoor Sabha (supra)*** subsequently also resolved ***Nagpur Corporation (supra)***, wherein it grappled with the question whether 'sovereign functions' fall within the ambit of Section 2(j) and sought to delineate the litmus test for determining which governmental activities may stand excluded from the bounds of 'industry'.

178. In ***Hospital Mazdoor Sabha (supra)***, this Court was called upon to determine whether a government-run hospital, established to provide medical relief to the public and also discharging substantial educational and training functions, could be brought within the ambit of ‘industry’. The Court then broadly defined ‘industry’ saying:

> ***“Thus the manner in which the activity in question is organised or arranged, the condition of the co-operation between employer and the employee necessary for its success and its object to render material service to the community can be regarded as some of the features which are distinctive of activities to which s. 2(j) applies.”***
>
> [Emphasis supplied]

179. This Court thus declined to extend the exemption accorded to ‘sovereign’ or ‘regal functions’ under Section 2(j) to the myriad welfare activities undertaken by the State in discharge of its obligations as a welfare State. It clarified that only those functions which are primary, inalienable, and inherently governmental in character may properly be described as ‘sovereign’ or ‘regal functions’ for excluding from the definition of ‘industry’. In light of this understanding, the Court finally held that the subject hospital, notwithstanding its welfare-oriented objective, would nonetheless constitute an ‘industry’.

180. The contours of what constitutes an ‘industry’, as well as the limits of the sovereign or regal functions exception, were further refined in ***Nagpur Corporation (supra)***, wherein a Three-Judge Bench formulated the following broad guidelines:

> *"31. The result of the discussion may be summarized thus : (1) The definition of "industry" in the Act is very comprehensive. It is in two parts : One part defines it from the standpoint of the employer and the other from the standpoint of the employee. If an activity falls under either part of the definition, it will be an industry within the meaning of the Act. (2) The history of Industrial disputes and the legislation recognizes the basic concept that the activity shall be an organized one and not that which pertains to private or personal employment. (3) The regal functions described as primary and inalienable functions of State though statutorily delegated to a corporation are necessarily excluded from the purview of the definition. Such regal functions shall be confined to legislative power, administration of law and judicial power. (4) If a service rendered by an individual or a private person would be an industry, it would equally be an industry in the hands of a corporation. (5) If a service rendered by a corporation is an industry, the employees in the departments connected with that service, whether financial, administrative or executive, would be entitled to the benefits of the Act. (6) If a department of a municipality discharges many functions, some pertaining to industry as defined in the Act and other non-industrial activities, the predominant functions of the department shall be the criterion for the purposes of the Act."*

181. However, it appears that the Bench in ***Bangalore Water Supply (supra)***, while substantially endorsing the reasoning in both these decisions, departed from the caution sounded in ***Hospital Mazdoor Sabha (supra)*** that some line must be drawn with respect to the inclusion of 'service' within the wide sweep of 'industry', and that limiting principles were necessary to prevent the definition from assuming boundless amplitude.

182. This concern appears to have found some resolution in the ***Solicitors Case (supra)***, wherein this Court postulated that '***the distinguishing feature of an industry is that for the production of goods or for the rendering of service, cooperation between capital and labour or between the employer and his employees must be direct and must be essential***'. Applying this test, the Court held that a liberal profession such as that of an attorney could not have been intended by the Legislature to be encapsulated within the definition of 'industry' under Section 2(j).

183. The exclusion of liberal professions from the ambit of 'industry' was similarly echoed in ***Secretary, Madras Gymkhana Club Employees' Union v. Management of the Gymkhana Club***,[37] though the reasoning adopted therein was somewhat different. The Court examined the definition through the prism of the employer's occupation, proceeding on the footing that if the employer's activity constituted an 'industry', those employed in aid thereof would ordinarily be workmen for the purposes of the Act. This interpretative exercise was found to be broadly consonant with the analysis undertaken by the majority in ***Bangalore Water Supply (supra)***, which proceeded on the premise that '*efficient collectivity*

[37] (1968) 1 SCR 742.

is the essence of professional success' to hold that liberal professions cannot seek exclusion from the operation of the ID Act.

184. Having sealed the fate of liberal professions, the majority in ***Bangalore Water Supply (supra)*** turned its attention to the status of Education and Educational Institutions under the ID Act. As already noted, the majority opinion unequivocally went on to hold that education could constitute an 'industry'. This conclusion was founded, ***first***, on the premise that the predominant nature of the activity is determinative and that imparting education constitutes a service rendered to the community. ***Second***, it was observed that educational institutions, particularly universities, engage in several other activities which are demonstrably industrial in character and, though ancillary to the principal educational enterprise, are capable of severance and independent consideration. Consequently, the decision in ***University of Delhi (supra)*** was held to be wrongly decided.

185. The majority thereafter examined whether Charitable Institutions are capable of constituting an 'industry'. In addressing this issue, the majority adopted a tripartite classification of charitable undertakings, delineating the circumstances in which such institutions would, or would not, fall within the ambit of Section 2(j):

> *"The first is one where the enterprise, like any other, yields profits but they are siphoned off for altruistic objects. The second is one where the institution makes no profit but hires the services of employees as in other like businesses but the goods and services, which are the output, are made available, at low or no cost, to the indigent needy who are priced out of the market. The third is where the establishment is oriented on a humane mission fulfilled by man who work, not because they are paid wages, but because they share the passion for the cause and derive job satisfaction from their contribution."*

186. Having laid out this trichotomy of Charitable Institutions, the majority opined that the determination of whether such an institution constitutes an 'industry' depends broadly on two considerations: ***first***, whether there exists cooperation between employers and employees in the production or supply of goods or services; and ***second***, the extent to which charity permeates the quasi-business character of the activity.

187. In this regard, the first category of charitable institutions was held to constitute an 'industry', since such institutions engage in the production or supply of goods or services with an eye on profit. The second category was likewise held to be within the scope of 'industry', the Court observing that the charitable object of the enterprise makes little difference to a workman who contributes labour in return for wages in much the same manner as in a commercial undertaking. It was only the third category that was held to stand exempt from the aegis of 'industry', there being no real economic relationship or employer-employee nexus, thereby placing such institutions outside the ambit of Section 2(j).

188. A similar exercise was undertaken to ascertain the status of 'Research Institutions' and whether research activity involves the requisite cooperation between employer and employee. The majority answered the question in the affirmative, proceeding on the footing that the institution itself constitutes the employer, while scientists, para-scientists, and other personnel function as employees. Their discoveries and research, it was observed, are capable of being translated into intangible goods and valuable services for which there exists a market, particularly in the case of technological inventions and innovations that may be patented and commercially exploited. Accordingly, it was concluded that research institutions, notwithstanding the absence of a profit motive, are capable of constituting an 'industry'.

189. Next was the question of whether 'Clubs' are industries. At this juncture, the majority once again reiterated its principle that any area where a dichotomy between employer and workmen could exist would be an industry and thus, clubs also would be no exception to this rule. The only exception that could however be carved out would be in the case of dominantly self serving clubs, wherein the central thrust of the club itself has a dominant self service mechanism, with only a modicum of employees at the periphery. Resultantly, the decisions in ***Madras Gymkhana Club (supra)*** and ***Cricket Club of India (supra)*** were held to be wrongly decided.

190. The same reasoning was extended to 'Cooperative Societies'. The Court observed that where the activity partakes of the nature of trade and is carried on through employer-employee cooperation, such societies would constitute an 'industry'. Since member-workers are generally paid wages and may raise disputes concerning service conditions against the society, the latter assumes the position of employer and the workers occupy the position of employees, thereby attracting Section 2(j).

191. Having examined each of these categories in turn, the Court ultimately distilled its reasoning into the formulation of the Triple Test:

> *"I. 'Industry', as defined in Sec, 2 (j) and explained by Banerji, has a wide import.*
> *(a) Where (i) systematic activity, (ii) organized by cooperation between employer and employee, (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to, celestial bliss e.g. making, on a large scale, prasad or food), prima facie, there is an 'industry' in that enterprise.*

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the Organisation is a trade or business, it does not cease to, be one because of philanthropy animating the undertaking.

II. Although sec. 2(j) uses, words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.

(a) 'Undertaking' must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment, so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I (supra), although not trade or business, may still be 'industry' (provided the nature of the activity, viz. the employer-employee basis, bears resemblance to what we find in trade or business. This takes into the- fold of 'industry' undertakings, callings and services adventure 'analogous to the carrying on of trade or business'. All features, other than the methodology of carrying on the activity viz. in organizing the co-operation between employer and employee may be dissimilar. It does not matter, if off the employment terms there is analogy.

III. Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or other sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

(a) The consequences are (i) professions, (ii) Clubs (iii) educational institutions (iiia) co-operatives, (iv) research institutes (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed in I (supra), cannot be exempted from the scope of sec. 2 (j).

(b) A restricted category of professions, clubs, cooperatives and even Gurukuls and little research labs, may qualify for exemption if 283 in simple ventures substantially and going by the dominant nature criterion substantively, in single simple ventures, no employees are entertained but in minimal matters, marginal employees are hired without destroying the nonemployee character of the unit.
(c) If in a pious or altruistic mission many employ themselves, free or for small honoraria, or likely return mainly by sharing in the purpose or cause, such as lawyers volunteering to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramites working at the bidding of the holiness, divinity or like central personality and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant, relationship, then, the institution is not an industry even if stray servants, manual or technical, are hired. Such eleemosynary or like undertakings alone are exempt-not other generosity, compassion, developmental passion or project.

IV The dominant nature test :
(a) where a complex of activities, some of which qualify for exemption others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi Case or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be true test. The whole, undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.
(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, alone qualify for exemption, not the welfare activities or economic

> *adventures undertaken by government or statutory bodies.*
> *(c) 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 sec. 2(j).*
> *(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."*

192. Consequently, the decisions in ***Safdarjung Hospital (supra)***, ***Solicitors' Case (supra)***, ***Madras Gymkhana Club (supra)***, ***Delhi University (supra)***, and other cognate rulings came to be overruled, while the principles enunciated in ***Hospital Mazdoor Sabha (supra)*** were substantially restored and reaffirmed.

193. As already noticed, while Beg, C.J. concurred with the majority opinion, Chandrachud, J. (*as he then was*) penned a separate concurring opinion that largely echoed the reasoning of the majority. The learned Judge was, however, emphatic in observing that considerations of motive have no bearing on the determination of whether an undertaking constitutes an 'industry', a proposition that applies with equal force to factors such as profit motive, capital investment, or pecuniary gain.

194. However, Jaswant Singh, J., writing on behalf of himself and Tulzapurkar, J., parted ways with the majority on both its reasoning and its treatment of the principle of *noscitur a sociis*. In their view, discarding that principle had led to an interpretation of 'industry' of excessive range, bringing within its fold charitable institutions, schools, universities, and research laboratories. The learned Judges instead advocated a more restrictive construction, observing that the definition ought to be confined to activities "***systematically or habitually undertaken on commercial lines by private entrepreneurs with the cooperation of employees for the production or distribution of goods or for the rendering of material services to the community at large or a section thereof.***"

195. Be that as it may, there can be no gainsaying that ***Bangalore Water Supply (supra)***, has held the field for more than four decades, despite its correctness having come under the clouds hardly within twenty years of its pronouncement. No doubt, the judgment is the product of a painstaking and deeply deliberative exercise, where every word and provision was dissected and interpreted in an attempt to ascertain the true meaning of 'industry' under Section 2(j). The result was a seminal decision which has come to occupy a distinguished place in our industrial jurisprudence, authored by some of the most eminent jurists to have adorned this Court, whose scholarship and mastery of the law are reflected throughout its pages.

196. We may, however, with utmost respect and considerable reluctance, hasten to add that ***Bangalore Water Supply (supra)*** has survived in its entirety not merely because it represents a visionary judicial approach, but also because of institutional realities. Its status as a decision rendered by a Bench of Seven learned Judges undoubtedly accorded it formidable precedential force. Equally, although the correctness of the decision stood referred to a Nine-Judge Bench, that reference remained unheard for decades. Whether by reason of institutional priorities, administrative exigencies, or other circumstances, the consequence was that the opportunity for authoritative reconsideration never materialised until the present proceedings.

197. Over time, however, as circumstances evolved and the currents of industrial jurisprudence continued to shift, a degree of excoriation began to emerge in relation to the construction of the Triple Test, the ratio laid down in ***Bangalore Water Supply (supra)***, and, more generally, the expansive sweep accorded to the definition of 'industry' coupled with the narrow channel of exceptions carved out therefrom. What had once proclaimed itself to be a settled course increasingly came to be questioned as the river of the law flowed into newer terrains and even newer landscapes.

F.3. The Ripple Effects of Bangalore Water Supply (supra)

198. The decades following ***Bangalore Water Supply (supra)*** have witnessed profound changes in India's economic and regulatory landscape. The era of liberalisation, privatisation, and globalisation has fundamentally altered the manner in which enterprises are structured, managed, and operated. The distinction between public and private economic activity has become increasingly nuanced, while the organisational forms through which services are delivered have grown considerably more complex.

199. The role of the State in the economy, too, has undergone a marked transformation. Activities once predominantly undertaken by the State and its instrumentalities have, in several sectors, been transferred to private participation through disinvestment and privatisation. At the same time, the State has increasingly confined itself to functions that are constitutional, regulatory, and governance-oriented in character. In this changed economic milieu, often dictated by the operation of market forces and private enterprise, the assumptions that informed industrial relations jurisprudence in the decades immediately following Independence and during the period in which ***Bangalore Water Supply (supra)*** was decided can in no circumstances align seamlessly with synchronic realities.

200. In contemporary India, virtually every organised activity, irrespective of its scale or objective, possesses some degree of institutional structure. Whether it be a small family-run enterprise, a large commercial undertaking, a charitable organisation, a shelter for the destitute, or a community-based welfare institution, the realities of modern governance, regulation, and compliance require varying levels of organisation, record-keeping, and administrative management. If the Triple Test is applied in its broadest possible form, the consequence may well be that an extraordinarily wide range of activities become susceptible to classification as an 'industry'.

201. It is difficult to accept that Parliament intended such an all-encompassing result. The breadth of the interpretation risks drawing within the fold of Section 2(j) not just large commercial enterprises, but also modest undertakings, social initiatives, charitable institutions, and small-scale economic activities that operate with limited resources and personnel. While such an approach undoubtedly advances the protective objectives of labour welfare legislation, the inquiry cannot be one-sided. The law must remain cognisant of the realities of a modern and enterprising economy, in which countless individuals seek to establish small businesses, social enterprises, charitable ventures, and community institutions.

202. The concern, therefore, is not whether workers ought to be protected, for they must always be protected, but whether the existing formulation of the Triple Test has expanded to a point where it risks encompassing activities that Parliament never intended to characterise as 'industry'. If every organised endeavour involving a modicum of employer-employee cooperation is brought within Section 2(j), difficult questions inevitably arise as to where the line is to be drawn. For example, we could scarcely describe the proprietor of a neighbourhood kiosk as an industrialist, just as we could not characterise the heads of large manufacturing enterprises and commercial conglomerates as mere shopkeepers. To do so would ignore the obvious distinction in both scale and character of the activities undertaken.

203. It is therefore imperative to reconsider whether the Triple Test, in its present form, requires a more carefully calibrated application so as to preserve the balance between labour welfare and the legitimate functioning of small enterprises, charitable institutions, and community-oriented activities.

F.4. Manner in which the term 'industry' under Section 2(j) ought to be interpreted

204. We are conscious of the fact that the above illustrated considerations by themselves can hardly furnish a sufficient basis to doubt the correctness of a decision rendered by a Seven-Judge Bench of this Court. The stature of the precedent demands a far more exacting inquiry. However, having been constituted as a Bench of larger strength to examine its continued correctness, it is our earnest duty to scrutinise the legal foundations upon which the decision rests and to ascertain whether its reasoning continues to withstand scrutiny.

205. The majority opinion in ***Bangalore Water Supply (supra)*** itself opens with the observation that "***the rather zigzag course of the landmark cases and the tangled web of judicial thought have perplexed one branch of Industrial Law, resulting from the obfuscation of the basic concept of 'industry' under the Industrial Disputes Act, 1947.***" On this much, there can be little disagreement. The question of what constitutes an 'industry', despite its apparent simplicity, has engaged and divided judicial opinion for decades.

206. It may well have been expected that ***Bangalore Water Supply (supra)***, rendered after an exhaustive consideration of the law, would bring a measure of finality and be the silver bullet to this long-standing controversy. Yet the very fact that a series of doubts have repeatedly resurfaced for the last thirty years as to the amplitude and application of the principles laid down therein, sufficiently demonstrates that the debate was not laid entirely to rest and any such proclamation is a mere overestimation.

F.4.1. The *Noscitur a Sociis* Principle

207. A substantial part of the majority opinion rested upon its interpretation of the definition contained in Section 2(j). In the process, it formulated the Triple Test, a framework that is arguably more elaborate and comprehensive than the statutory definition itself, while consciously declining to apply the principle of *noscitur a sociis* as an aid to interpretation.

208. Before we advert to the correctness of that view, it is necessary to briefly examine the principle of *Noscitur a Sociis*. To begin with, every word has two meanings: (***i***) Denotation - the literal or actual meaning of the word, and (***ii***) Connotation - the contextual meaning derived from the word's association with surrounding words. The principle of *Noscitur a Sociis* uses both these meanings to interpret statutory language. It is a secondary rule of statutory interpretation. The Latin expression derives from '*noscitur*' (to know), '*a*' (with), and '*sociis*' (associates), meaning 'it is known by its associates!'

209. The rule of construction *Noscitur a Sociis* means "*the meaning of a word is to be judged by the company it keeps.*" It is a legitimate rule of construction to construe words in an Act of Parliament with reference to words found in immediate connection with them.

210. It must be borne in mind that *Noscitur a Sociis* is merely a rule of construction and cannot prevail in cases where it is clear that wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only when the intention of the legislature in associating wider words with words of narrower significance is doubtful, or otherwise not clear, that the present rule of construction can be usefully applied.

211. In ***Hospital Mazdoor Sabha (supra)***, the principle of *Noscitur a Sociis* was explained in the following terms: "***when two or more words which are susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense. They take their colour from each other, that is, the more general is restricted to a sense analogous to a less general.*** (*sic*)"

212. A further reference was made to Words and Phrases (Vol. XIV, P.207), which defined the expression in the following terms:

> *"Associated words take their meaning from one another under the doctrine of noscitur a sociis, the philosophy of which is that the meaning of a doubtful word may be ascertained by reference to the meaning of words associated with it; such doctrine is broader than the maxim Ejusdem Generis."*

213. This Court in ***Hospital Mazdoor Sabha (supra)*** placed reliance on the English case of ***Glasgow v. Glasgow Tramway and Omnibus Co. Ltd.***,[38] to emphasise that *Noscitur a Sociis* is merely a rule of construction and cannot prevail where it is evident that the Legislature has deliberately employed words of wide import in order to correspondingly broaden the scope of the expression being defined. The rule, as explained in ***Glasgow (supra)***, is attracted only where the legislative intention behind the use of wider words alongside words of narrower significance becomes doubtful or is otherwise unclear. Similarly, it may be invoked where the meaning of the broader expression itself admits of uncertainty. Where, however, the legislative purpose underlying the use of words of wide amplitude is clear and unambiguous, the rule has no application and cannot be pressed into service to cut down the natural meaning of the statutory text.

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[38] Glasgow v. Glasgow Tramway and Omnibus Co. Ltd., 1898 A. C. 631.

214. In essence, both ***Hospital Mazdoor Sabha (supra)*** and ***Bangalore Water Supply (supra)*** proceeded on the footing that the principle of *noscitur a sociis* had little application in the interpretation of Section 2(j). The underlying rationale was that the ID Act is a piece of beneficial social welfare legislation, enacted to protect the interests of workers and to further the constitutional vision of a welfare State, particularly as reflected in Part IV of the Constitution. In such a context, it was considered inappropriate to employ a rule of construction that would unduly curtail the expansiveness of the statutory definition.

215. Consequently, after undertaking an exhaustive examination of the language of Section 2(j), the Court concluded that while expressions such as 'undertaking' must be understood in their proper statutory context and not in their widest conceivable sense, the term 'industry' itself was intended to receive a broad and expansive construction. It was this interpretive approach that ultimately culminated in the formulation of the Triple Test and the wide amplitude accorded to the definition under ***Bangalore Water Supply (supra)***.

216. In our considered view, and we say so with due circumspection, the reasoning underpinning this conclusion is not entirely free from difficulty. By doing away with the *Noscitur a Sociis* rule, the legislative intent appears to have been construed by ***Bangalore Water Supply (supra)*** in a manner that accords an exceptionally broad meaning to the term 'industry', while at the same time substantially severing it from its traditional commercial and economic connotations. Whether the text and scheme of the Act genuinely support such a departure is an issue that requires careful examination.

217. A perusal of the Preamble, the Short Title, and the scheme of the ID Act indicates that the enactment was designed to provide a framework for the investigation and settlement of industrial disputes. The statute thereafter proceeds to regulate matters concerning industrial relations, including retrenchment, lay-offs, compensation, and other protections afforded to workmen engaged in such enterprises.

218. Perhaps the principal difficulty with the interpretation adopted in ***Bangalore Water Supply (supra)*** lies in the extraordinary broadness of its reach. We say so because the expulsion of the *Noscitur a Sociis* rule of construction appears to have had the cascading effect of substantially diminishing the relevance of the nature and character of the activity undertaken. In its place, the inquiry came to be centred almost exclusively upon the existence of an employer-employee relationship, which emerged as the focal, if not decisive factor in determining whether a particular entity or undertaking constitutes an 'industry'.

219. The consequence of this shift is that the focus moves away from what the enterprise does and towards how it is organised. As a result, activities that are fundamentally distinct in purpose, character, and function may nevertheless be brought within the same statutory fold merely because they involve a structured relationship between employers and employees. It is this displacement of the nature of activity from the centre of inquiry that, in our considered view, gives rise to much of the difficulty that has subsequently shrouded the application of the Triple Test.

F.4.2. A fresh look at the interpretative approach

220. With great respect, we are unable to persuade ourselves to accept either the reasoning behind this approach or the consequences that flow from it. In our considered opinion, the test, as formulated in ***Bangalore Water Supply (supra)***, introduces an undue degree of subjectivity and open-endedness into the inquiry, owing both to its structure and to the foundational assumptions upon which it rests.

221. Nor is this conclusion founded solely upon our own analysis of the law. The practical consequences of the expansive construction adopted in ***Bangalore Water Supply (supra)*** are equally apparent.

Courts across the country have continued to grapple with litigation concerning the scope of the definition of 'industry', and the controversy has remained far from settled despite the authoritative pronouncement of a Seven-Judge Bench.

222. As already noticed, the persistence of this debate is reflected in the fact that, on more than one occasion, this Court has considered it necessary to revisit the correctness of ***Bangalore Water Supply (supra)*** through references to larger Benches. Such repeated calls for reconsideration do not arise in the ordinary course. They are often indicative of a deeper jurisprudential unease, where subsequent experience reveals difficulties in application, competing strands of reasoning emerge, or substantial doubts are expressed regarding the continued soundness of the principles laid down. The history of the present reference is itself demonstrative of that reality.

223. In our respectful view, the interpretation adopted in ***Bangalore Water Supply (supra)*** has carried the definition of 'industry' far beyond its natural statutory boundaries. The cumulative effect of the reasoning employed therein has been the emergence of a concept considerably wider than the one the language of the statute intended. Indeed, it may be said that the decision has fashioned an interpretive construct that operates in a manner not readily discernible from the text itself.

224. At this juncture, it is therefore apposite to recall the observation of Lord Denning, extracted by Beg, C.J. at the commencement of his concurring opinion.:

> *"When a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament and then he must supplement the written words so as to give 'force and life' to the intention of legislature.*
> *A judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases".*

225. We wholeheartedly subscribe to the concern reflected in the foregoing observation. There can be no quarrel that ***Bangalore Water Supply (supra)*** is a work of immense scholarship, marked by a painstaking examination of the text, history, and purpose of the ID Act. Yet, with equal respect to the learned Judges who authored the majority opinion, we are more than certain that the decision, in its anxiety to expand the protective reach of the legislation, ventured beyond the confines of interpretation and entered territory more appropriately reserved for legislative policy.

226. The difficulty does not lie in the formulation of the Triple Test itself, which remains a useful and largely workable indicator for determining whether a particular undertaking bears the characteristics of an 'industry'. Rather, it is the cumulative effect of the reasoning to draw within the fold of Section 2(j) an ever-expanding range of activities, institutions, and undertakings, many of which bear only a tenuous connection to what would ordinarily be understood as 'industrial activity'.

227. In our considered view, it is difficult to attribute to the Legislature an intention that every organised venture, enterprise, institution, or activity involving some degree of employer-employee cooperation should lock, stock and barrel stand encompassed within a single statutory definition. Such an interpretation risks extending the reach of the Act beyond the purpose for which it was enacted, namely, to provide a framework for the regulation and resolution of industrial disputes and allied matters arising in the context of industrial employment.

228. Be that as it may, ***Bangalore Water Supply (supra)*** has managed to hold the field for nearly five decades and has become deeply embedded in the fabric of our industrial jurisprudence, regardless of the persistent doubts questioning its correctness. Considerations of certainty, stability, and institutional continuity therefore counsel against any wholesale departure from the framework that it has established. Our endeavour is not to unsettle settled positions, nor to fundamentally reconstruct the jurisprudence that has developed around Section 2(j), for that would be akin to throwing the baby out with the bathwater.

229. Rather, our objective is a more modest one: to address the difficulties that have emerged in the application of the decision and to ensure that future adjudication under the ID Act proceeds in a manner consistent with established principles of statutory interpretation and legal coherence. We are not called upon to reinvent the wheel; nor is there any occasion to discard the Triple Test in its entirety. The task before us is one of calibration rather than reconstruction. Against that backdrop, our endeavour is confined to examining whether certain components of the framework laid down in ***Bangalore Water Supply (supra)*** could have benefitted from some refinement.

230. To our mind, the aspect that calls for the greatest degree of calibration is whether commercial character should be restored as a relevant consideration in the application of the Triple Test. Such a consideration may operate as a principled sieve, separating those undertakings that truly partake of the nature of an 'industry' from those which, despite exhibiting some degree of organisational structure and employer-employee cooperation, were never intended to be brought within the ambit of Section 2(j).

231. In this regard, we turn to the operative portion of ***Safdarjung Hospital (supra)***, which emphasised the meaning of 'material services', and observed as follows:

> *What is meant by 'material services' needs some explanation too. Material services are not services which depend wholly or largely upon the contribution of professional knowledge, skill or dexterity for the production of a result. Such services being given individually and by individuals are services no doubt but not material services. Even an establishment where many such operate cannot be said to convert their professional services into material services. Material services involve an activity carried on through co-operation between employers and employees to provide the community with the use of something such as electric power, water, transportation, mail delivery, telephones and the like. In providing these services there may be employment of trained men and even professional men, but the emphasis is not on what these men do but upon the productivity of a service organised as an industry and commercially valuable.* ***Thus the services of professional men involving benefit to individuals according to their needs, such as doctors, teachers, lawyers, solicitors etc. are easily distinguishable from an activity such as transport service. The latter is of a commercial character in which something is brought into existence quite apart from the benefit to particular individuals. It is the production of this something which is described as the production of material services****.*
>
> ……..
>
> *It, therefore, follows that before an industrial dispute can be raised between employers and their employees or between employers and employers or between employees and employees in relation to the employment or non-employment or the terms of*

> *employment or with the conditions of labour of any person, there must be first established a relationship of employers and employees associating together, the former following a trade, business, manufacture, undertaking or calling of employers in the production of material goods and material services and the latter following any calling, service, employment, handicraft, or industrial occupation or avocation of workmen in aid of the employers' enterprise. It is not necessary that there must be a profit motive but the enterprise must be analogous to trade or business in a commercial sense.*
>
> [Emphasis supplied]

232. The rationale set out above, in our humble opinion, accords more closely with both the text and structure of the statute. Industrial activity cannot be wholly divorced from its commercial character. We say so because we are unable to agree with the majority in ***Bangalore Water Supply (supra)*** insofar as it declined to apply the principle of *Noscitur a Sociis* on the basis of what was perceived to be the broader legislative objective underlying the enactment.

233. When these expressions are read together, they appear to convey a common thread: that an 'industry' is an undertaking carried on in an organised and systematic manner, involving cooperation between employers and employees, and rooted in an activity possessing some degree of commercial or economic character. It is difficult for us to subscribe to the proposition that the commercial nature of the activity is wholly irrelevant to the inquiry and may be disregarded altogether.

234. At the same time, we consider it necessary to clarify that we are in agreement with the majority opinion in ***Bangalore Water Supply (supra)*** to the extent that the presence or absence of a profit motive ought not to be determinative. An activity may possess a commercial character without necessarily being animated by the pursuit of profit. The inquiry, therefore, is not whether the undertaking seeks to maximise gain, but whether the nature of the activity undertaken bears the indicia of an organised economic or commercial enterprise.

235. If commercial character is to be recognised as a relevant consideration in determining what constitutes an 'industry', the converse must necessarily follow. Activities that lack any discernible commercial or economic character, and which are neither undertaken in pursuit of commercial objectives nor bear any meaningful analogy to trade, business, or economic enterprise, would ordinarily fall outside the ambit of the definition contained in Section 2(j).

236. This is not to suggest that every undertaking must be profit-driven or commercially successful in order to qualify as an 'industry'. Rather, the inquiry is directed towards the nature and character of the activity itself. Where an activity is wholly divorced from commercial or economic enterprise and cannot reasonably be analogised to trade, business, or kindred undertakings, we would be hard pressed to justify its inclusion within the statutory conception of 'industry'.

237. Equally, we find no basis to conclude that according a limited role to commercial character within the framework of the Triple Test would in any manner undermine the beneficial object of the legislation. The introduction of such a consideration does not denude workmen of statutory protection, nor does it dilute the welfare orientation of the ID Act. Rather, it serves to ensure that the definition of 'industry' remains tethered to the nature of the activity undertaken, thereby preventing the concept from expanding beyond its intended statutory bounds.

238. While the welfare character of the ID Act is beyond dispute, that consideration alone cannot justify disregarding a settled principle of statutory construction where the language of the provision reasonably admits of its application.

239. It is our considered opinion that some distinction based upon the commercial character of the activity is both necessary and unavoidable. The boundaries of the concept of 'industry' are already sufficiently diffuse; it would be neither prudent nor doctrinally sound to render them altogether indistinguishable. The modern landscape presents a host of entities that may outwardly share organisational structures and employer-employee relationships, yet differ fundamentally in their purpose, character, and mode of operation.

240. Healthcare, for instance, provides a useful illustration. Today, healthcare services are delivered through a wide spectrum of institutions, ranging from large corporate hospital chains and specialised diagnostic centres operating on commercial lines, to charitable hospitals and welfare-oriented medical establishments that primarily serve those unable to afford treatment. There are even Government Hospitals, some of which were established pre-Independence, with no discernible profit motive. To treat all such institutions identically merely because they satisfy the formal requirements of employer-employee cooperation would be to overlook the significant differences in the nature and objectives of their activities.

241. Such an approach, in our considered view, is liable to occasion serious disservice to society at large. To take but one illustration, if a charitable or government hospital is constrained, in matters of engagement, retrenchment, or workforce management, to apply rigid industrial principles without due regard to the specialised nature of healthcare delivery, the consequences may well be detrimental to the very public interest the institution exists to serve. The engagement of an X-ray technician, a laboratory technician, or a nursing officer cannot always be reduced to a purely mechanical application of principles such as 'last come, first go', where considerations of merit, expertise, and continuity of patient care may assume overriding significance.

242. The same may be said of Research Institutions. While some undertake research with a view towards commercial exploitation, patent generation, and market participation, others engage in research principally for educational, academic, charitable, scientific or public welfare purposes.

243. The point is not that charitable or welfare-oriented activities should automatically stand excluded from the ambit of the Act. Rather, it is that the nature and character of the activity undertaken is extremely relevant to the inquiry. A framework that fails to distinguish between activities carried on predominantly along commercial lines and those pursued primarily for public welfare, educational, charitable, or humanitarian purposes risks collapsing fundamentally different undertakings into a single category. We are of the clear view that the consideration of commercial character assumes significance, serving as an important indicator in determining whether an undertaking truly partakes of the nature of an ‘industry’ within the meaning of Section 2(j).

244. The same holds true in the context of governmental entities discharging sovereign or regal functions. Without delving too deeply into that aspect, we believe that no straitjacket formula can be devised which either excludes all such entities from the ambit of ‘industry’ or, conversely, brings every governmental activity within its fold. The functions performed by the State today are far too varied and nuanced to permit such a simplistic categorisation.

245. In the same breath, we do not propose to repeat the very error that, in our respectful view, has contributed to the present difficulty by prescribing exhaustive categories, rigid exemptions, or inflexible criteria. The inquiry necessarily involves an evaluation of the nature, purpose, and character of the activity in question and is therefore incapable of being reduced to a mechanical formula. Ultimately, the determination ought to be undertaken on a case-to-case basis, having regard to the totality of the circumstances and the principles set out.

F.4.3. Calibrating the Triple Test

246. In light of the foregoing discussion, we have undertaken a careful examination of each constituent element of the Triple Test and identified certain limited aspects which, in our considered view, might have served the law better had they formed part of the framework from the outset. These observations are no more than a reflection of our own reading of Section 2(j), informed by its text, scheme, and underlying semantics. Our endeavour is not to reconstruct the jurisprudence, but merely to refine it in those limited respects where we perceive a divergence in our understanding of the scope and contours of the definition of 'industry', while preserving the essential framework that has governed the field for decades.

247. The Triple Test, per our careful consideration, should have been reformulated in the following terms:

> *"(a) Where there exists: (i) a systematic activity; (ii) organised through cooperation between employer and employee; and (iii) the production, distribution, or provision of goods or services* ***possessing a discernible commercial character that is analogous to trade or business*** *and calculated to satisfy material human wants and wishes (as distinguished from activities that are purely spiritual or religious in nature, though not excluding the provision of material goods or services merely because they are associated with a religious objective), a prima facie presumption shall arise that the undertaking constitutes an 'industry' within the meaning of Section 2(j)."*

248. The next component of the Triple Test, pertaining to the irrelevance of profit motive, is retained in its existing form.

Accordingly, it would continue to read as follows: "***(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private, or any other sector.***" We see no reason to depart from this aspect of the formulation, for the presence or absence of profit motive does not, by itself, furnish a reliable indicator of whether an undertaking constitutes an 'industry'. In our view, the focus must remain on the nature and character of the activity undertaken, rather than any surplus that may or may not be generated.

249. Insofar as the third component of the test is concerned, we are of the view that the special emphasis hitherto placed upon the existence of an employer-employee relationship requires moderation. While such a relationship undoubtedly remains an important indicator, it cannot be elevated to the status of the sole or predominant determinant. The inquiry must instead proceed on a conjunctive basis, taking into account both the nature and character of the activity undertaken as well as the existence of organised employer-employee cooperation. It is only through a consideration of both these elements in tandem that a principled determination may be made as to whether an undertaking constitutes an 'industry' within the meaning of Section 2(j).

Accordingly, this portion of the test could have been considered in the following terms:

> *“**(c) The true focus is functional and the decisive test is the nature of the activity and the existence of employer-employee relations.**”*
>
> [Emphasis supplied]

250. While the following aspect may have diminished significance in view of the role now accorded to commercial character within the inquiry, it nevertheless serves as a useful clarification. The mere prescription of charitable, philanthropic, or benevolent motives cannot alter the essential character of an undertaking that is otherwise commercial in nature. It would thus be in line with our sensibilities to suitably modify this proposition in the following terms: “***(d) If the organisation is a trade or business, it does not cease to be one merely because philanthropy animates the undertaking in its official documentation but on enquiry it is found otherwise***.”

251. We now turn to another important facet of the decision, namely the reading down of the expression ‘undertaking’, as enshrined in the second guideline. At first blush, we do not perceive any fundamental difficulty in retaining this aspect of the reasoning assigned in ***Bangalore Water Supply (supra)***. However, we find that, once again, it could have certainly been enriched with some clarification and recalibration.

252. In our respectful view, the travail lies in the manner in which the majority opinion appears, at certain points, to conflate the nature of the activity undertaken with the existence of employer-employee relations, or at the very least to accord the latter such predominance that the former recedes into the background. This, in our opinion, is the principal source of much of the confusion in the application of the Triple Test.

253. The nature and character of the activity on the one hand, and the existence of organised employer-employee cooperation on the other, are distinct considerations serving different purposes within the inquiry. While both are relevant, neither can be collapsed into the other. Rather, they operate as independent yet complementary pillars supporting the determinative scaffolding of whether a particular undertaking constitutes an 'industry'. To treat them as interchangeable is akin to saying that apples and oranges are the same fruit. It overlooks the separate function that each performs in the analysis and risks reducing a multi-faceted inquiry into a single-factor test. Accordingly, it is our view that this portion perhaps could have been recorded in the following manner:

> *II. Although section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.*
>
> *(a) 'Undertaking' must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I (supra), although not trade or business, may still be 'industry' provided the nature of the activity* ***taken together with*** *the employer-employee basis bears resemblance to what we find in trade or business. This takes into the fold of 'industry' undertakings, callings and services, adventures' analogous to the carrying on of trade or business'. All features, other than the methodology of carrying on the activity viz. in organizing the cooperation between employer and employee, may be dissimilar. It does not, matter, if on the employment terms there is analogy.*

254. The effect of this clarification is that the expression 'undertaking' continues to retain a broad sweep and is capable of encompassing a wide variety of activities. The mere fact that an activity may qualify as an undertaking, however, does not inexorably lead to the conclusion that it constitutes an 'industry'. Such an activity must still satisfy the requirements of the reformulated Triple Test. Once these principles are recognised, we do not consider it necessary to delve any further into the meaning of the term 'undertaking'. The safeguards against over-inclusion are already embedded within the reformulated test itself, which provides the necessary framework for determining, on a case-by-case basis, whether a particular 'undertaking' falls within the ambit of Section 2(j).

F.4.4. Reconsidering Institutional Categorisation

255. We now approach a somewhat more contentious aspect of the decision, namely the treatment accorded to specific categories of institutions and the application of the guidelines to them. Once again, we are of the view that while certain portions of this segment may be retained, others nonetheless warrant reconsideration.

256. We say so because a substantial period of time has elapsed since the pronouncement of ***Bangalore Water Supply (supra)***, and the institutional and economic landscape has undergone profound transformation in the intervening decades. The difficulty with highly specific illustrations and categorical classifications is that they have been products of the circumstances prevailing at a particular point in time. What may once have served as a useful guide risks becoming an inflexible rule when applied to contemporary realities.

257. Entities today are increasingly multifaceted and frequently undertake a diverse range of functions that cannot readily be reduced to a single label or category. A university may engage in research, consultancy, technology transfer, and commercial collaboration; a hospital may combine charitable healthcare with highly specialised commercial services; and a research institution may simultaneously pursue academic, public welfare, and market-oriented objectives. In such circumstances, an approach that proceeds primarily by reference to predetermined categories risks pigeonholing institutions without adequately examining the true nature and dominant character of the activity undertaken.

258. It may have thus been sufficient to have only postulated Guideline III(a), while omitting Guidelines III(b) and III(c). In our considered view, the illustrations and narrowly tailored exceptions contained therein have, over time, contributed to the very difficulties that have beset the application of the definition. By carving out specific categories and prescribing highly particularised exemptions, they risk transforming what ought to be a principled inquiry into an exercise in classification.

259. We believe that the strength of a legal test lies in its ability to withstand application across a range of factual scenarios without the need for exhaustive elaboration or an ever-expanding catalogue of inclusions and exclusions. A test that requires a growing list of illustrations, qualifications, and exceptions to sustain itself is, in our view, a test that risks obscuring rather than clarifying the inquiry. The law ought not to descend into an exercise of prescribing, in advance, what must or must not constitute an ‘industry’. Such determinations are best left to the application of the governing principles to the facts and circumstances of each case.

260. It is in this spirit that we deemed fit that the limited purpose of the third guideline could have been put forth in the following terms:

> ***"III. Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.***
> ***(a) The consequences are (i) professions, (ii) clubs (iii) educational institutions (iv) cooperatives, (v) research institutes (vi) charitable projects and (vii) other kindred adventures, if they fulfil the triple tests listed in I (supra), cannot be exempted from the scope of section 2(j)."***

261. Finally, insofar as the final guideline pertaining to the dominant nature test is concerned, we consider it necessary to clarify the scope and contours of the sovereign functions exception. In ***Bangalore Water Supply (supra)***, the exemption accorded to sovereign functions was construed in a markedly narrow manner. The principal rationale advanced was that the State, in the modern welfare era, had entered a multitude of fields traditionally associated with industry and commerce, and that it would therefore be inappropriate to exclude governmental undertakings merely because they were carried on by the State or its instrumentalities.

262. The majority accordingly reasoned that only those functions which are governed by distinct constitutional or statutory regimes, such as the service conditions of civil servants protected under Articles 310 and 311 of the Constitution, ought, strictly speaking, to stand outside the ambit of the definition of 'industry'. It was further observed that several public utility services performed by governmental agencies and statutory corporations are themselves treated by the ID Act as falling within the industrial sphere. Consequently, where the relationship between the State and its employees is not regulated by a separate constitutional or statutory framework, no compelling reason was perceived to artificially exclude such activities from the operation of the ID Act merely because they are undertaken by the State.

263. It was on this reasoning that the sovereign functions exception came to be confined to a narrow category of activities, with the overwhelming majority of governmental functions remaining subject to examination under the broader framework of the Act.

264. In our assessment, this aspect too warrants a measure of recalibration, or perhaps more accurately, simplification. Experience has shown that excessive elaboration often carries with it the unintended consequence of constraining rather than clarifying. In the quest to define every conceivable category and exception, one risks making the camel pass through the eye of the needle.

265. We are, however, entirely *ad idem* on two aspects of the reasoning in ***Bangalore Water Supply (supra)***. ***First***, governmental functions governed by distinct constitutional or statutory frameworks, including those falling within the ambit of Articles 310 and 311 of the Constitution, stand on a separate footing and are ordinarily outside the operation of the Industrial Disputes Act. ***Second***, public utility services, which the Act itself expressly contemplates and regulates, are, by virtue of the legislative scheme, amenable to its operation. On both counts, we find no reason to depart from the position adopted therein.

266. Where we part ways with the reasoning in ***Bangalore Water Supply (supra)*** is in the suggestion that, save for these narrowly circumscribed exceptions, virtually every governmental entity, enterprise, or undertaking must necessarily fall within the ambit of the definition of 'industry'. In our respectful view, such an approach once again risks extending the concept beyond its natural limits and drawing within its sweep a host of activities that may bear little resemblance to what Parliament intended to regulate under the ID Act.

267. The mere fact that an activity is undertaken by the State and does not fall squarely within the traditional understanding of a sovereign function cannot, by itself, compel the conclusion that it constitutes an 'industry'. To adopt such a position would be to presume inclusion as the rule and exclusion as the rarest of exceptions, thereby enlarging the definition in a manner that is neither mandated by the statutory text nor required by principle.

268. The State today undertakes a vast array of functions in furtherance of the Fundamental Rights guaranteed under Part III of the Constitution and the Directive Principles embodied in Part IV. It would be difficult to accept the proposition that every such undertaking, merely by virtue of being organised and involving employer-employee cooperation, must necessarily be characterised as an 'industry'. Many governmental activities are undertaken primarily to discharge constitutional obligations, advance public welfare, or fulfil social objectives, and may not possess the commercial or economic character contemplated by the reformulated Triple Test.

269. Equally, the realities of the contemporary economic landscape cannot be ignored. With the increasing participation of private actors in sectors once dominated by the State, the range of governmental activities carried on predominantly along commercial lines has diminished considerably. The activities undertaken by the State that are truly analogous to trade, business, or economic enterprise would undoubtedly fall for consideration under the reformulated test and, where its requirements are satisfied, would be amenable to the operation of the ID Act. However, it does not follow that every activity undertaken in the discharge of constitutional, welfare, or public obligations must necessarily be drawn within the same net.

270. The distinction, in our view, lies not in the identity of the actor, but in the nature and character of the activity itself. It is that inquiry, rather than any presumption of universal inclusion, that must govern the application of Section 2(j).

271. In our view, governmental undertakings, no less than private entities or those that were delineated in Guideline III, must thus be assessed on the touchstone of the reformulated test. The inquiry remains one of substance rather than form. It is the nature and character of the activity undertaken, viewed in conjunction with the other indicia set out herein, that must guide the determination, rather than any presumption that all governmental activity is destined to fall within the broad sweep of 'industry'.

272. Insofar as the remaining facets of the dominant nature test formulated in ***Bangalore Water Supply (supra)*** are concerned, we find no reason to depart from such interpretation. It is entirely conceivable that a single undertaking may engage in a complex array of activities, some of which may point towards inclusion within the ambit of 'industry', while others may suggest the contrary. In such circumstances, it remains necessary to look beyond form and examine the true character of the enterprise as a whole.

273. The dominant nature test continues to provide a useful analytical tool for this purpose, enabling the Court to ascertain the principal character of the undertaking and determine whether any exemption is warranted or whether, notwithstanding the presence of ancillary or incidental activities of a different character, the entity as a whole would continue to constitute an 'industry' for the purposes of the ID Act. We therefore see no occasion to disturb this specific aspect of the framework laid down in ***Bangalore Water Supply (supra)***. This particular guideline therefore warranted no particular change and would continue to read thus:

> *"IV. The dominant nature test:*
> *(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom Are not 'workmen' as in the University of Delhi case or some departments are*

not 'productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.
(b) Notwithstanding the previous clauses, sovereign functions may qualify for exemption, not the welfare activities of economic adventures undertaken by Government or statutory bodies.
(c) 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 sec. 2(j).
(d) Constitutionally and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."

274. Accordingly, when our interpretative permutations and combinations are read in conjunction with the modifications and clarifications set out hereinabove, the Triple Test and the accompanying guidelines would hypothetically stand reformulated and read as follows:

"I. Industry under Section 2(j) will be defined as:
(a) Where there exists: (i) a systematic activity; (ii) organised through cooperation between employer and employee; and (iii) the production, distribution, or provision of goods or services ***possessing a discernible commercial character that is analogous to trade or business*** *and calculated to satisfy material human wants and wishes (as distinguished from activities that are purely spiritual or religious in nature, though not excluding the provision of material goods or services merely because they are*

associated with a religious objective), a prima facie presumption shall arise that the undertaking constitutes an 'industry' within the meaning of Section 2(j).

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private, or any other sector.

(c) The true focus is functional and the decisive test is the nature of the activity and the existence of employer-employee relations.

(d) If the organisation is a trade or business, it does not cease to be one merely because philanthropy animates the undertaking ***in its official documentation but on enquiry it is found otherwise****.*

II. Although section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.

(a) 'Undertaking' must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I (supra), although not trade or business, may still be 'industry' provided the nature of the activity ***taken together with*** *the employer-employee basis bears resemblance to what we find in trade or business. This takes into the fold of 'industry' undertakings, callings and services, adventures' analogous to the carrying on of trade or business'. All features, other than the methodology of carrying on the activity viz. in organizing the cooperation between employer and employee, may be dissimilar. It does not, matter, if on the employment terms there is analogy.*

III. Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology

of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.
(a) The consequences are (i) professions, (ii) clubs (iii) educational institutions (iv) cooperatives, (v) research institutes (vi) charitable projects and (vii) other kindred adventures, if they fulfil the triple tests listed in I (supra), cannot be exempted from the scope of section 2(j).

IV. The dominant nature test:
(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom Are not 'workmen' as in the University of Delhi case or some departments are not 'productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.
(b) Notwithstanding the previous clauses, sovereign functions may qualify for exemption, not the welfare activities of economic adventures undertaken by Government or statutory bodies.
(c) 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 sec. 2(j).
(d) Constitutionally and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby.

275. It is pertinent to clarify at this juncture that the foregoing is only a hypothesis, and we do not propose, at this stage, to disturb the application of the Triple Test to proceedings that remain pending. To do so would risk creating new and unnecessary distinctions between similarly situated parties, and consequently generate entirely new classes of 'haves' and 'have-nots'. Our decision is informed not only by the possibility of creating such an artificial and narrowly defined class by retrospectively altering the manner in which the Triple Test is to be applied, but also by the fact that Section 2(j) of the ID Act is no longer in operation and has since been succeeded by the legislative framework contained in the Industrial Relations Code.

276. It goes without saying that we are not in complete agreement with the ratio laid down in ***Bangalore Water Supply (supra)***. Had we been in complete agreement, there would have been little reason for us to undertake the detailed examination of its reasoning, formulations, and constituent elements that has occupied the preceding pages. Our endeavour has instead been to identify, with the benefit of hindsight and experience, those aspects which may merit refinement, without unsettling the legal position governing matters that have already entered the judicial stream.

277. In similar vein, we do not consider it either necessary or desirable to revisit the factual conclusions reached in each of the numerous decisions that have applied ***Bangalore Water Supply (supra)*** over the last several decades. To embark upon a case-by-case reassessment of whether a particular institution was correctly classified as an 'industry' would be an exercise of little practical utility and would serve only to unsettle a substantial body of jurisprudence that has long since attained finality. Judicial correction must be tempered by judicial restraint, particularly where settled rights and obligations have crystallised over time.

278. The present interpretation and modifications shall thus operate only prospectively in that sense and shall not reopen, disturb, or otherwise affect proceedings that have attained finality, or that presently remain pending. Judgments, awards, settlements, and determinations that are no longer subject to challenge shall remain undisturbed, notwithstanding the reformulation of the test set out in this judgment. The same also applies to proceedings, appeals and other hearings that are presently in the process of being adjudicated by various fora.

G. LEGAL IMPACT OF THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1982 AND THE IR CODE, 2020

279. We also do not propose to enter into an examination of the definition of 'industry' as it presently exists under the IR Code. Submissions were advanced before us to the effect that the definition contained therein draws inspiration from, or substantially reflects, the principles embodied in the Triple Test. Be that as it may, we consider it neither necessary nor appropriate to express any opinion on that aspect.

280. The IR Code is an independent legislative enactment and must be interpreted on its own terms, having regard to its text, scheme, and object. Nothing stated in this judgment should therefore be construed as an expression of opinion on the validity, interpretation, scope, or constitutional legitimacy of any provision contained therein.

281. It follows, therefore, that in view of the clarification and reformulation of the principles laid down in ***Bangalore Water Supply (supra)***, the said decision shall not be regarded as the sheet anchor for the interpretation of the IR Code or any of its provisions, should such a question arise in the future. Any issue arising under the IR Code shall necessarily fall to be determined on the basis of its own text, scheme, object, and legislative framework, uninfluenced by the reformulation of the Triple Test undertaken in the present judgment.

282. Insofar as the Industrial Disputes (Amendment) Act, 1982 is concerned, it is an undisputed position that the amendment was never brought into force. In the absence of a notification effectuating its commencement, the amendment never acquired operative legal effect and therefore does not govern the controversy before us.

283. Consequently, it is neither necessary nor appropriate for this Court to examine its correctness, applicability, wisdom, or potential impact. Any such exercise would be wholly academic and would travel beyond the scope of the issues that arise for determination in the present reference. We accordingly refrain from expressing any opinion on the merits or consequences of the said amendment.

284. Our observations are confined exclusively to the interpretation of Section 2(j) of the ID Act and the jurisprudence that has evolved around the Triple Test as formulated in ***Bangalore Water Supply (supra)***. Any questions arising under the IR Code are left open for determination in an appropriate case.

H. CONCLUSION

285. As we conclude this judgment, we return to the metaphor that formed the overture to this journey: the albatross around the mariner's neck. The controversy surrounding the definition of 'industry' has, for many years, weighed heavily upon this branch of industrial jurisprudence, resurfacing time and again despite repeated attempts at resolution. It is our sincere hope that the present judgment finally lifts that burden and permits the law to move forward unencumbered.

286. The voyage, however, has not been a short one. Having called at many ports and traversed long stretches of uncertain and often mist-laden waters, this Court has repeatedly been required to navigate competing currents of thought in its search for a principled and workable understanding of Section 2(j). As that journey now draws to a close, it is our earnest hope that the present adjudication serves as a reliable beacon for courts and tribunals at various levels, bringing a greater measure of coherence, certainty, and finality to a question that has engaged judicial attention for decades.

287. Before parting with the matter, we consider it appropriate to briefly recapitulate the principal conclusions that emerge from the foregoing analysis:

i. The present reference has been validly made and rightly entertained. No legitimate doubt can be cast upon its maintainability, and the reference is accordingly answered on the merits.

ii. In our considered view, certain aspects of the Triple Test and the accompanying guidelines formulated in ***Bangalore***

Water Supply (supra) were susceptible to further refinement. While the essential framework laid down therein has stood the test of time, we are of the opinion that some of its constituent elements could have been articulated differently in that judgment so as to better reflect the scope and contours of Section 2(j). Accordingly, in our view, the Triple Test would have been more appropriately structured, hypothetically speaking, in the following terms:

> *"I. Industry under Section 2(j) will be defined as:*
> *(a) Where there exists: (i) a systematic activity; (ii) organised through cooperation between employer and employee; and (iii) the production, distribution, or provision of goods or services* ***possessing a discernible commercial character that is analogous to trade or business*** *and calculated to satisfy material human wants and wishes (as distinguished from activities that are purely spiritual or religious in nature, though not excluding the provision of material goods or services merely because they are associated with a religious objective), a prima facie presumption shall arise that the undertaking constitutes an 'industry' within the meaning of Section 2(j).*
> *(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private, or any other sector.*
> *(c) The true focus is functional and the decisive test is the nature of the activity and the existence of employer-employee relations.*
> *(d) If the organisation is a trade or business, it does not cease to be one merely because philanthropy animates the undertaking* ***in its official documentation but on enquiry it is found otherwise****.*

II. Although section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.
(a) 'Undertaking' must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I (supra), although not trade or business, may still be 'industry' provided the nature of the activity ***taken together with*** *the employer-employee basis bears resemblance to what we find in trade or business. This takes into the fold of 'industry' undertakings, callings and services, adventures' analogous to the carrying on of trade or business'. All features, other than the methodology of carrying on the activity viz. in organizing the cooperation between employer and employee, may be dissimilar. It does not, matter, if on the employment terms there is analogy.*

III. Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.
(a) The consequences are (i) professions, (ii) clubs (iii) educational institutions (iv) cooperatives, (v) research institutes (vi) charitable projects and (vii) other kindred adventures, if they fulfil the triple tests listed in I (supra), cannot be exempted from the scope of section 2(j).

IV. The dominant nature test:

(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom Are not 'workmen' as in the University of Delhi case or some departments are not 'productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.
(b) Notwithstanding the previous clauses, sovereign functions may qualify for exemption, not the welfare activities of economic adventures undertaken by Government or statutory bodies.
(c) 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 sec. 2(j).
(d) Constitutionally and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby.

iii. In view of the foregoing, the reformulated Triple Test articulated in this judgment is to be understood as no more than our considered opinion on the proper interpretation of Section 2(j) of the Industrial Disputes Act, 1947. It is not intended to displace the governing legal position in respect of pending proceedings. Consequently, all matters presently pending before courts, tribunals, labour authorities, or other fora under the Industrial Disputes Act may be adjudicated in accordance with the Triple Test laid down in ***Bangalore Water Supply (supra)***.

iv. The present clarification shall operate prospectively in that sense and shall not reopen, disturb, or otherwise affect proceedings that have attained finality. Judgments, awards, settlements, and determinations that are no longer subject to challenge shall remain undisturbed, notwithstanding the reformulation of the test set out in this judgment. The same also applies to proceedings, appeals and other hearings that are presently in the process of being adjudicated by various fora;

v. We refrain from entering into an examination of the definition of 'industry' as it presently exists under the IR Code or the Industrial Disputes (Amendment) Act, 1982; and

vi. In view of the opinion expressed herein and the hypothetical reformulation of the principles laid down in ***Bangalore Water Supply (supra)***, the said decision shall not be regarded as the sheet anchor for the interpretation of the IR Code or any of its provisions, should such a question arise in the future.

288. We further clarify that the present judgment is confined to disputes arising under the ID Act and the interpretation of Section 2(j) thereof. Nothing contained herein shall be construed as governing disputes arising under any other enactment, nor shall these observations be treated as determinative of questions that fall to be decided under a different statutory framework.

289. Ordered accordingly. Pending interlocutory applications, if any, stand disposed of in the above terms.

290. There shall be no order as to costs.

..CJI.
[SURYA KANT]

... J.
[SATISH CHANDRA SHARMA]

... J.
[ALOK ARADHE]

... J.
[VIPUL M. PANCHOLI]

NEW DELHI
DATED: 20.08.2026