



BANGALORE WATER SUPPLY AND SEWERAGE BOARD V/S A. RAJAPPA

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Abstract

The definition of industry is in question since times immemorial and a lot of cases have occurred over the past years. Some of them played an important role in establishing an appropriate definition for Industry. One such case is the famous case of Bangalore Water Supply and Sewerage Board vs. A. Rajappa and Others.¹, which has laid down some tests and new principles and has become a landmark case, which has overruled many other cases and acts as a precedent for many cases to come in the future. This paper is about the case and the outcomes occurred after. In this paper the author has selected this landmark case and has also given her own opinions regarding the case as to how by time the definition of the term industry has evolved. The author has tried to highlight the different aspects in relation to this case.

Introduction

Bangalore Water Supply case is the landmark case in labor laws. In the said case, the definition of industry is determined under Industrial Disputes Act, 1947. The case has overruled the judgments of several cases. The definition of industry could be divided into 2 parts. First part provides any business, trade, undertaking, manufacture or calling of employers, and the second part provides any calling, service, employment, handicraft, or industrial occupation or avocation of

workmen. As the definition under the act, is not meant to provide more than a guide. It raises a doubt, as to what, calling of employers could mean. Even, if any business, trade, undertaking, manufacture could be found capable of being more clearly delimited. However, there is no mention of any profit motive. The word calling of employers could not be interpreted, the term employers necessarily postulates employers without whom there can be no employees. But the second part of the definition makes the concept more indefinite. This part relating to workmen must necessarily indicate something which may exclude employers and include an industry consisting of individual handicraftsmen or workmen.

Some principles were mentioned under the case, known as the triple test and the dominant nature test. Triple test it has stated as, where there is a:

- Systematic activity,
- Co-operation between employer and employee,
- Production /distribution of goods and services to satisfy human wants.

The following points were also emphasized in this case:

- Industry does not include spiritual or religious services geared to celestial bliss.
- Absence of profit motive and gainful objective is irrelevant, be venture in the private or public sector.
- The decisive test is the nature of the activity with the special emphasis on the employer-employee relations.

¹ AIR 1978 SC 548



- If the organization is any business or trade it does not cease to be one because of philanthropy animating the undertaking.

The dominant nature test: 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 Case² 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 Nagpur³, will be true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.⁴

Background

In this case, the employers (respondents) were fined by the appellant for misconduct and various sums were recovered from them. Claim application was filed u/s 33(2) of IDA, averring that the said punishment was imposed in violation of punishment of natural justice.

The appellant board raised an exploratory objection, a statutory body performing regal functions by providing basic amenities to the citizens is not an industry as per sec 2j of the IDA, and consequently the employers were not workmen and the labor court has no jurisdiction to decide over this.

Objection being overruled, appellant filed 2 writ petition before Karnataka HC. The

Division Bench of HC dismissed the petition and held the appellant board an industry u/s 2j of IDA.

Judgment

In this case, it was decided that, any organization which fulfils the condition ordered in Triple Test, will be considered as an industry, whether it being a Hospital, Educational Institution, Government Department.

The majority judgment, was delivered by Justice Krishna Iyer, he had expanded the definition of industry for the purposes of interpretation of sec 2j of the IDA, to cover employer-employee relationship, irrespective of the objectives of the organization concerned. In 1982, Parliament amended the IDA, to exclude many kinds of establishments from the definition. In 2005, a five Judge bench, headed by J. Hegde, N.Santosh, referred the case to a larger bench, in State of U.P. vs. Jai Bir Singh⁵. The Hegde bench favoured the 1978 judgment, because it felt it carries an "overemphasis on the rights of workers" in industrial law, and that this has resulted in payment of "huge amounts as back wages" to workers illegally terminated or retrenched and that these awards sometimes "take away the very substratum of industry". The Hegde bench also assumed, an over-expansive interpretation of the definition of industry might be a deterrent to private enterprise in India where public employment opportunities are scarce.

ANALYSIS

After all these judgments, there is still chaotic situation regarding the definition of industry

² University of Delhi vs. Ram Nath, AIR 1963 SC 1873

³ Nagpur Corporation vs. Its Employers, AIR 1960 SC 675

⁴ Bangalore Water Supply vs. A.Rajappa, AIR 1978 SC 548

⁵ (2005) 5 SCC 1



under IDA. Despite having the working principle there is still problem in deciding the definition of industry. Such conflict arose in Chief Conservator of Forest v. Jagannath Maruti Kondare⁶ and State of Gujarat v. Pratamsingh Narsingh Parmar⁷, where in the former case forest department of State of Maharashtra was held to be an industry and in the later case it was held that forest department of State of Gujarat is not an industry. The learned judges in the Bangalore Water Supply Case seem to have confined only such sovereign functions outside the purview of 'industry' which can be termed strictly as constitutional functions of the three organs of the Parliament. After 2005, again in 2017, a nine-judge constitution bench was deciding whether or not to review the definition of industry as interpreted by Justice Krishna Iyer in Bangalore water supply case, a seven-judge bench has ruled.

CONCLUSION

The SC has recurred judicial discipline and thereby prevented an unnecessary court initiated convulsion in the area of labor law by giving a judgment in Bangalore Water Supply Case. Seven Judges of the Apex Court had given a widely ranging definition of industry under the Act and ever since, the case has been applied as law throughout the country. In the current scenario industries' have become one of the most vital parts of the society's smooth run, when there is no harmonious relation between workmen and employee it leads to dysfunction. When the law itself is not clear regarding the term industry it will definitely affect the industry on a large scale. The law in force presently is the interpretation of the original S. 2(j). Focusing solely on the merits of the case it is

judgment which has taken into consideration. After the Jai Bir Singh case there is no such astonishing judgment, which has altered the definition. A crucial step should be taken to clear the lacuna.

Bibliography

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⁶ AIR 1996 SC 2898

⁷ (2001) 9 SCC 713