

Nine-Judge Bench Settles Half-Century Debate on the Definition of “Industry” Under Labour Laws

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The Hon’ble Supreme Court, in *State of Uttar Pradesh v Jai Bir Singh*, 2026 SCC OnLine SC 1684 brought to a close a nearly five decade-long interpretive controversy surrounding the definition of “industry” under Section 2(j) of the Industrial Disputes Act, 1947.

A nine-judge Bench affirmed the correctness of the “Triple Test” laid down in the seminal judgment of the seven-judge Bench in *Bangalore Water Supply and Sewerage Board v A. Rajappa*, (1978) 2 SCC 213 (*Bangalore Water Supply*), while offering prospective refinements to its application.

Background

The definition of “industry” determines which establishments, and their workers can access the dispute resolution machinery under India’s labour laws. In 1978, a seven-Judge Bench of the Hon’ble Supreme Court in ***Bangalore Water Supply*** articulated the “Triple Test” which provided that an enterprise qualifies as an industry if there is (i) systematic activity, (ii) organised by cooperation between employer and employee, and (iii) directed towards the production or distribution of goods and services calculated to satisfy human wants and wishes.

This expansive interpretation brought within its fold professions, clubs, educational institutions, cooperatives, research institutes, charitable projects, and government departments. However, the scope of the Triple Test soon drew criticism. Courts struggled to apply it consistently, and employers argued that the worker-oriented approach, unmindful of employer and public interest, had produced damaging consequences leading to large awards of reinstatement and back-wages that compelled employers of moderate means to close their establishments, harming employers, workers, and the public alike.

The Parliament responded to this expansive judicial interpretation by passing the Industrial Disputes (Amendment) Act, 1982 (1982 Amendment), which sought to substitute a new definition of “industry” under Section 2(j) of the Industrial Disputes Act, 1947 (ID Act). While retaining the core Triple Test, the 1982 Amendment carved out express exclusions for: (i) agricultural operations (unless integrated with industrial activity); (ii) hospitals and dispensaries; (iii) educational, scientific, research, or training institutions; (iv) institutions engaged in charitable, social, or philanthropic services; (v) khadi or village industries; (vi) sovereign functions of the State, including defence research, atomic energy, and space; (vii) domestic services; (viii) professions practised by individuals or bodies employing fewer than ten persons; and (ix) cooperative societies, clubs, or similar bodies employing fewer than ten persons. However, although the 1982 Amendment received Presidential assent on 21 August 1984, the amended definition of “industry” was never notified, leaving it a dead letter for over forty years.

The non-enforcement of the 1982 Amendment meant that the expansive interpretation in ***Bangalore Water Supply*** continued to govern. Questions persisted about whether welfare activities of the State should be treated as “industry”, whether the “sovereign functions” exclusion was too narrow, and whether certain categories, such as charitable institutions, educational bodies, and government welfare schemes, required reconsideration.

The Journey to the Nine-Judge Bench

The first serious judicial challenge to **Bangalore Water Supply** came in 1998, when a two-judge Bench in *Coir Board, Ernakulam v. Indira Devi P.S.*, (1998) 3 SCC 259 observed that **Bangalore Water Supply** had done more damage than good, not merely to organisations but also to employees, by curtailing employment opportunities. The Bench referred the matter to a larger bench, but a three-judge Bench declined the reference, holding that a two-judge Bench could not seek reconsideration of a seven-judge Bench decision.

The trigger for the present reference arose from a conflict between two decisions on whether the Social Forestry Department of a State constitutes an “industry”. In *Chief Conservator of Forests v Jagannath Maruti Kondhare*, (1996) 8 SCC 489, a three-judge Bench held that the Social Forestry Department fell within the definition of “industry” as interpreted in **Bangalore Water Supply**. However, in *State of Gujarat v Pratamsingh Narsinh Parmar*, (2001) 9 SCC 713, a two-judge Bench took a different view. This divergence prompted a three-judge Bench in 2002 in **Jai Bir Singh** to refer the matter to a larger bench, observing that it was an important question of law of considerable public importance.

In 2005, a five-judge Bench in **Jai Bir Singh** identified multiple reasons for doubting the correctness of **Bangalore Water Supply**: the decision was not unanimous; the majority itself had described its interpretation as tentative and temporary pending legislative intervention; the 1982 Amendment, though passed, had remained unenforced for over two decades; and experience had shown that the expansive interpretation had produced unintended consequences. The five-judge Bench referred the matter for reconsideration by a larger bench. By 2017, a seven-judge Bench, noting the serious and wide-ranging implications of the issues involved directed that the matter be placed before a nine-judge Bench.

The Matter Before the Nine-Judge Bench

Meanwhile, the legislative regime changed dramatically. The Industrial Relations Code, 2020 (IR Code) came into force on 21 November 2025, and the ID Act was formally repealed on 2 February 2026. This meant that by the time the Nine-Judge Bench assembled, the very statute whose interpretation was in question had ceased to exist, though cases under the repealed ID Act remained pending across various fora.

The Court framed the following specific questions:

- (i) Whether the Triple Test remained correct law?
- (ii) Whether social welfare activities of State departments constitute “industry”?
- (iii) What State activities fall within “sovereign functions”? And,
- (iv) What impact do the IR Code and the unenforced 1982 Amendment have on interpreting the now-repealed ID Act?

The Supreme Court has now put these questions to rest, broadly affirming **Bangalore Water Supply** while offering interpretive refinements.

Analysis by the Supreme Court

The Triple Test Stands

The Court upheld the Triple Test as correct law. The majority, led by Chief Justice Surya Kant, held that the test laid down by Justice Krishna Iyer in **Bangalore Water Supply** remains the governing standard for determining whether an undertaking falls within the definition of “industry”. The Court emphasised that the ID Act is social welfare legislation aimed at promoting industrial peace and resolving disputes between employers and workmen. An interpretation favouring labour is consistent with this beneficent statutory purpose.

The Court rejected arguments that the Triple Test required wholesale reconsideration, noting that it has held the field for nearly five decades, shaped thousands of adjudications, and been consistently applied by courts across the country. Considerations of certainty, stability, and institutional continuity counselled against any fundamental departure.

Sovereign Functions Narrowly Construed

On the contentious issue of “*sovereign functions*”, the Court held that only core, inalienable State functions for which the State is not answerable to courts of law, such as defence, foreign affairs, legislation, taxation, and the administration of justice, qualify for exclusion. Welfare activities undertaken by the State in discharge of its constitutional obligations under Part IV are not automatically exempted. The Court observed that a State which claims to be a model employer cannot wear the Crown when a worker asks for a remedy.

Prospective Operation of Refinements

While suggesting that certain aspects of the Triple Test could have been more finely calibrated, particularly by recognising commercial character as a relevant factor, the Court made clear that any such refinement would operate only prospectively. The reformulated test is to be understood as the Court’s considered opinion on proper interpretation, not as a displacement of the governing legal position for pending proceedings. All matters currently pending before courts, tribunals, or labour authorities under the ID Act may continue to be adjudicated in accordance with the original Triple Test.

The IR Code: A Clean Slate

Significantly, the Court expressly declined to use **Bangalore Water Supply** as the “*sheet anchor*” for interpreting the IR Code. Section 2(p) of the IR Code contains its own definition of “*industry*”, which retains the Triple Test in principle but expressly excludes charitable, philanthropic, and social service institutions, sovereign government functions, and domestic services. The Court held that the IR Code must be interpreted on its own text and in its own context, unencumbered by the interpretive baggage of the repealed ID Act.

The 1982 Amendment: No Retrospective Effect

The Court also declined to rely on the Industrial Disputes (Amendment) Act, 1982, which amended the definition of “*industry*” but was never notified. The Court observed that what a Court cannot do directly, mandamus to notify an inert amendment, it cannot do indirectly by using such stillborn provisions to reconsider a binding precedent.

Conclusion and Implications

The decision carries significant practical implications. First, all pending disputes under the repealed ID Act will continue to be governed by the Triple Test as originally formulated in **Bangalore Water Supply**. There will be no retrospective alteration of settled rights. Second, disputes arising under the IR Code will be determined by Section 2(p) thereof, which Parliament has designed with express exclusions for charitable institutions, sovereign functions, and domestic services. The interpretive controversies that plagued the old definition will not automatically carry forward.

The judgment fundamentally preserves the worker-protective architecture of Indian labour law while acknowledging that a new legislative chapter has begun. As the Court poetically observed, the controversy surrounding the definition of “*industry*” has, for many years, weighed heavily upon industrial jurisprudence like an albatross around the mariner’s neck. With this judgment, that burden is finally lifted.

- Ajay Bhargava (Partner); Arvind Ray (Partner) and Apoorva Jain (Senior Associate)



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