(1989) 11 BOM CK 0039

Bombay High Court

Case No: Write Petition No. 1213 of 1985

United Labour Union and others	APPELLANT
Vs	
Union of India and others	RESPONDENT

Date of Decision: Nov. 16, 1989

Acts Referred:

- Contract Labour (Regulation and Abolition) Act, 1970 - Section 10, 10(1), 12, 2(1), 2(2)
- Industrial Disputes Act, 1947 - Section 2, 2A

Citation: (1989) 91 BOMLR 770 : (1990) 60 FLR 686 : (1991) 1 LLJ 89

Hon'ble Judges: S.N. Variava, J

Bench: Single Bench

Judgement

This Judgment has been overruled by : Dena Nath and others Vs. National Fertilisers Ltd. and others, AIR 1992 SC 457 : (1991) 4 JT 413 : (1992) LabIC 75 : (1992) 1 LLJ 289 : (1991) 2 SCALE 1081 : (1992) 1 SCC 695 : (1991) 2 SCR 401 Supp

1. The 1st petitioner is a registered trade union representing employees doing the work of sweeping and cleaning in Air India building at Nariman Point, Bombay-21. The petitioners Nos. 2 and 3 claim to be two of such employees. The 1st Respondent is the Union of India. The 5th Respondent is the State of Maharashtra. Respondent No. 2 is a statutory corporation established under the Air Corporation Act, 1953. Respondents No. 3, 4, 6 and 7 are some of the contractors through whom Respondent No. 2 gets done the work of sweeping and cleaning of the Air India building at Nariman Point, Bombay-21. It may be mentioned that it is an admitted position that under the Industrial Disputes Act, the Appropriate Government'' in respect of the 2nd respondent is the Central Government.

2. The Contract Labour (Regulation and Abolition) Act, 1970 was enacted on 10th February, 1971 (the said Act is hereinafter for brevity''s sake referred to as the ''C.L.

Act''). In September 1971 the Labour Enforcement Officer (Central) called upon the 2nd Respondent to register themselves. The last para of the letter reads as follows :

"The applications for registration and licensing in respect of your establishment should be addressed to the Assistant Labour Commissioner (Central) II Bombay ".

On or about 17th/18th September, 1971, the 2nd Respondent applied for registration with the Assistant Commissioner (Central). The registration certificate was granted to the 2nd Respondent by the Labour Commissioner (Central)

3. The 2nd Respondent in their letter date 18th November, 1971 addressed to the Labour Commissioner (Central), stated as follows :

"On a telephonic reference made to your office, we now understand that your office is not the competent authority to enforce the provisions of the Act and the Central Rules framed thereunder vis-a-vis Air India, we so understand that as far as Air India is concerned, the appropriate Government under the Act would be the State Government, which has not framed any Rules under the Act. We are, therefore, not processing any further action in the matter of compliance of the provisions of the Act and the Central Rules".

Respondent No. 2 then applied for revocation of the registration with the Labour Commissioner (Central). On 10th August 1971, the 2nd Respondent applied for registration with the Labour Commissioner (State). This registration was granted on 3rd January, 1975. The registration granted by the Labour Commissioner (Central) was revoked on 2nd May, 1973.

4. On 9th December, 1976 the Central Government issued a Notification in pursuance of the powers vested in them u/s 10(1) of the C.L. Act. The said Notification reads as follows :

"In exercise of the power conferred by sub-section (1) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), the Central Government after consultation with the Central Advisory Contract Labour Board, hereby prohibits employment of contract labour on and from the 1st March, 1977 for sweeping, cleaning, dusting and washing of buildings owned or occupied by establishments in respect of which the appropriate Government under the said Act is the Central Government.

Provided that this notification shall not apply to the outside cleaning and other maintenance operations of multistoreyed buildings where such cleaning or maintenance operations cannot be carried out except with specialised experience."

5. Respondent No. 2 being registered with the Labour Commissioner (State) continued to get the work of sweeping and cleaning done through contractors. The 1st petitioners therefore by their letter dated 7th January, 1985 addressed to the 2nd Respondents and some of the contractors raised certain demands. One of the

demands was that the system of getting this work done through contractors should be discontinued. A remainder was sent through their Advocates on 5th January, 1985.

6. Two of the contractors by their two separate but identical letters in reply both dated 13th March, 1985 inter alia stated as follows :

"We are pleased to inform you that, after discussion, Air India has agreed to revise the wages to Rs. 18.70 (Rupees eighteen and paise seventy only) per day per full time worker working in their Nariman point Building from January 1985 onwards.

.....

Rest of your demands will be taken up with Air India and the same can be settled mutually within two months."

However, as the demand for abolition of getting the work done through contractors was not agreed to, this petition was filed on 24th June, 1985.

7. The C.L. Act was amended on 20th January, 1986. After amendment Sec. 2(a) reads as follows :

"Appropriate Government means

(i) In relation to an establishment in respect of which appropriate Government under the Industrial Disputes Act is the Central Government, the Central Government."

8. The 2nd Respondents therefore applied for registration with the Labour Commissioner (Central). The registration certificate was granted to Respondent No. 2 on 7th January, 1987. However in this certificate the process of cleaning and sweeping were not included. In the meantime in November 1986, the Labour Enforcement Officer had filed a complaint against the 2nd respondent for alleged breach of Notification dated 9th December, 1976. The 2nd respondent filed in this Court a Writ Petition bearing No. 495 of 1987 for the purposes of having this complaint quashed. Thereafter the office of the Chief Labour Commissioner, Ministry of Labour, Issued on 16th April, 1987 and 20th May, 1987 clarification that the above mentioned notification dated 9th December, 1976 did not apply to establishments in respect of which the Central Government had become the appropriate Government by the Amendment Act, 1986. On this clarification, the Labour Enforcement Officer withdrew the complaint filed by him and Respondent No. 2 withdrew Writ Petition No. 495 of 1987.

9. On these facts, the questions which arise for consideration are :

(i) Whether prior to the amendment of the C.L. Act, the appropriate Government in relation to Respondent No. 2 was the Central Government ?

(ii) Whether on the amendment of the C.L. Act, the notification dated 9th December, 1986 (Exh. C to the petition) became applicable to Respondent No. 2 ?

(iii) Whether Respondent No. 2 and their contractors have complied with the provisions of the C.L. Act ?

(iv) What reliefs, if any, the petitioners are entitled to ?

10. Mr. Singhvi has argued that, even prior to the amending of the C.L. Act, under section

2(1) (a) the Central Government was the Appropriate Authority'' in respect of the 2nd respondents. Mr. Dhanuka and Mr. Lokur on the other hand have argued that prior to the amendment of the C.L. Act, the ''Appropriate Authority'' was not the Central Government, but the State Government.

11. The parties have relied upon various authorities in support of their rival contentions. Before these are considered, one submission made by Mr. Dhanuka may first be dealt with. Mr. Dhanuka has submitted that most of the authorities relied upon by Mr. Singhvi are either under the Industrial Disputes Act or under Article 12 of the Constitution of India. Mr. Dhanuka submits that this can be of no assistance in interpreting a provision under the C.L. Act. He submits that the language used in a statute has to be construed with reference to that statute alone. It has to be construed with reference to the aims and objects of that statute. He submits that in construing the words used in a particular statute interpretations placed on similar words in other statutes should not be relied upon.

12. So far as the Industrial Disputes Act is concerned, it must immediately be noted that some of the authorities relied upon by Mr. Dhanuka himself are the Industrial Disputes Act or compared the provisions between the Industrial Disputes Act and the C.L. Act. This must necessarily be so because the language used in the two statutes in identical and both the Acts deal with problems relating to labour. The only difference being that prior to the amendment of the C.L. Act various Corporations had not been named in the C.L. Act whereas they were named under the Industrial Disputes Act. In my view, the authorities, even though the same are under the Industrial Disputes Act, are relevant whilst dealing with this question. This argument of Mr. Dhanuka cannot, therefore, be accepted.

13. On the question of authorities under Article 12 of the Constitution of India, an argument identical to the one made by Mr. Dhanuka was made before the Supreme Court in the case of Sri Ramayan Harijan Vs. State of West Bengal, ,. In that case the question was whether under the Tamil Nadu Shops & Establishments Act, the State Bank of India and other Nationalised Banks were establishments under the Central Government. While dealing with this contention the Supreme Court has observed as under (P. 430) :

"..... It was urged by the learned Counsel for the employees that since Art. 12 of the Constitution defining the term ''State'' so as to include authorities under the control of Government of India occurs in part III of the Constitution dealing with fundamental rights, the decisions in the cases dealing with Art. 12 could not be made the basis for the decision that the State Bank of India and Nationalised Banks were the establishments under the Central Government within the meaning of the Acts referred to above with regard to shops and commercial establishments. Even though that be so, it can be gainsaid that the salient principles which have been laid down in those cases with regard to the authorities having a corporate structure and exercising autonomy in certain spheres will certainly be useful for determining as to whether the State Bank of India and the Nationalised Banks are establishments under the Central Government ....."

Thereafter in paras 15 and 16 it is further observed as follows (P. 433) :

"..... As regards the judgment of the Full Bench of the Kerala High Court which is the subject matter of Civil Appeal No.837 of 1984 and the judgments of the Andhra Pradesh High Court which are the subject matter of Civil Appeals Nos. 1042 of 1979 and 1120 of 1976 it may be pointed out that what has weighed with the learned Judges who decided these cases is :

(1) that the decisions dealing with the term ''other authorities'' within the meaning of Article 12 of the Constitution were not of much assistance.

.....

.....

As regard the first reason referred to above we have already pointed out that even if the decisions dealing with Art. 12 of the Constitution are not made the foundation for deciding the point in issue, the principles enumerated therein referred to above particularly with regard to deep and pervasive control are relevant for deciding the point in issue ..."

14. Thus in my view, the position is well settled. It is no longer open to contend that the authorities dealing with cases under Art. 12 cannot be used even for limited purposes of seeing what are the indicia and/or tests for determining whether an establishment is an agency of the Government.

15. The law on the question as to whether an establishment is or is not an agency of the Government is by now well settled by various authorities of the Supreme Court as well as this Court.

16. In the case of Heavy Engineering Mazdoor Union Vs. State of Bihar and Others, , the question was whether the Central Government was the appropriate authority under the Industrial Disputes Act in respect of Heavy Engineering Corporation Limited. This was a Company incorporated under the Companies Act. It was held

that the term ''authority'' must be construed to mean legal power given by one person to another to do an act. It was further held that the words "under the authority of" mean pursuant to the authority such as when an agent or a servant acts under or pursuant to the authority of his principal or master. It was thereafter held that in cases of incorporated companies, the power and functions are provided by the memorandum and articles of the association; that a company has a separate legal existence. The Supreme Court held that the mere fact that the entire share capital of the respondent-company was contributed by the Central Government and the fact that all its shares are held by the President and certain officers of the Central Government did not make the Company an agent either of the President or the Central Government. It was held that the extensive powers, including the power to give directions as to how the Company should function, the power to appoint Directors and even the powers to determine the wages and salaries payable by the Company to its employees, were powers derived from the Company''s memorandum of association and the articles of association and not by reason of the company being the agent of the Central Government. The Supreme Court however took care to add as follows (P. 553) :

''.... The question whether a corporation is an agent of the State must depend on the facts of each case. Where a statute setting up a corporation so provides, such a corporation can easily be identified as the agent of the State as in Graham v. Public Works Commissioners (1901) 2 KR 781 where Phillimore, J. said that the Crown does in certain cases establish with the consent of Parliament certain officials or bodies to be treated as agents of the Crown even though they have the power of contracting as principals ..... an inference that the corporation is the agent of the Government may be drawn where it is performing in substance governmental and not commercial functions."

17. In the case of Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, , after consideration of English, American and Indian cases the Court laid down as follows (PP. 425-427) :

"It has taken English and American Courts many years to concede that an exercise of an industrial or commercial activity on behalf of the State does not deprive such activity of its ''Governmental'' character. But a great many anomalies in common law remain, in particular as regard the immunities and privileges of the Crown in such matters, immunity from the binding force of statute, debt priority, freedom from taxes and other public charges. The recent English cases appear, at long last, to move towards the abandonment of the totally antiquated notions of ''proper'' functions of Government".

"..... Nobody will deny that an agent has a legal personality different from that of the principal. The fact that the agent is subject to the direction of the principal does not

mean that he has no legal personality of his own. Likewise, merely because a corporation has legal personality because of its own, it does not follow that the Corporation cannot be an agent or instrumentality of the State, if it is subject to control of Government in all important matters of policy. No doubt, there might be some distinction between the nature of control exercised by principal over agent and the control exercised by Government over public Corporation. That, I think, is only a distinction in degree. The crux of the matter is that public corporation is a new type of institution which has sprung from the new social and economic functions of Government and that it, therefore, does not neatly fit into old legal categories. Instead of forcing it into them, the latter should be adapted to the needs of changing times and conditions."

"I do not think there is any basis for the apprehension expressed that by holding that these public corporations are "State" within the meaning of Article 12, the employees of these corporations would become Government servants. I also wish to make it clear that I express no opinion on the question whether private corporations or other like organisations, though they exercise power over their employees which might violate their fundamental rights, would be "State" within the meaning of Article 12".

18. In the case of Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, , it was pointed out as follows (pp. 226-227) :

"14. Now it is obvious that the Government which represents the executive authority of the State, may act through the instrumentality or agency of natural persons or it may employ the instrumentality or agency of juridical persons to carry out its functions. In the early days, when the Government had limited functions, it could operate effectively through natural persons constituting its civil service and they were found adequate to discharge Governmental functions, which were of traditional vintage. But as the task of the Government multiplied with the advent of the welfare State, it began to be increasingly felt that the framework of civil service was not sufficient to handle the new tasks, which were often of specialised and highly technical character. The inadequacy of the civil service to deal with these new problems came to be realised and it became necessary to forge a new instrumentality or administrative device for handling these new problems It was in these circumstances and with a view to supplying this administrative need that public corporations came into being as the third arm of the Government ..... So far as India is concerned, the genesis of the emergence of corporation as instrumentalities or agencies of Government is to be found in the Government of India Resolution on Industrial Policy dated 6th April, 1948 where it was stated inter alia that "management of State enterprise will as a rule be through the medium of public corporation under the statutory control of the Central Government who will assume such powers as may be necessary to ensure this". It was in pursuance of the policy envisaged in this and subsequent resolutions on Industrial Policy that

corporations were created by Government for setting up and management of public enterprises and carrying out other public functions. Ordinarily these functions could have been carried out by Government departmentally through its service personnel but the instrumentality or agency of the corporations was resorted to in these cases having regard to the nature of the task to be performed. The corporation acting as instrumentality or agency of Government would obviously be subject to the same limitations in the field of constitutional and administrative law as Government itself, though in the eye of the law, they would be distinct and independent legal entities. If Government acting through its officers is subject to certain constitutional and public law limitation, it must follow a fortiorari that Government acting through the instrumentality or agency or corporations should equally be subject to the same limitations. But the question is how to determine whether a corporation is acting as instrumentality or agency of Government. It is a question not entirely free from difficulty."

"15. A corporation may be created in one of two ways. It may be either established by statute or incorporated under a law such as the Companies Act, 1956 or the Societies Registration Act, 1860 ....."

The Court then proceeded to lay down the different tests to be applied for determining this question. The Supreme Court also held that in today''s Social Welfare State, very often there was no distinction between private activities and governmental activities. Supreme Court held that the public nature of the function, if impregnated with governmental character or ''tied or entwined with Government'' or fortified by some other additional factors, may render the corporation an instrumentality or agency of Government.

19. In the case of Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others, , the abovementioned case was quoted in extenso and the test laid down therein approved and summarised as follows (PP. 112-113) :

"(1) One thing is clear that if the entire share capital of the corporation is held by Government, it would go a long way towards indicating that the corporation is an instrumentality or agency of Government.

(2) Where the financial assistance of the State is so much as to meet almost entire expenditure of the corporation, it would afford some indication of the corporation being impregnated with governmental character.

(3) It may also be a relevant factor ..... whether the corporation enjoys monopoly status which is State conferred or State Protected.

(4) Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality.

(5) If the functions of the corporation are of public importance and closely related to governmental functions, it would be a relevant factor in classifying the corporation

as an instrumentality or agency of Government.

(6) Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference of the corporation being an instrumentality or agency of Government. Thereafter in para 11 it is stated as follows :

"We may point out that it is immaterial for this purpose whether the corporation is created by a statute or under a statute. The test is whether it is an instrumentality or agency of the Government and not as to how it is created. The inquiry has to be not as to how the jurisdic person is born but why it has been brought into existence. The Corporation may be a statutory corporation created by a statute or it may be a Government Company or a company formed under the Companies Act, 1956 or it may be a society registered under the Societies Registration Act, 1860 or any other similar statute ... The concept of instrumentality or agency of the Government is not limited to a corporation created by statute but is equally applicable to a company or society and in a given case it would have to be decided on a consideration of the relevant factors ....."

20. In the case of Regional Provident Fund Commissioner, Karnatak v. Workmen Represented by the General Secretary, Karnatak Provident Fund Employees'' Union reported in Regional Provident Fund Commissioner, Karnataka Vs. Workmen represented by The General Secretary, Karnataka Provident Fund Employees'' Union and Another, , the question arose as to whether the Central Government was the appropriate authority in respect of the Regional Provident Fund Commissioner, Karnatak. While answering this question in the affirmative the Court noted with approval the following observations made in the case of Graham v. Public Works Commissioner (1901) 2 KB 78 :

"..... Where a statute setting up a Corporation so provided, such a Corporation could easily be identified as the agent of the State and that it was possible for the Crown with the consent of Parliament to appoint or establish certain officials or bodies who were to be treated as agents of the Crown even though they had the power of contracting as principals. Merely because the officials of Government or certain bodies constituted by the Government for purposes of administration are given the garb of a statutory corporation they do not cease to be what they truly are".

21. Mr. Dhanka had strongly relied upon the case of Food Corporation of India Workers'' Union Vs. Food Corporation of India and Others, . In this case, reliance was placed on the case of Heavy Engineering (supra) and it was held that the appropriate authority under the C.L. Act for the regional offices and warehouses of the Food Corporation of India were the respective State Governments and not the Central Government. The Court also held in para 11 as follows :

"We would be concerned with sub-cl. (ii) of Sec. 2(1)(e) which provides that the establishment would be an establishment where any industry, trade, business,

manufacture or occupation is carried on. Thus various warehouses, godowns and places alike set up by the Corporation would be establishments where the trade of the Corporation is being carried on. Could these establishments be said to be pertaining to an industry carried on by or under the authority of the Central Government ? Before we find out the correct meaning of the expression ''any industry carried on by or under the authority of the Central Government''. It is necessary to draw attention to the definition of ''appropriate Government'', as set out in Section 2(a)(i) of the Industrial Disputes Act, 1947 which provides that ''appropriate Government'' means : (i) in relation to any industrial dispute concerning any industry carried on by or under the authority of Central Government (omitting the words not necessary for the present purpose) ... or in relation to an industrial dispute concerning the ... Food Corporation of India established u/s 3, or a Board of Management established for two or more contiguous States under Sec. 16 of Food Corporation Act, 1964 ... the Central Government is the appropriate Government. Obviously, therefore, for the purpose of Industrial Disputes Act, 1947, in relation to any industrial dispute concerning the Food Corporation of India, the Central Government is the appropriate Government. There is an express reference to the Food Corporation of India. If the Food Corporation of India was an establishment in an industry carried on by or under the authority of the Central Government, it would be tautologous to specifically refer it and include, it. It is a well established canon of statutory construction that legislature is known to avoid tautology and redundancy. If Food Corporation of India was an industry carried on by or under the authority of the Central Government, it would have been comprehended in the first part of sub-section (1) but that being not the position, it was specifically referred to by name. Having examined this definition, it is necessary to bring to the force the contradistinction between the definition of the expression ''appropriate Government'' in the Industrial Disputes Act, 1947 and the definition in the Act under examination. It may be pointed out that the expression in the Act does not include by name the Food Corporation of India as the one in respect of which the appropriate Government would be the Central Government, while it is mentioned so in the definition in the Industrial Disputes Act even though both the statutes use the general expression ''any industry carried on by or under the authority of the Central Government''".

22. However, in my view this authority is not of much assistance to Mr. Dhanuka. It is to be noted that under the Food Corporation Act, the Corporation could establish agencies at other places, in or out of India. It is clear from paras 11 and 15 of the Judgment that the Supreme Court was dealing with the question as to who was the appropriate authority in respect of the various warehouses of Food Corporation of India. The Supreme Court did not deal with the question as to which was the appropriate authority in respect of Food Corporation of India itself. It must be noted that the Food Corporation of India has its Head Office in Delhi. Also it must be noted that for the purpose of arriving at this decision the Supreme Court is relying upon

and making a comparison between the provisions of the C.L. Act and Industrial Disputes Act.

23. At this stage it would be convenient to deal with an argument of Mr. Dhanuka based upon this case. Mr. Dhanuka submitted that the amendment of the C.L. Act is proof that, prior to the amendment, the appropriate Government was the State Government. He submits that, if the appropriate Government was already the Central Government, it would be tautologuous to specifically refer to it and include it. He submits that on the principles laid down by the Supreme Court it must be held that the amendment of the C.L. Act was carried in order to constitute the Central Government as the appropriate authority in place of the State Government. Whilst appreciating this argument, it must be remembered that in the case of Regional Provident Fund Commissioner (supra) the Supreme Court had held that, even prior to the amendment of the Act, the appropriate authority was the Central Government. This in spite of the fact that by a subsequent amendment the Central Government was stated to be the appropriate authority in respect of the Regional Provident Fund Commissioner. An identical argument, also based on the Food Corporation''s case (supra), was rejected by this Court in the case of International Airport Authority of India v. P. K. Srivastava (set out hereafter). In this case it was observed as follows :

"This decision does not lay down that any of the statutory corporations and other bodies which are expressly included in Section 2(a) of the Industrial Disputes Act, 1947 either originally or by virtue of the amendment of 1982 cannot be said to be an industry carried on ''by or under the authority of Central Government''. This question will have to be decided on the facts and circumstances of each case depending upon the manner in which the statutory Corporation in question is set up and the manner in which it functions and discharges its obligations. It is possible that in a given case a Corporation would not have been considered as an industry carried on by or under the authority of the Central Government. But by virtue of its express inclusion in Section 2(a)(i), a reference in case of such a corporation is required to be made by the Central Government. It is equally possible that in case of another Corporation, on the facts and circumstances relating to that Corporation it can be seen that it is an industry carried on by or under the authority of the Central Government. Its express inclusion in Section 2(a)(i) will not make the first part of Section 2(a)(i) inapplicable to it".

Not only am I bound my these observations, but I am in complete agreement with the same.

24. The question as to who is the appropriate authority again arose before the Supreme Court in the case of Bank of India v. P. A. Stalin reported in (1988) I.S.C. 106. After dealing with various authorities the Supreme Court extracted and quoted with approval a passage from an earlier decision which reads as follows :

"It is undoubtedly true that the corporation is a distinct juristic entity with a corporate structure of its own and it carries on its functions on business principles with a certain amount of autonomy which is necessary as well as useful from the point of view of effective business management, but behind the formal ownership which is cast in the corporate mould, the reality is very much the deeply pervasive presence of the Government. It is really the Government which acts through the instrumentality or agency of the corporation and the juristic veil or corporate personality worn for the purpose of the convenience of management and administration cannot be allowed to obliterate the true nature of reality behind the Government."

25. The question as to whether the Central or State Government was the appropriate authority arose before this court in the cases of International Airport Authority v. P. K. Srivastava (supra) and Bombay Telephone Canteen Employees'' Association v. Mahanagar Telephone Nigam Ltd. & Ors. reported in 1989(I) C.L.R. 348. The test laid down by the Supreme Court in the abovementioned cases was applied by this Court and it was held that the Central Government was the appropriate Government in respect of the International Airport Authority of India and Mahanagar Telephone Nigam respectively. Mr. Dhanuka had submitted that both these decisions are dealing with this question under the Industrial Disputes Act and are not applicable to this case. He submitted that in any event in the case of Telephone Nigam, a Division Bench of this Court has laid down two tests viz., (i) whether the Corporation is established to carry on a function which is exclusively the privilege of the Government to carry on and (ii) whether the Government exercises control and supervision. Mr. Dhanuka submits that in the present case prior to coming into force of the Air Corporation Act, the business of 2nd Respondents was being carried on by a private company. He submits that the 1st test laid down by the Division Bench is not fulfilled in this case and for that reason it must be held that the appropriate authority is the State Government. I am unable to accept this argument. The Division Bench has referred the most of the authorities of the Supreme Court set out above and has stated that it is in light of those decisions that the case has to be decided. The Division Bench has then extracted two tests which were applicable to the facts of the case before it. That would not mean that all the other tests laid down by the Supreme Court are not to apply. Even otherwise today air transport is a virtual monopoly of the 2nd respondent and Indian Airlines Corporation. The mere fact that in the past it was carried on by a private company can hardly detract from the position that today it is exclusively the privilege of the Central Government to decide as to who can carry on this function.

26. From the authorities cited above the principle which emerges is that it would first have to be ascertained whether the 2nd respondent is an agency of the Central Government. This necessarily would not mean that the 2nd Respondent need not be a distinct juristic entity or that it cannot have a corporate structure of its own. Further the fact that the 2nd respondent is subject to the direction of the Central

Government need not mean that it has no legal personality of its own. The 2nd respondent could carry on its own functions on business principles and with a certain amount of autonomy. However, merely because the 2nd respondent has a personality of its own, it does not automatically follow that the 2nd respondent is not an agency of the Central Government. It would depend upon the various provisions of the Air Corporation Act. The tests applicable would be those set out in para 19 above.

27. Before considering the provisions of the Air Corporation Act, certain other authorities cited by Mr. Dhanuka need to be set out. Mr. Dhanuka has relied on the case of Tamldi v. Hannaford reported in (1949) 2 All E.R. 327 , Swadeshi Cotton Mills Thozhilalar Shemalana Padukappu Union Vs. National Textile Corporation Ltd. and Others, , and Central Warehousing Corporation v. Delhi Administration reported in (1984) L.I.C. 360. In these cases it has been held that a Corporation has a separate legal entity of its own; that merely because there are extensive powers of control it does not mean that the Corporation is an agency of the Government. In the last mentioned case it has also been held that the authorities under Article 12 of the Constitution cannot be used for the purposes of determining this question under the Industrial Disputes Act. With great respect to the learned Judges concerned, I am in disagreement with these authorities. As set out above, a Corporation can have a separate legal existence and still be an agency of the Government. In any event these authorities are directly contrary to the two decision of this court which are set above. Even if I was otherwise inclined, the decision of this Court would be binding on me.

28. Coming now to the provisions of the Air Corporation Act, 1953, under which the 2nd Respondent is established. The 2nd Respondent is a body corporate with powers which are subject to the provisions of the Act. Under Sec. 4 the Board of Directors, including the Chairman, are to be nominated by the Central Government. The Directors may be appointed wholetime or part-time as the Central Government may direct. Section 4 also provides that in the absence of the Chairman, the Central Government may nominate another person as Chairman whether he is a Director of the Corporation or not. u/s 5, the appointment of the Chairman and the Directors can be terminated earlier by the Central Government. The pay and remuneration to be given to the Director is to be such as may be determined by the Central Government. u/s 7 the Rules under the Act are to be made by the Central Government. u/s 8, the Corporation may appoint a Managing Director, officers and other employees, however such appointments are subject to the approval of the Central Government. Section 9 provides that the Corporation shall act, as far as possible, on business principles. u/s 10 all expenditure incurred by the Central Government for or in connection with the Corporation upto the date of establishment is to be treated as capital provided by the Central Government to the Corporation. The Central Government is to provide further capital as may be required by the Corporation for carrying on the business of the Corporation or for

any purpose connected therewith on such conditions as the Central Government may determine. Under sub-clause(3) of Section 10 of the Corporation can borrow money, secure repayments of monies to be borrowed by it only in accordance with the terms of an authority given to it by the Central Government. u/s 12 the Corporation can maintain in account either in any scheduled bank or in any bank approved by the Central Government. In such accounts sums not exceeding limits prescribed by the Central Government, may be kept. The balances have to be deposited in the Reserve Bank. u/s 15 the Corporation must maintain accounts records and prepare annual statements of accounts in such forms as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India. The accounts as certified by the Comptroller and Auditor General of India have to be forwarded annually to the Central Government and the same are to be laid before both the Houses of Parliament. u/s 18 after the enactment of the Act except for the two Corporations mentioned in the Act, no other person can operate any air-transport service from, to, in or across India except under circumstances set out in that section. u/s 19 all licences which were granted under the Indian Aircraft Act, 1934, ceased to be valid. u/s 34, the Central Government may give to the Corporation directions as to manner of exercise and performance by the Corporation of its functions and the Corporation shall be bound to give effect to any such direction. Further the Central Government can also direct either of the Corporation to undertake any air transport service or other activity or discontinue and/or make any change in any schedule of air transport service or other activity which it is operating or carrying on. The Central Government may also direct the Corporation not to undertake any activity which it proposes to do. Section 34 further provides that if any loss is suffered by the Corporation as a result of the abovementioned direction, then the Central Government shall reimburse the Corporation to the extent of the loss it has suffered. u/s 35, the Corporation cannot, without the previous approval of the Central Government, undertake any capital expenditure for purchase or acquisition of immovable property, aircraft or any other thing in a sum exceeding Rs. 40 lakhs. It cannot even enter into a lease of any immovable property for a period exceeding 10 years nor it can dispose of property, right, privilege without the previous approval of the Central Government. u/s 36 the Corporation has to prepare and submit to the Central Government the programme of work for each year and if during the year any supplementary activity is proposed to be undertaken, then a programme of that supplementary activity has also to be submitted. u/s 31, the Corporation at the end of the each financial year has to prepare and submit to the Central Government the report giving all its activities during the previous financial year. This report has to be placed before both the House of the Parliament. u/s 39 of the Central Government may direct that an activity carried on by the Corporation be no longer carried on by that Corporation and the Central Government can transfer the property belonging to the Corporation to another Corporation.

29. From the abovementioned provisions, it is to be seen that the elements of large scale financial assistance, as well as deep and pervasive control of the Central Government are present. Further under the provisions of this Act, so far as air transport is concerned, a monopoly status is enjoyed by the two Corporations. Also, there can be no doubt that the Corporation is performing a function which is of great public importance. Under these circumstances not one or two but most of the tests laid own by the Supreme Court have been satisfied. It is clear that the 2nd respondent Corporation is an agency of the Central Government. It will therefore have to be held that under C.L. Act the appropriate authority in respect of the 2nd Respondent is the Central Government.

30. Mr. Dhanuka has submitted that in interpreting the provisions of a statute, the interpretations given by the Legislature are relevant and must be given weightage by the Court. In support of this, Mr. Dhanuka had cited various authorities. It is not necessary to set them out as there can be no quarrel with the proposition canvassed by Mr. Dhanuka.

31. Mr. Dhanuka submits that, in this case, even prior to any dispute having arisen, the 2nd Respondents had been asked to register themselves with the State Government. He submits that, consequent to such advice, the 2nd respondents had registered themselves with the State authorities. He submits that this was because it was the opinion of the Government that the appropriate authority was the State Government.

32. It is however to be noted that on the enactment of the C.L. Act, the 2nd Respondents were called upon by the Labour Commissioner (Central) to register themselves. Thus the contemporaneous interpretation of the concerned authorities was that the appropriate authority was the Central Government. Thereafter from the correspondence it appears that it was the 2nd respondents who came to the conclusion that the appropriate authority was the State Government and the 2nd respondents'' opinion is accepted thereafter by the Labour Commissioner. This therefore cannot assist the 2nd respondents. Even otherwise in my view, an interpretation that the appropriate authority is the State Government would be clearly wrong and such an interpretation cannot be accepted by this Court.

33. The second question which arises is whether on the amendment of the C.L. Act, the notification dated 9th December, 1976 becomes applicable to the 2nd respondents. In the view that I have taken the notification would have been applicable right from the date that it was issued and would certainly be applicable on the amendment of the Act in 1986. However in the event of my being held not to be right, it would be better to answer this question on the footing that prior to amendment of the C.L. Act the appropriate authority was the State Government.

34. Mr. Dhanuka has argued that even after the amendment of the C.L. Act, this notification cannot be made applicable to an establishment which was not covered

by it at the time it was issued. He submits that u/s 10 of the C.L. Act, the notification can be issued only after consideration of the various factors which are set out in sub-clause (2) thereof. He submits that a notification can be issued, in respect of any establishment, only after consideration of factors such as (a) the conditions of work, (b) benefits provided for the contract labour, (c) whether the work carried on through contract labour is incidental to or necessary for the industry, trade or business, (d) whether the work is of a perennial nature, (e) whether this work is ordinarily done through regular workmen in that establishment or an establishment similar thereto, and (f) whether the work is sufficient to employ considerable number of wholetime workmen. It is submitted that these are factors which must be considered in respect of each establishment. Mr. Dhanuka submits that at the time that the Central Government issued the notification these factors in respect of the 2nd respondents were not considered by the Central Government. He submits that any notification issued without consideration of all relevant factors in respect of an establishment over which the Central Government had no authority would be vitiated and would not be binding on that establishment. It is submitted that even if the Central Government subsequently becomes the appropriate authority the notification would not become applicable to that establishment. It is submitted that at the time that the notification was issued the Central Government had intended it to operate only in establishments over which it had jurisdiction. It is submitted that till such time that the Central Government applies it mind to the various factors in respect of the 2nd respondents and issue a fresh notification, the 2nd respondents are at liberty to get the work of sweeping and cleaning done through contractors.

35. In support of his proposition, Mr. Dhanuka relied upon the case of Bagalkot City Municipality Vs. Bagalkot Cement Co., . In this case the municipal limits of the Bagalkot Municipality were extended. The question was whether by merely extending the municipal limits, the octroi limits were also extended. Relying on a provision in the bye-laws, that the same could only be amended after giving notice to all persons likely to be affected by that change, the Supreme Court held that the bye-laws laying down the octroi limits could not be deemed to have been changed so as to affect the rights of such person who had no notice of such change. In my view, this authority has no relevance to the facts of this case. In the present case we are not considering whether the jurisdiction of the Central Government has been extended or not. The notification dated 9th December, 1976, is a piece of delegated legislation. The question would be whether a party can claim that it is not bound by an existing legislation on the ground that at the time of its enactment it did not cover that party. In other words, the question is whether establishments, which come into existence at a later date or in respect of whom the Central Government becomes the appropriate authority at a later date, can refuse to comply with legislation in force.

36. It is to be noted that notification u/s 10(1) is in respect of a process, operation or other work which may be carried on in an establishment. Therefore, the notification

which is issued need not be in respect of any particular establishment. This Court in the case of S.B. Deshmukh, Chief Regional Manager, State Bank of India, Nagpur Vs. The State and another, , held that Section 10(1) applies to a process, operation or work and not to any establishment. Not only am I bound by this opinion, but I am in complete agreement with it. The Supreme Court in the case of Ruston and Hornsby (I) Ltd. Vs. T.B. Kadam, , took a similar view. There the question was whether the amended Section 2-A would become applicable in respect of a dispute which had arisen much earlier. The Supreme Court held that the section dealt with the state of affairs. So long as a person was discharged, dismissed, retrenched or otherwise terminated, the question of retrospective application would not arise.

37. The notification dated 9th December, 1976 bars contract labour in respect of the work of sweeping, cleaning, dusting or washing in all establishments of which the Central Government was or is the appropriate authority. At the time that the notification was issued, the factors considered by the Central Government, obviously would be that the work of sweeping, cleaning, dusting and washing of all establishments under it was incidental to and necessary; that it was of a perennial nature and could ordinarily be performed through regular workmen and that it was sufficient to employ considerable number of people. Thus so long as the notification is in force, contract labour cannot be employed in respect of this work. It is immaterial that the Central Government became the appropriate authority at a later date.

38. Even otherwise it is to be noted that the notification is applicable to all establishments. If that be so then it would be applicable to an establishment the moment that that establishment comes within its purview. An analogy may be drawn from the provisions of Companies Act. In respect of Government Companies, under the powers given u/s 620 of the Companies Act, the Government may issue notifications exempting Government Companies from certain provisions of the Companies Act or directing the Government Companies to follow certain procedures. So long as these notifications remain in force, they apply to all Government Companies. Merely because a Government company is incorporated subsequently or subsequently becomes a Government Company, does not mean that these notifications would not apply to that company. It is not necessary that the Government should issue fresh notification every time a new company becomes a Government company. That this notification is to apply to all establishments is also clear from the fact that no list of establishments has been annexed to the notification. Admittedly at the time that this notification was issued, the Central Government had a list of the establishments of which it was the appropriate authority. If the intention was to make it applicable only to these establishments, the list of those establishments would have been annexed to the notification. The fact that no such list is annexed indicates that it was to apply not merely to establishments which were then under its authority but also to establishments in respect of which it became the appropriate authority at any time. Mr. Lokur was

asked whether on or after 1976 and in any case on or after the amendment of the C.L. Act any further notification/s had been issued by the Central Government in respect of any establishment. Mr. Lokur very fairly stated that so far as he was aware, there was no subsequent notification in respect of any other establishment/s. In my view the fact that no subsequent notifications have been issued also indicates that this notification is to apply to all establishments of which the Central Government becomes the appropriate authority.

39. Mr. Dhanuka and Mr. Lokur had then submitted that this question had been considered by the Government and that the opinion expressed by them and the interpretation given by them must be given considerable weightage by the Court. It is submitted that the Government has clarified by letters dated 16th April, 1987 and 20th May, 1987 that this notification will not apply to establishments of which the Central Government was not the appropriate Government prior to the amendment of the C.L. Act. It is submitted that in clarification dated 20th May, 1987 it is specifically set out that the 2nd Respondents will not be governed by the notification dated 9th December, 1976. I am unable to accept this submission. On the amendment of the Contract Labour Act, the 2nd Respondent was refused registration in respect of the work of sweeping and cleaning. This was admittedly on the footing that after the amendment of the C.L. Act the notification was applicable to the 2nd Respondents. As the 2nd Respondents continued to get this work done through contractors, a prosecution was launched against the 2nd Respondents for not complying with this notification. Therefore the immediate interpretation was that the notification was applicable to 2nd Respondents. It is only after the Writ Petition No. 495 of 1987 was filed by the Petitioners that these clarifications have been issued. Thereafter the prosecution and Writ Petition were withdrawn. This subsequent opinion is clearly wrong.

40. Mr. Dhanuka next submitted that a notification issued by the Central Government in respect of all establishments without a consideration of all relevant factors in respect of that establishment would be clearly bad. He submitted that it was beyond the legislative competence of the Central Government to issue a notification which would be binding on establishments in respect of which it becomes the appropriate authority at a later date. He submits that such a notification would be vitiated and unenforceable. In my view, the Central Government was competent to decide that the work of sweeping, cleaning, dusting and washing will always be incidental or necessary to that trade, business, industry, manufacture or occupation and that it would necessarily be of a perennial nature, that this work could be done with regular workmen in that establishment and is one where there would necessarily be sufficient number of wholetime employees. Once such a policy decision is taken, there is no reason why that could not be made applicable to all establishments. Admittedly even in respect of the 2nd Respondents, the work of sweeping and cleaning is necessary and of a perennial nature. It is work which could be done through regular workmen and work requires a considerable

number of workmen. Thus there are no factors special or peculiar to the 2nd respondents which required separate consideration.

41. Accordingly, it will have to be held that the notification dated 9th December, 1976 applies to 2nd Respondents. The 2nd Respondents are directed to given effect to and comply with this notification.

42. Mr. Singhvi submits that the directions given above are not sufficient. He submits that 2nd Respondents were not registered with the appropriate authority between 20th September, 1971 and 6th January 1973. He further submits that in respect of cleaning and sweeping, the 2nd Respondents did not have any registration certificate between 1st January, 1986 and 12th August, 1987. He submits that in any event the contractors employed by the 2nd Respondents did not have any licence under the C.L. Act. He submits that there is no valid registration under the C.L. Act and the employees must be deemed to be direct employees of the 2nd Respondents. Mr. Singhvi also pointed out that the averment of the petitioners, that irrespective of the contractor, the persons mentioned in Exhs. A and B to the petition have continuously worked in the establishment of the 2nd Respondent, has not been denied. In support of this submission, Mr. Singhvi relies upon the cases of the The Workmen of Best and Crompton Industries Ltd. Vs. The Management of Best and Crompton Engineering Ltd., Madras-55, ,Food Corporation of India v. The Presiding Officer Central Government Industrial Tribunal reported in 1987 (2) S.L.R. 678 and Catering Cleaners of Southern Railway Vs. Union of India (UOI) and Another, . In the last mentioned case after directing the Government to consider abolition of contract labour in the Southern Railway, the Supreme Court directed the Southern Railway to refrain from employing contract labour. The Southern Railway were directed to get the work of cleaning catering establishments and pantry cars done departmentally by employing those workmen who were previously employed by the contractor.

43. On the other hand Mr. Dhanuka submits that the employees are not the employees of the 2nd Respondents. He submits that they are the employees of the various contractors who were engaged by the 2nd Respondents from time to time. He submits that there is no relationship of master and servant between the 2nd Respondents and the members of the 1st petitioner. He submits that the 2nd Respondents, in a bona fide belief that the appropriate authority was the State Government and that the notification dated 9th December, 1976 did not apply to it, continued to employ contract labour. He submits that the 2nd Respondents have at all times been registered under the C.L. Act. Mr. Dhanuka submits that even though the 2nd Respondents are now directed to abolish contract labour, the Court cannot and should not further direct the 2nd respondents to take on its roll the employees of the contractors. He submits that in such a case disputed questions of facts will arise. He submits that the 2nd Respondents are not in a position to ascertain whether all the persons shown in Exhs. A and B to the Petition are working with the

contractors and for how long. He submits that in this petition it is impossible and impermissible to ascertain how long each person has worked with a contractor and/or whether these persons were or are in the employment of the various contractors. Mr. Dhanuka relies on the cases of P. Karunakaran Vs. Chief Commercial Superintendent, Southern Railway and Others, , and of A.P. Dairy Development Cooperation Federation Vs. K. Ramulu and Others, , wherein it has been held that under the Contract Labour Act, there is no provision that the employees of the contractor become the direct employees of the employer on termination or abolition of a labour contract. It must immediately be noted that the cases cited by Mr. Dhanuka deal with a situation where there is a valid contract labour. They do not at all deal with a situation where the workmen have worked for a number of years and it is finally ascertained that there is no valid contract labour.

44. To consider these rival submissions, the aims, objects and the provisions of the C.L. Act must be looked at. The Preamble to the Act states that it has been enacted to regulate contract labour in certain establishments and to provide for its abolition, in certain cases. u/s 2(2)(b) a workman is deemed to be employed as contract labour when he is hired by or through a contractor. u/s 2(2)(b) the terms of employment of workmen may be express or implied. Section 7 makes it compulsory for every principal employer to register the establishment Section 8 provides that no principal employer can employ contract labour unless the establishment is registered. Section 10 empowers the appropriate Government to abolish contract labour in respect of any process, operation or work in any establishment. u/s 12 no contractor can undertake or execute any work through contract labour except under and in accordance with a license issued in that behalf by the licensing officer. Sub-section (2) of S. 12 provides that the licence will stipulate conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour. u/s 20 if a contractor fails to provide any amenities, which he is bound to provide, the principal employer has to provide the same. u/s 21 the contractor has to disburse wages in the presence of a representative of the principal employer. If the contractor fails to make payment or makes short payment, the principal employer is bound to make payment of wages in full or of the unpaid balance. u/s 29 the principal employer as well as the contractor are to maintain registers and records giving all particulars. Notices containing particulars about hours of work, nature of duty etc., have to be exhibited within the premises of the establishment.

45. The combined effect of these provisions makes it clear that for a valid employment of contract labour, two conditions must be fulfilled, viz., (1) every principal employer of an establishment must be registered and (2) the contractor must have valid licence. In other words the mere registration by the principal employer or the holding of licence by contractor alone will not enable the management to treat the workmen as contract labour. Whilst considering the provisions of the Act. It must be kept in mind that this Act is a piece of beneficial legislation. The aim of the Act is to regulate conditions of service of contract

labourers and to abolish contract labour under certain circumstances. It is therefore meant for securing proper conditions of service to workmen under contract labour. It is not the purpose of the Act to render workmen jobless. The interpretation which must be given is one which would further these objects and not one which results in greater hardship. It must be noted that there is no provision which states that the relationship of principal employer and workmen comes to an end on the abolition of contract labour. On the contrary as already stated there is a deemed contract labour only if the two conditions of registration and licence are fulfilled. In such a case, i.e., where either or both the conditions are not fulfilled, the necessary implication would be that the workmen remain workmen of the principal employer. It must be remembered that on a failure of the contractor to provide amenities or to pay wages the the principal employer remains liable for the same. The same would be the position on a failure by reason of there being no valid contract labour.

46. Mr. Dhanuka, however, submitted that the Act provides certain penal consequences for non-registration. He submits that under the Act, the workmen do not become the direct employees of the employer. He submits that there being no such provision in the Act, the same cannot be implied. He submits that in the absence of any such provision the Court cannot give any direction to that effect. In my view, the penal provisions are provided to dissuade employers from attempting to commit a breach of the provisions of the Act and the rules made thereunder. They do not detract from the position that there can be no deemed contract labour if the two conditions are not satisfied. If the protection or right given by reason of a deeming provision is not available, then the nature consequence must follow in addition to the penal consequence, unless there is a provision to the contrary. As already stated, in the Act there is no provision that the services of the workmen, qua the principal employer, stand terminated on the contract labour becoming invalid and/or abolished.

47. In my view, for the purpose of this Petition, it is not necessary to go into the controversary as to whether the 2nd Respondents were not registered for any particular period. There is nothing on record to show that any of the contractors employed by the 2nd Respondents had a valid licence. It was for the 2nd Respondents to establish that they were employing contract labour through licenced contractors. The fact that they have failed to do so speaks volumes. It is not possible to accept Mr. Dhanuka''s submission that the 2nd Respondents have no way of ensuring or ascertaining whether the contractors are licenced or not. Under the Act it is compulsory for the 2nd Respondents to maintain registers and records. These would disclose all particulars. Even otherwise on an application certified copies of all licences could have been obtained. No attempt is made to do so and for obvious reasons. It is also not possible to believe that the 2nd Respondents are not aware if the persons mentioned in Exhs. A and B to the Petition are working in their premises for the last so many years. The petitioners have averred that the members of the 1st petitioners have been working uninterruptedly without break for several

years. The list which is annexed as Exhs. A and B to the Petition shows that some of the persons have been working from 1971 and 1972. The only reply given to this averment is as follows :

"..... I say that over a period of 14 years Air India has changed several contractors. However, sometimes the labourers employed with previous contractors switch over to the new contractors and as such continue to perform the duties of sweeping and cleaning in Air India premises. In so far as Exhs. A and B are concerned, the Respondent Corporation has no information or details about the labourers employed by the contractors and as such I am not in a position to confirm the said position as stated in Exhs. A and B of the Petition

In my view, the 2nd Respondents'' statements that it has no information or details about the labourers employed by the contractors cannot be accepted. These are facts which were well within the knowledge of the 2nd Respondents. To feign ignorance before the Court is obviously an attempt to get out of having to admit these facts. In this behalf the two letters dated 13th March, 1975, written by the then contractors are very pertinent. From this it is clear that it is the 2nd Respondent who is really paying the wages and considering the other demands of the petitioner. The fact that, 2nd Respondents have not cared to ensure that the contractors are licenced, coupled with the fact that, irrespective of the contractor at any given point of time, the same person have continued to work for so many years, does suggest that the contractors were merely name lenders.

48. Thus there can be no doubt that the persons shown in Exhs. A and B have been working in Air India building at Nariman Point, Bombay for a number of years. The contractors do not have a valid licence for the work of sweeping and cleaning in respect of these premises. If that be so, then the deeming provision cannot come into play. Thus there is no deemed contract labour. The relationship of 2nd Respondents and the workmen mentioned in Exhs. A and B remains that of employer and workmen. This must be so as there is no provision which states that the employment comes to an end on there being no valid contract labour.

49. Central Government has already issued a notification prohibiting contract labour in respect of the work of sweeping, cleaning and dusting. In my view, the facts of this case and interest of justice requires that directions identical to those passed by the Supreme Court in the case of Catering Cleaners of Southern Railways (supra) be passed.

50. Accordingly, the Petition is made absolute in terms of prayers (b) and (c) and (d) except the bracketed portion i.e., "..... with retrospective effect from the respective dates of their joining ..." There will be no order as to costs of the petition.

51. At the request of Mr. Dhanuka, the operation of this Order is stayed upto 31st January, 1990. The 2nd Respondents is however directed not to terminate the service of any workmen either by itself or through its contractors and to

communicate this order to its contractors. The 2nd Respondent is at liberty to continue the same contractor till date. In the event of the contractor not being willing to continue, liberty to the 2nd Respondent to seek appropriate directions in that behalf.