

(2017) 07 GUJ CK 0031
In the Gujarat High Court
Case No : 1229 of 2016

GUJARAT AYURVED UNIVERSITY

APPELLANT

Vs

LABOUR COURT JAMNAGAR & ORS.

RESPONDENT

Date of Decision : 05-07-2017

Acts Referred:

[Industrial Disputes Act, 1947](#), [Section 2\(j\)](#)
- Definitions

Citation : (2017) 07 GUJ CK 0031

Hon'ble Judges : M.R. Shah, B.N. Karia

Bench : Division Bench

Advocate : PM DAVE, P C CHAUDHARI

Final Decision : Disposed

Judgement

1. Admit. Shri Chaudhari, learned advocate waives service of notice of admission on behalf of the respondent no.2. In the facts

and circumstances of the case and with the consent of the learned advocates for the respective parties, the appeal is taken up for final hearing today.

2. A grievance which is voiced in the present appeal is that though the specific ground was taken that the issue whether appellant University is an "Industry" under Section 2(j) of the Industrial Disputes Act, 1947 or not, the same has not been dealt with and considered by the learned Single Judge. The appellant can be said to be an "Industry" or not, it goes to the root of the matter and therefore, the learned Single Judge was required to deal with and consider the same.

3. It is the case on behalf of the respondent that as such the issue whether the appellant University can be said to be an "Industry" within the definition of Section 2(j) of the Industrial Disputes Act, 1947 or not, is squarely covered by the decision of the learned Single Judge rendered in SCA No. 20751 of 2015. The aforesaid is disputed by Shri Dave, learned advocate for the appellant?

University. It is submitted that the petitioner in SCA No.20751 of 2015 is altogether a separate entity and / or not from the appellant university.

4. In any case, when the specific ground was raised with respect to whether the appellant university can be said to be an "Industry" within the definition of Section 2(j) of the Industrial Disputes Act, 1947 or not and it goes to the root of the matter, the learned Single Judge was required to deal with and consider the

same. In that view of the matter, there is a broad consensus between the learned advocates for the respective parties to quash and set aside the impugned order and remand the matter to the learned Single Judge and to consider petition afresh in accordance with law and on its merits including the question whether the appellant university can be said to be an "Industry" within the definition of Section 2(j) of the Industrial Disputes Act, 1947 or not. Learned advocates for the respective parties do not invite any further reasoned order as the petition is being remanded, any observation by this Court may affect the main petition.

5. In view of the above broad consensus between the learned advocates for the respective parties recorded herein above and without expressing any further opinion on merits whether the appellant university can be said to be an "Industry" within the definition of Section 2(j) of the Industrial Disputes Act, 1947 or not, the impugned order passed by the learned Single Judge is hereby quashed and set aside. The matter is remitted to the learned Single Judge to decide the petition afresh in accordance with law and on its own merits. All the contentions/ defences which may be available to the respective parties including the case on behalf of the appellant that the appellant may not be said to be an "Industry" within the definition of Section 2(j) of the Industrial Disputes Act, 1947, is kept open and to be considered by the learned Single Judge in accordance with law and on its own merits, for which, we have not expressed anything on merits in favour of either of the parties. Present appeal is partly allowed to the aforesaid extent. No costs.

6. Now, Registry is to place the petition for admission hearing before the learned Single Judge taking up such matters on 17.07.2017.

7. In view of disposal of Letters Patent Appeal, Civil Application stands disposed of accordingly.