

EVOLUTION OF THE DEFINITION OF INDUSTRIES FROM BANGALORE WATER SUPPLY TO JAI BIR SINGH

DETAILED ANALYSIS

by

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INTRODUCTION

At the outset, the Supreme Court clarified that the petitions forming the present batch had been instituted before the subsequent legislative changes. The reference was therefore examined in the statutory setting of Section 2(j) of the Industrial Disputes Act, 1947, and not by applying the later legislative regime as though it governed the original proceedings.

The judgment discussed in this paper was delivered by a nine-Judge Bench of the Supreme Court on 20 August 2026 in *State of Uttar Pradesh v Jai Bir Singh*. The dispute began as a question whether the Social Forestry Department of a State is an “industry”, and the Bench answered the reference through five separate opinions rather than one common judgment.¹ The one point on which all nine Judges agreed is that disputes still pending under the 1947 Act must be decided on the Triple Test as it stood in 1978.²

What Did the Statute Say Under Section 2 (j) OF The Industrial Disputes Act, 1947:-

The industry has been defined under section 2 (j) of the Industrial Disputes Act, 1947. The definitions says that :-

¹ The judgment carries the neutral citation 2026 INSC 897. See Supreme Court Observer, ‘Definition of “Industry” - Case Page’ (Supreme Court Observer, last updated 25 August 2026) <<https://www.scobserver.in/cases/uttar-pradesh-jai-bir-singh-definition-of-industry-case-background/>> accessed 28 September 2026; Agatha Shukla, “Triple Test” For “Industry” Laid Down In 1978 Bangalore Water Supply Case Will Govern All Pending Disputes Under Repealed Industrial Disputes Act: Supreme Court’s 9-Judges Bench Clarifies’ (Verdictum, 22 August 2026) <<https://www.verdictum.in/supreme-court/state-of-uttar-pradesh-v-jai-bir-singh-2026-insc-897-1978-triple-test-for-industry-9-judge-bench-1620398>> accessed 28 September 2026.

² Namrata Banerjee and Debjani M, ‘Definition of Industry | Judgement Summary’ (Supreme Court Observer, 21 August 2026) <<https://www.scobserver.in/reports/definition-of-industry-judgement-summary-2/>> accessed 28 September 2026; ‘Understanding the Judgment of the 9-Judge Constitution Bench of the Apex Court in the BWSSB vs Rajappa Reference’ (All India Lawyers’ Association for Justice, 24 August 2026) <<https://ailaj.wordpress.com/2026/08/24/understanding-the-judgment-of-the-9-judge-constitution-bench-of-the-apex-court-in-the-bwssb-vs-rajappa-reference/>> accessed 28 September 2026.

“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.

THE EVOLUTION OF THE INTERPRETATION OF THE DEFINITION “INDUSTRIES”

The interpretation of Section 2(j) received a significant expansion in 1978 when the Seven-Judge Bench decided *Bangalore Water Supply & Sewerage Board Vs. A. Rajappa*.³ The Court adopted a functional approach to the expression “industry” and laid down principles which came to be popularly described as the “Triple Test”.

The 1978 decision, delivered on 21 February 1978, brought hospitals, educational institutions, clubs and government welfare departments within the protection of the Act. The Court treated the Act as a worker-oriented law and tied that reading to the concern for workers found in Articles 38, 39 and 43 of the Constitution.⁴

The broad approach adopted in *Bangalore Water Supply* subsequently came under judicial scrutiny. In *State of U.P. Vs. Jai Bir Singh*⁵, the earlier interpretation was questioned in the context of the changing economic and institutional landscape and the difficulties arising from applying the wide meaning of “industry” to different categories of organisations.

The immediate trigger for the reference was a disagreement between two Supreme Court decisions on whether a State social forestry scheme is an industry. An earlier three-Judge Bench held that it is, while a later two-Judge Bench held in 2001 that it is a welfare scheme for improving the environment and therefore not an industry.⁶

In May 2005, a Five-Judge Constitution Bench considered the challenge to the earlier interpretation and referred the question to a larger Bench for reconsideration. The order was passed on 5 May 2005. In it, the Bench observed that the 1978 ruling had led to a surge of cases in labour courts, and it recalled Justice Krishna Iyer’s own warning that the ruling risked

³ *Bangalore Water Supply & Sewerage Board Vs. A. Rajappa* (1978) 2 SCC 213.

⁴ Aastha Kaushik, ‘Breaking: Supreme Court Modifies “Triple Test” Laid Down In 1978 Bangalore Water Supply Case; But Will Apply Prospectively’ (Verdictum, 20 August 2026) <<https://www.verdictum.in/supreme-court/upholds-reference-on-industry-definition-rules-reformulated-test-will-apply-prospectively-1620234>> accessed 28 September 2026; Supreme Court Observer, ‘Definition of “Industry” - Case Page’ (n 1).

⁵ *State of U.P Vs. Jai Bir Singh*, 2005 (5) SCC 1

⁶ Supreme Court Observer, ‘Definition of “Industry” - Case Page’ (n 1).

stretching the definition too far.⁷ The reference arose from concerns regarding the manner in which the interests of workmen had been emphasised while defining the scope of Section 2(j).

The Five-Judge Bench accordingly concluded that the meaning assigned to “industry” required examination by a larger Bench. In January 2017, a seven-Judge Bench led by the then Chief Justice T S Thakur directed that the matter be placed before a nine-Judge Bench. That Bench heard arguments over three days in March 2026 and reserved its judgment on 19 March 2026.⁸ The issue thereafter remained the subject of extended judicial consideration and ultimately came before the Nine-Judge Bench in 2026, which was called upon to reconsider, among other matters, the continuing correctness and scope of the principles in *Bangalore Water Supply*.

UNDERSTANDING “INDUSTRY”: FROM 1978 TO 2026: FROM THE SEVEN-JUDGE BENCH TO THE NINE JUDGE BENCH :-

Section 2(j) can broadly be understood through two limbs. The first is expressed from the standpoint of the employer and covers business, trade, undertaking, manufacture and calling. The second is expressed from the standpoint of the workman and refers to calling, service, employment, handicraft and industrial occupation or avocation.

• **Industrial Activity:-**

The employer-employee relationship remains relevant in determining whether an activity has an industrial character. However, the Court did not require every employee to have an immediate or direct connection with the principal service performed by the undertaking. Supporting and ancillary employees may also contribute to the organised activity as a whole. Thus, the relevant consideration is whether the employee’s work forms part of the systematic activity carried on by the undertaking. A religious activity in itself may remain outside the definition, but a materially organised activity undertaken by a religious institution, such as large-scale preparation and distribution of food with the assistance of employees, may require a separate examination.

The existence of a profit motive is not, by itself, decisive. An activity may come within the statutory concept of industry even where the undertaking does not pursue a gainful objective. The character of the activity, rather than the sector in which the undertaking operates, remains important; the same principle may therefore apply to public, private, joint or other sectors.

⁷ Supreme Court Observer, ‘Definition of “Industry” - Case Page’ (n 1).

⁸ Supreme Court Observer, ‘Definition of “Industry” - Case Page’ (n 1); Kaushik (n 4).

The expression “undertaking” cannot be treated as an independent or unlimited gateway into Section 2(j). Its meaning has to be considered along with the other requirements of the statutory definition. An organised activity does not become an “industry” merely because it can be described as an undertaking; the applicable test must still be satisfied. At the same time, the activity need not resemble a conventional commercial business. The manner in which the activity is organised and the existence of employer-employee cooperation remain relevant considerations.

Accordingly, the name, institutional description or general objective of an organisation is not conclusive. The inquiry must focus on the actual activity being carried on, the way in which it is organised and the nature of the cooperation between the employer and employees.

A different position may arise in relation to voluntary legal aid, free medical assistance provided by professionals in their spare time, or institutions sustained by persons united by a spiritual or charitable purpose. Where participation is genuinely voluntary and does not reflect an ordinary wage-based employer-employee relationship, the character of the activity has to be distinguished from an undertaking conducted through regular employment. The presence of a small number of ancillary or technical staff does not, by itself, determine the character of the entire activity.

The separate opinions of 2026 show that purely charitable work remains a sensitive point. Justice Bagchi accepted that services run by purely charitable institutions may be kept outside the definition, but held that the charitable character stops mattering once there is wage-based employment and organised, systematic work. Justice Datta made a similar point in practical terms, observing that a hospital technician is not concerned with whether the hospital is run for charity or for profit, and that the technician remains a workman either way.⁹

In *University of Delhi v. Ram Nath*¹⁰, the university was held not to fall within the expression “industry” under Section 2(j). The Court viewed imparting education as a mission or vocation rather than as an ordinary trade or business and also noted that teachers, who constituted a substantial part of the university workforce, did not satisfy the statutory definition of “workman”. Although the Court stated that its decision was not intended as a universal rule, its practical effect was to exclude educational institutions from Section 2(j) at that stage of the jurisprudence.

⁹ Banerjee and Debjani M (n 2).

¹⁰ *University of Delhi Vs. Ram Nath* AIR 1963 SC 1873

In *Corporation of the City of Nagpur v. Its Employees*¹¹, following the reasoning developed in *Hospital Mazdoor Sabha*, a municipal corporation was treated as an industry subject to two important qualifications. First, the exclusion for sovereign functions was confined to the essential functions of constitutional government, such as legislative, judicial and core law-administration functions. Second, where a department performed both industrial and non-industrial functions, its character could be determined by examining the predominant nature of its activities.

The earlier restrictive approach also emphasised that, although profit was not an indispensable requirement, the activity should possess a meaningful resemblance to trade or business in the commercial sense. The emphasis was placed on the production of material goods or the provision of material services of value to the community through organised employer-employee cooperation. This introduced a stronger commercial element into the analysis and represented a more restrictive understanding of Section 2(j).

The period after *Bangalore Water Supply* witnessed several important developments. These may broadly be examined under four heads: the legislative response to the judgment; the continuing debate over the scope of sovereign functions; the position of research and similar institutions; and repeated judicial concern regarding the breadth of the interpretation adopted in *Bangalore Water Supply*. Parliament subsequently enacted the Industrial Disputes (Amendment) Act, 1982, which sought to modify Section 2(j), retain elements of the earlier approach and expressly exclude specified categories. The amended definition, however, was not brought into operation, and the proposed statutory change therefore did not replace the existing judicial interpretation. The 1982 amendment would have kept the core of the Triple Test but carved out agriculture, hospitals, educational, scientific, research and training institutions and charitable or philanthropic services. In 2026 the Judges who addressed it treated it as an unnotified law with no effect on how Section 2(j) is to be read.¹²

The sovereign-function exception also remained a matter of continuing judicial disagreement. Some decisions maintained a comparatively narrow exclusion, while others favoured a broader understanding that would remove a larger range of governmental activities from Section 2(j). The central question was therefore whether the governmental character of the activity was sufficient for exclusion or whether the nature of the particular function had to be examined.

¹¹ *Corporation of the City of Nagpur Vs. Its Employees* AIR 1960 SC 675

¹² 'Understanding the Judgment of the 9-Judge Constitution Bench' (n 2); Banerjee and Debjani M (n 2).

In *General Manager, Telecom Vs.. A. Srinivasa Rao*¹³, the Court considered the position of the Union telecommunication department. The decision formed part of the continuing discussion regarding governmental activities and the distinction between functions having a commercial or industrial character and functions properly regarded as sovereign in nature.

The application of the Bangalore Water Supply principles to temples and private charitable institutions also generated difficulty. A broad emphasis on systematic activity and employer-employee cooperation could bring such institutions within Section 2(j), even where their principal purpose was spiritual or philanthropic rather than commercial. This raised the further question whether the predominant character and purpose of the institution should have a greater role in determining its status.

Subsequent decisions continued to examine the boundary of the sovereign-function exclusion. The general judicial discussion proceeded on the basis that activities which are genuinely sovereign in character stand on a different footing from other functions performed by governmental bodies. The question was therefore one of identifying the character of the function rather than treating every governmental activity in the same manner.

The character of the activity emerged as an important consideration in determining whether an undertaking falls within Section 2(j). The identity of the institution and the motive behind the activity cannot, by themselves, settle the question. In the *Safdarjung Hospital* line of reasoning, the Court also considered the statutory interests of workmen, employers and the public while examining the position of private, governmental and charitable healthcare institutions. Welfare-oriented activities may serve important public purposes, but their classification under industrial legislation still requires examination of the nature of the activity and the statutory framework.

The experience of applying the broad interpretation of Bangalore Water Supply over the following years also exposed practical difficulties. Questions arose particularly for charitable and welfare organisations which were not established for profit but were nevertheless required to operate within an industrial-law framework. The Coir Board was cited in this context because its statutory purpose was to promote the coir industry rather than to conduct an ordinary coir business. These difficulties contributed to the continuing call for reconsideration of the scope of Section 2(j).

¹³ *General Manager Telecom Vs. A. Srinivasa Rao* 1997 (8) SCC 767

By order dated 16.02.2026, the Bench identified four principal questions for determination in order to clarify the legal position. These questions concerned the correctness of the Triple Test, the effect of the 1982 amendment and the Industrial Relations Code, the treatment of governmental social-welfare activities, and the scope of sovereign functions under Section 2(j).

- i. *Whether the Triple Test, as laid down in Bangalore water supply is correct law;*
- ii. *Whether the Industrial Disputes (Amendment) Act, 1982 and the Industrial Relations 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).*

• **APPLICABILITY OF THE RES JUDICATA :-**

An objection was raised that the reference was barred by res judicata because an earlier Bench had declined to reopen the interpretation in Bangalore Water Supply. An earlier attempt of this kind arose in the Coir Board litigation, where a two-Judge Bench doubted the 1978 decision and sought its reconsideration. A three-Judge Bench declined that request, reasoning that a seven-Judge decision does not need to be revisited merely because a two-Judge Bench has doubts about it.¹⁴ The Court rejected that contention. It distinguished between the final adjudication of rights between parties and the precedential effect of a judicial determination on a pure question of law. The interpretation of Section 2(j) operates primarily as a legal precedent and does not, by itself, create res judicata in later proceedings. The larger Bench could therefore examine the correctness of the earlier interpretation.

The Court then approached the reference as a broader examination of the meaning and scope of “industry”. The inquiry included the treatment of social-welfare and public-oriented organisations and the extent of the sovereign-function exclusion. These questions were considered interconnected with the central task of identifying the proper scope of Section 2(j). The Bench accordingly proposed to examine the statutory language, the reasoning in Bangalore

¹⁴ ‘Understanding the Judgment of the 9-Judge Constitution Bench’ (n 2).

Water Supply, the practical consequences of its application and the need, if any, for modification of the existing approach.

Bangalore Water Supply also reconsidered the earlier position concerning education. The majority treated education as capable of constituting a service to the community and noted that educational institutions may undertake additional activities having an industrial character. Such activities could, in appropriate circumstances, be examined separately even though they were ancillary to the principal educational function. On that reasoning, the earlier approach in University of Delhi was not retained.

The position of clubs was likewise examined by reference to the nature of their activities and the extent of organised employer-workman cooperation. A club substantially run through the self-service of its members, with only a small peripheral workforce, may stand differently from a club whose activities are systematically carried out through employees. This reasoning affected the earlier approach reflected in Madras Gymkhana Club and Cricket Club of India.

The Chief Justice, writing for himself and Justices Satish Chandra Sharma, Alok Aradhe and Vipul M. Pancholi, examined each category in turn and proposed a reformulation of the Triple Test¹⁵ which is reproduced herein below:-

- a. Where there exists: (i) a systematic activity; (ii) organized 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).

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:

¹⁵ State of UP Vs. Jai Bir Singh 2026 INSC 897 (Supreme Court of India, 20 August 2026), opinion of Surya Kant CJI, para 274

- 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.

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 organized 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. 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 organization 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.

This reformulation has to be read together with the way the nine Judges actually divided. It appears in the Chief Justice's opinion, written for four Judges, and that opinion describes it as

no more than the writing Judges' considered view, not a rule to be applied to pending cases.¹⁶ Justices Nagarathna, Datta, Bhuyan and Bagchi held the original 1978 test to be correct, while Justice Narasimha held that after the repeal of the 1947 Act the merits did not need to be answered.¹⁷

The Bench also revisited the expression “¹⁸undertaking”. It recognised that the term has a broad reach and may cover different forms of organised activity. However, classification as an undertaking does not by itself establish that the activity is an “industry”; the activity must still satisfy the requirements of the reformulated test.

The Court considered that a separate and exhaustive definition of “undertaking” was unnecessary once the safeguards against over-inclusion were contained in the applicable test. The question whether a particular undertaking falls within Section 2(j) can therefore be determined by applying the relevant criteria to the actual activity in question.

Accordingly, professions, clubs, educational institutions, cooperative bodies, research institutions, charitable projects and similar organisations cannot be placed outside Section 2(j) merely because of their institutional identity. Their inclusion or exclusion has to be determined by applying the applicable test to the nature and manner of the activity undertaken.

The discussion of the dominant nature test was closely connected with the scope of the sovereign-function exception. Bangalore Water Supply had adopted a relatively narrow approach to that exception on the reasoning that the modern State performs many activities resembling industrial or commercial functions. Governmental ownership alone was therefore not regarded as sufficient to remove an undertaking from Section 2(j).

The same reasoning extended to public-utility services carried out by governmental agencies and statutory corporations where the Industrial Disputes Act itself contemplated their regulation. Where the relationship between the State and its employees was not governed by a separate constitutional or statutory framework, the mere fact that the activity was performed by the State did not necessarily justify its exclusion.

The Bench nevertheless maintained important qualifications. Governmental functions governed by separate constitutional or statutory provisions, including functions connected with Articles 310 and 311, occupy a distinct position. Public-utility services expressly brought

¹⁶ Kaushik (n 4).

¹⁷ ‘Understanding the Judgment of the 9-Judge Constitution Bench’ (n 2); Shukla (n 1).

¹⁸ State of UP Vs. Jai Bir Singh 2026 INSC 897 (Supreme Court of India, 20 August 2026), opinion of Surya Kant CJI

within the legislative scheme also remain subject to the operation of the Act. These aspects were not treated as requiring departure from the relevant principles in Bangalore Water Supply.

At the same time, the Court cautioned against treating governmental ownership as an automatic route into Section 2(j). Apart from recognised exceptions, it would be equally problematic to assume that every governmental enterprise or undertaking must necessarily constitute an “industry”. The activity must still bear the characteristics contemplated by the applicable statutory test.

Governmental undertakings therefore have to be examined on the same substantive basis as other entities, rather than being classified solely by reference to their ownership. The relevant inquiry concerns the nature and character of the activity together with the other applicable indicia. No automatic presumption arises merely because the undertaking is governmental.

The separate opinions approached the sovereign-function question from different directions. Justice Nagarathna held that the State performs many functions that are not strictly sovereign, so the identity of the State does not settle the matter, while Justice Bagchi cautioned against a narrow checklist and traced sovereignty to the nature of the activity rather than to the body performing it. The Chief Justice’s opinion kept the sovereign-function exception but held that welfare schemes and economic ventures of the Government do not become sovereign merely because the State runs them.¹⁹

The remaining aspect of the dominant nature test was not disturbed. A single undertaking may carry on several different activities, some falling within and some outside the industrial sphere. In such cases, the inquiry must look beyond the formal structure of the organisation and determine its predominant character. The dominant nature test consequently continues to provide a method for dealing with composite undertakings and ancillary activities.

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

¹⁹ Banerjee and Debjani M (n 2).

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.

Legal Impact:-²⁰

The discussion in the present judgment is confined to the interpretation of Section 2(j) of the Industrial Disputes Act, 1947. The Industrial Relations Code constitutes a separate statutory framework, and its definition of “industry” must be examined according to its own language, structure and legislative purpose. The interpretation of Section 2(j) should therefore not automatically be treated as a determination of the meaning of the corresponding provision under the new Code.

The Industrial Relations Code, 2020 came into force on 21 November 2025, together with the other three labour codes, and these codes together replaced 29 earlier central labour laws.²¹ The Code’s own definition of “industry” in Section 2(p) keeps the idea of systematic activity carried on through cooperation between employer and worker, but expressly leaves out institutions run by charitable, social or philanthropic organisations and activities relatable to the sovereign functions of the appropriate Government.²²

The Code is an independent legislative enactment. Questions arising under it must consequently be resolved from the text and scheme of that legislation rather than by mechanically transplanting the interpretation developed under Section 2(j) of the Industrial Disputes Act.

Accordingly, the principles discussed in the present reference should not be treated as controlling the interpretation of the Industrial Relations Code. Any future question under the

²⁰ State of UP Vs. Jai Bir Singh 2026 INSC 897 (Supreme Court of India, 20 August 2026), opinion of Surya Kant CJI, paras 281 and 287(vi)

²¹ Ministry of Labour and Employment, ‘Welfare of Organised and Unorganised Sectors’ (Press Information Bureau, 8 December 2025) <<https://labour.gov.in/sites/default/files/pib2200433.pdf>> accessed 28 September 2026.

²² ‘Understanding the Judgment of the 9-Judge Constitution Bench’ (n 2).

Code will have to be determined within its own statutory framework. The observations in the present judgment relate to Section 2(j) and to the jurisprudence that developed around the Bangalore Water Supply principles.

The Judges were not entirely of one mind on how far this separation goes. The Chief Justice's opinion said that Bangalore Water Supply should not be treated as the "sheet anchor" for reading the Code, and Justice Narasimha said the Code's definition should be freed from the ratio of the 1978 decision.²³ Justice Nagarathna, by contrast, cautioned that it would not be right to say that the 1978 decision must be set aside when reading the Code, and one analysis argues that this part of the judgment goes beyond the questions actually referred and may therefore be only an observation and not binding law.²⁴

CONCLUSION:-

The judicial history of Section 2(j), from Bangalore Water Supply & Sewerage Board v. A. Rajappa to State of U.P. v. Jai Bir Singh, shows a continuing effort to define the limits of the expression "industry". Bangalore Water Supply marked a major expansion of the provision through a functional approach which moved the inquiry beyond the traditional description of an organisation. The subsequent jurisprudence, however, demonstrated that the breadth of that approach created difficult questions for governmental, educational, charitable and welfare-oriented bodies.

The difficulties were particularly visible where an organisation had a non-commercial or welfare-oriented purpose but also maintained an organised workforce. The resulting cases demonstrated that the mere existence of employment could not, in every situation, be treated as conclusive of the statutory character of the undertaking. These issues ultimately contributed to the reference in Jai Bir Singh and the reconsideration of the earlier approach.

The Nine-Judge Bench reconsidered the Triple Test and, in the relevant opinion, proposed a refined formulation which places greater emphasis on the nature and character of the activity and on the commercial character of the goods or services. The absence of a profit motive, however, continues to remain insufficient by itself to determine whether an undertaking is an industry. The precise precedential position must be understood from the separate opinions

²³ Banerjee and Debjani M (n 2).

²⁴ 'Understanding the Judgment of the 9-Judge Constitution Bench' (n 2).

delivered by the Bench rather than by treating the reformulation as an undifferentiated unanimous holding.

The discussion has particular relevance to governmental departments and statutory undertakings. The earlier jurisprudence recognised that the State may perform activities resembling trade, commerce or industrial operations while also exercising genuinely sovereign functions. The governmental character of an undertaking therefore cannot, by itself, determine its status. The nature of the activity and the applicable constitutional or statutory framework remain central to the inquiry.

In practical terms the judgment offers continuity for existing cases. Justice Narasimha warned that narrowing the 1978 test only for pending matters would push long-pending disputes out of the labour law machinery and leave the parties to seek remedies in civil courts.²⁵ The Chief Justice likewise cautioned against creating new classes of favoured and disfavoured litigants among similarly placed parties.²⁶

The importance of *Jai Bir Singh* therefore lies in the renewed examination of the boundary of Section 2(j). The decision does not simply present the issue as one of expanding or restricting the definition. Rather, it requires attention to the substantive character of the activity, the organisation of work and the statutory framework within which the undertaking operates.

The historical development ultimately shows that the classification of an undertaking cannot be resolved solely by reference to its name, ownership, profit motive or institutional description. The relevant inquiry must focus on the substance of the activity and the applicable legal test. At the same time, the protection afforded by industrial legislation remains subject to the limits of the statutory definition.

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²⁵ Kaushik (n 4).

²⁶ Shukla (n 1).

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