2026:KER:17176

"C.R."

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 27TH DAY OF FEBRUARY 2026 / 8TH PHALGUNA, 1947

WA NO. 1363 OF 2025

AGAINST THE JUDGMENT DATED 28.03.2025 IN WP(C) NO.9196 OF 2023 OF HIGH COURT OF KERALA

APPELLANT/S:

THE FEDERAL BANK LTD.,
REGISTERED OFFICE, ALUVA, ERNAKULAM DISTRICT, KOCHI, REPRESENTED BY ITS VICE PRESIDENT (HR)., PIN - 683101

BY ADVS. SRI C.U. SINGH (SR); SRI BENNY P THOMAS (SR)
SHRI.ABEL TOM BENNY
SRI.D.PREM KAMATH
SRI.TOM THOMAS (KAKKUZHIYIL)

RESPONDENT/S:

1 FEDERAL BANK OFFICERS ASSOCIATION,
CENTRAL OFFICE, FBOA ROAD, ALUVA, REPRESENTED BY ITS GENERAL SECRETARY SHIMITH P.R., PIN - 683101

2 THE REGIONAL LABOUR COMMISSIONER (CENTRAL),
KENDRIYA SHRAM BHAVAN, OLIMUGAL, KAKKANAD, KOCHI, PIN - 682030

BY ADV SRI P CHIDAMBARAM (SR); SRI P RAMAKRISHNAN
SRI.P.R. AJITH KUMAR, CGC

THIS WRIT APPEAL HAVING RESRVED ON 09.01.2026, THE COURT ON 27.02.2026 DELIVERED THE FOLLOWING:

JUDGMENT

"C.R."

Sushrut Arvind Dharmadhikari, J.

The present appeal arises out of the judgment dated 28.03.2025 passed by the learned Single Judge of this Court in WP (C) No. 9196/2023. By the judgment under challenge, the learned Single Judge, while allowing the writ petition, quashed the notices issued by the first respondent therein, namely the Regional Labour Commissioner (Central) (for short, "RLC"), calling upon the petitioners to participate in conciliation proceedings instituted under Section 22 of the Industrial Disputes Act, 1947 (for short, "ID Act").

2. The notice impugned in the writ proceedings had restrained the respondent writ petitioner (for short, "RWP") from proceeding with the call for strike/abstention from work issued in relation to the employees/officers employed with the appellant Bank.

2.1 Aggrieved thereby, the Federal Bank has preferred the

present appeal before this Court, calling into question the reasoning and rationale of the judgment under challenge.

About the parties

3. The appellant describes itself as a Company engaged in the business of banking, governed by the provisions of the Banking Regulation Act, 1949 and bound by the directions issued by the Reserve Bank of India (for short, "RBI") under the Reserve Bank of India Act, 1934. It has more than 1,500 branches across India and employs over 15,000 employees in various managerial and non-managerial cadres.

3.1 The RWP is an association of officers employed by the appellant, comprising members holding posts in Scale I to Scale III cadres.

3.2 Although the appellant initially commenced its operations in the State of Kerala, over time it has expanded beyond Kerala and presently has a pan-India presence, serving a customer base of more than 2 crore.

3.3 The RWP is a trade union registered under the provisions of the Trade Unions Act, 1926, (for short, "TU Act") constituted with the objective of protecting, safeguarding, and furthering the interests of its member officers of the appellant Bank.

3.4 The core submission of the RWP is that it represents the officer cadre of the appellant Bank and does not fall within the definition of "*workman*" under the ID Act.

Verdict of the learned Single Judge

4. Upon a challenge being laid to the conciliation proceedings initiated at the instance of the appellant under Section 22 of the ID Act, the learned Single Judge accepted the submissions advanced by the RWP that the members of its trade union cannot be classified as "*workmen*" within the meaning of Section 2(s) of the ID Act. Consequently, it was held that the RLC lacked jurisdiction to initiate conciliation proceedings under the ID Act.

4.1 The learned Single Judge observed that officers holding

higher ranks in the appellant Bank do not fall within the definition of "*workman*" as defined under the ID Act, and that the provisions thereof are inapplicable to employees falling in the "*non-workman*" category. It was further held that for an "*industrial dispute*" to exist, there must be a relationship of employer and workman between the parties; in the absence of such a relationship, conciliation proceedings under Section 22 of the ID Act cannot be triggered.

4.2 The Court also observed that the provisions contained in Chapter V of the ID Act relate only to strikes and lockouts by "*workmen*" or "*employers*" and cannot be extended to apply to the officer cadre represented by the RWP.

4.3 Rejecting the contention of the appellant that a Conciliation Officer is appointed by the appropriate Government under the ID Act for the purpose of settling industrial disputes, the impugned judgment further held that a Conciliation Officer can act only when an industrial dispute, as defined under Section 2(k) of the ID Act, exists or is

apprehended. Thus, the existence of the status of "*workman*" was held to be central to the applicability of the ID Act and inseparable therefrom. Since the member officers of the RWP were held not to be "*workmen*," the learned Single Judge concluded that no industrial dispute could arise between the parties and, therefore, the powers under Section 22 of the ID Act could not be invoked. Consequently, the impugned judgment quashed the notices/directives issued by the RLC referring the RWP to conciliation proceedings for settlement.

Contentions and submissions of the parties

5. The learned senior counsel appearing for the appellant Bank, taking exception to the impugned judgment, advanced the following submissions:

a. Sec. 2(q) of the ID Act, defining '*strike*' uses two different expressions *viz*. '*any person*' and not '*any workman*'. It is referable to cessation of work by a body of persons employed in any industry acting in combination or a concerned refusal so employed by the employer

establishment. The expression "*body of persons*" is of much wider amplitude than "*workman*." Consequently, the regulation of strikes cannot be confined only to workmen and excluded in respect of officers. Therefore, when a strike notice was issued on behalf of the RWP, recourse to Section 22 of the ID Act was justified, as the provision deals with the prohibition of strikes and lockouts.

b. Section 22 of the ID Act is a special provision enacted to address the menace of strikes and lockouts being used as instruments of pressure or intimidation by employees, whether officers or workmen, in an industrial establishment. The prohibition under Section 22 of the ID Act is broader than that under Section 23 of the ID Act, inasmuch as the former restrains "*any person*" employed in a Public Utility Service (for short, "PUS") from going on strike in breach of contract. In essence, for the prohibition on strikes and lockouts to be attracted under Section 22 of the ID Act, it is sufficient that the person concerned is employed in a PUS.

c. Section 24(1) of the ID Act specifically declares strikes and lockouts to be illegal if they are commenced or continued in contravention of Section 22 of the ID Act. Thus, by statutory mandate, strikes and lockouts conducted in violation of Section 22 of the ID Act are rendered illegal, irrespective of whether the employee concerned answers the description of a "*workman*."

d. Referring to the definition of "*public utility service*" under Section 2(n)of the ID Act, the appellant contended that once a service or sector is notified as a PUS, Section 22 of the ID Act is automatically attracted, and it is not necessary to establish the existence of an "*industrial dispute*." What is required is merely a proposed call for strike or lockout by employees of the concerned industrial establishment, which would, by itself, fall within the prohibition contained in Section 22 of the ID Act. It was further contended that the learned Single Judge failed to take note of the fact that, on earlier occasions, the RWP had participated in conciliation proceedings

initiated in similar circumstances. Reference was also made to orders passed in earlier rounds of writ petitions between the parties, wherein the High Court had restrained the RWP from proceeding with a strike pending the conclusion of conciliation proceedings. It was therefore argued that, over the years, the RWP has been conscious of its status and the applicability of Section 22 of the ID Act to its proposed calls for strike or abstention from work.

e. The learned Single Judge, it was contended, failed to properly appreciate the issue and was unduly influenced by the definitions of "*workman*," "*industrial dispute*," and "*employer*," thereby adopting a pedantic interpretation of Sections 22 and 24 of the ID Act.

f. Although the RWP may enjoy the fundamental right guaranteed under Article 19(1)(c) of the Constitution of India (for short, "COI"), it cannot claim an unfettered or absolute right to resort to strikes, lockouts, or abstention from work at its discretion. Banking, being integral to the nation's economy, constitutes a vital public service.

Any attempt to exert pressure on the employer through strikes, lockouts, or similar measures is likely to disrupt the banking sector, with consequential adverse effects on the economy and the large body of customers dependent upon it.

6. The contentions advanced by the RWP Association, in opposition to those of the appellant, are as follows:

a. The members of the RWP Association do not fall within the definition of "*workman*" under Section 2(s) of the ID Act. Consequently, an "*industrial dispute*" as defined under Section 2(k) of the ID Act cannot arise in the absence of a dispute between an employer and a workman. It is contended that an industrial dispute can exist only between the categories contemplated under the Act, *namely*: (i) employer and employer, (ii) employer and workman, or (iii) workman and workman. There is no fourth category recognized under the ID Act. Resultantly, the Conciliation Officer under Section 2(d) of the ID Act also for holding the conciliation proceedings under

Section 2(e) of the ID Act cannot be appointed by the respondent RLC under the ID Act. It is nobody's case that members of RWP association fall under the definition of "*workman*", under Sec. 2(s) of the ID Act.

b. Although, on earlier occasions, the RWP Association or its members may have participated in conciliation proceedings or furnished undertakings, the core legal issue regarding the applicability of Sections 22 and 23 of the ID Act was never adjudicated. Since the issue pertains to jurisdiction, it is open to the Court to determine it notwithstanding any earlier orders or conduct of the parties.

c. As a registered trade union, the RWP Association asserts that it enjoys the fundamental right guaranteed under Article 19(1)(c) of the COI. The right to resort to lawful modes of protest, including strikes or demonstrations, is asserted to be one such permissible mode, subject to law.

d. The service conditions of the officers of the appellant Bank are

governed by settlement agreements and the Federal Bank Ltd. (Officers' Service) Rules. It is contended that the settlements entered into between the Confederation and the Indian Banks' Association are not settlements under the ID Act, but are agreements governing service conditions independently of the Act.

e. Placing reliance on Clauses 5.14, 5.15, and 5.16 of the Federal Bank Ltd. (Officers' Service) Rules, it is submitted that a comprehensive mechanism already exists regulating calls for strike, bandh, or similar actions in the banking sector. These Rules constitute a self-contained code governing the conduct and service conditions of officers, and therefore the provisions of the ID Act are inapplicable to the RWP Association.

f. Relying upon the judgments of the Hon'ble Supreme Court in ***Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea***

Estate[1], and ***Mukand Ltd. v. Mukand Staff & Officers' Association***[2], it is contended that where an Industrial Tribunal lacks jurisdiction to adjudicate disputes relating to employees who are not "workmen" under the ID Act, a Conciliation Officer likewise lacks jurisdiction to entertain such disputes.

g. It is further contended that conciliation proceedings under Section 22 of the ID Act can be initiated only upon a notice given by a workman or an employer in relation to a dispute involving workmen. Referring to the Industrial Disputes (Central) Rules, particularly Rules 12, 17, and 18, it is argued that the Conciliation Officer must, upon failure of conciliation, submit a failure report, whereafter the dispute between the employer and the workman may be referred for adjudication. This statutory mechanism, it is submitted, operates only where the dispute involves workmen, and

[1] AIR 1958 SC 353
[2] (2004) 10 SCC 460

not non-workmen.

h. Reliance is also placed on the judgment of the Bombay High Court in ***Narendra Kumar Sen & Ors. v. The All India Industrial Disputes (Labour Appellate) Tribunal & Ors***[3]., (paragraph 31), to contend that the grievance for which conciliation is proposed under Section 22 of the ID Act must be a grievance of a workman, and the expression "*any person*" cannot be read in isolation or divorced from the surrounding provisions of the ID Act. It must be construed harmoniously with the scheme of the Act. Therefore, a Conciliation Officer cannot be appointed, nor can a failure report be submitted, unless the dispute relates to workmen. In other words, the expression "*any person*" must be understood in the context of, and limited to, "*workman*" as defined under the ID Act.

i. Lastly, referring to Section 4 of the ID Act, it is contended that the

[3] AIR 1953 Bom 325

appointment of a Conciliation Officer and the institution of conciliation proceedings are intended solely for the settlement of "*industrial disputes*". The impugned notices, issued at the instance of the employer, are alleged to be actuated by *mala fides* and ulterior motives, particularly when no other nationalised, scheduled, or commercial banks in the country had initiated similar proceedings under the ID Act. It is therefore submitted that the learned Single Judge rightly exercised jurisdiction in quashing the impugned notices.

Banking Industry in the Indian Economy & its indispensable role in Nation's growth trajectory

7. As urged on behalf of the appellant, and not disputed by the RWP, the Central Government, through the Ministry of Labour and Employment, issued a Gazette Notification dated 5th June 2023 under the provisions of the ID Act, notifying services engaged in the banking industry as a PUS for the purposes of the ID Act. The same is deemed to

fall under Item 2 of the First Schedule to the ID Act. The notification was issued upon the objective satisfaction of the Central Government that treating the banking industry as a PUS is necessary in the public interest.

7.1 The said notification dated 5th June 2023 forms part of the record and appears to have been glossed over by the learned Single Judge. There evidently existed compelling reasons for the Central Government to issue such a notification, and we deem it apposite to briefly advert to the possible considerations underlying the same.

8. At this juncture, certain prefatory observations, by way of background to the interpretation of Sections 22 and 24 of the ID Act, become necessary with regard to the indispensable role played by the banking sector in the Indian economy. Particularly in the post-COVID period, the banking sector has emerged as a crucial engine driving economic growth.

8.1 As per official information released by the Press Information Bureau, Government of India, (for short, "PIB, GOI") dated 10th December

2025, banking activity has witnessed unprecedented growth between 2015 and 2025. Domestic deposits and credit have nearly tripled, with deposits increasing from Rs. 88.35 lakh crores to Rs. 231.90 lakh crores, and credit expanding from Rs. 66.91 lakh crores to Rs. 181.34 lakh crores. Gross Non-Performing Assets (NPAs), which once posed a significant threat to economic stability, have declined from a peak of 11.46% in 2018 to 2.31% in 2025.

8.2 The net profits of public sector banks have strengthened considerably, rising from Rs. 1.05 lakh crores in FY 2022–23 to Rs. 1.78 lakh crores in FY 2024–25. Scheduled commercial banks, including the appellant Bank, have also posted robust earnings, with net profits increasing from Rs. 2.63 lakh crores in FY 2022–23 to Rs. 4.01 lakh crores in FY 2024–25.

8.3 These figures demonstrate that the banking sector has evolved into a resilient and dynamic force, capable of supporting the country's growth ambitions and investment needs. This progress is

attributable to strengthened capital buffers, improved asset quality, declining loan losses, and sustained profitability, notwithstanding periodic economic disturbances. The transformation of India's banking sector is often described as a transition "*from crisis to confidence*", contributing significantly to India's emergence among the world's top five economies. Across key parameters, deposits, credit growth, capital adequacy, asset quality, and profitability, the banking sector has shown remarkable improvement over the past decade, as reflected in the aforementioned PIB, GOI report.

9. As a result of the Government's macro-level strategy of recognition, resolution, recapitalisation, and reforms, the gross NPA ratio has declined substantially. In particular, the gross NPA ratio of Scheduled Commercial Banks (for short, "SCBs") has fallen from 9.8% as on 31st March 2014 to 3.55% as on 31st March 2025.

9.1 The aforesaid report of the PIB, GOI, being an official document containing statistical data and financial indicators, cannot

lightly be disregarded and must be accepted at face value insofar as it reflects the performance and stability of the banking sector in the country.

10. The foregoing discussion has been undertaken to emphasise that the banking sector constitutes a PUS indispensable to the Indian economy. It cannot be gainsaid that the employees and workmen form the backbone of this sector and provide the foundation upon which it progresses.

10.1 These ground realities and practical considerations must be duly borne in mind by a Constitutional Court while interpreting the provisions of the ID Act and ought not to be viewed in isolation therefrom.

Analysis of statutory provisions and the judgements governing the field

11. Since all the contesting parties have extensively referred to various provisions of the ID Act and the Rules framed thereunder, it would be appropriate to reproduce certain relevant provisions for a

proper and complete understanding of the controversy.

11.1 Section 2 of the ID Act, being the definition clause, provides for various definitions, some of which having relation with the instant dispute, are extracted below:

Section 2(d) – "***conciliation officer***" means a conciliation officer appointed under this Act;

Section 2(e) – "***conciliation proceeding***" means any proceeding held by a conciliation officer or Board under this Act;

Section 2(k) – "***industrial dispute***" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment *or the terms of employment or with the conditions of labour, of any person*;

Section 2(n) – "***public utility service***" means—

(i) any railway service or any transport service for the carriage of passengers or goods by air;

(ia) any service in, or in connection with the working of, any major port or dock or any industrial establishment or unit engaged in essential defence services;

(ii) any section of an industrial establishment on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public;

(v) any system of public conservancy or sanitation;

(vi) *any industry specified in the First Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification*:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time

to time by any period not exceeding six months at any one time, if in the opinion of the appropriate Government public emergency or public interest so requires.

Section 2(q) – "***strike***" means a cessation of work *by a body of persons employed in any industry* acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed, to continue to work or to accept employment;

Section 2(s) – "**workman**" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does

not include any such person—

(i) who is subject to the Air Force Act, 1950, the Army Act, 1950, or the Navy Act, 1957; or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

11.2 A reading of the aforesaid definitions reveals a nuanced distinction between the expressions consciously employed by Parliament, namely "*workman*" under Section 2(s) of the ID Act and "*any body*" of persons occurring in the definition of "*strike*" under Section 2(q) of the ID Act.

11.3 An "*industrial dispute*" as per Section 2(k) of the ID Act is a dispute or difference between employers and employers, employers and workman, workman and workman connected with the employment. Other than this, there may be a fourth category of dispute which is referable to the '*conditions of labour of any person*'. Therefore the definition of strike is not referable *per se* to cessation of work only by workman or employer, but can be by '*any body*' of persons employed in any industry. ***The expression 'any body of persons' or 'persons' is an expression having larger territory, meaning and encompasses within itself not only the workmen, but also even non-workmen employed in the industry***.

11.4 While Parliament has expressly defined "*workman*," it has not stipulated that the expression "*any person employed*" occurring in the ID Act must be read as synonymous exclusively with "*workman*." This subtle but significant distinction must be borne in mind while interpreting the remaining provisions of the ID Act.

12. Proceeding further in the aforesaid background, Sections 10A and 10B of the ID Act assume significance.

Section 10A, titled "*Voluntary reference of disputes to arbitration,"* provides for the voluntary reference of an industrial dispute to arbitration by agreement between the employer and the workmen. The dispute contemplated therein is expressly referable to an "*industrial dispute*" between the employer and the workmen, and the provision prescribes the manner and procedure for such reference.

12.1 Likewise, Section 10B (as applicable in the State of Kerala being a State amendment) titled as '*Power to issue orders regarding terms and conditions of service pending settlement of disputes*' empowers the State Government to issue appropriate orders for securing public safety or convenience or the maintenance of public order or supplies of public order or supplies in services or for maintaining industrial peace in any industrial establishment in respect of which reference to the arbitration has been made under Sec. 10 or Sec. 10A of the ID Act.

12.2 A conjoint reading of Sections 10, 10A, and 10B of the ID Act would indicate that the statutory scheme consistently contemplates an industrial dispute between the employer and the workmen.

Section 10B reads as follows:

Section 10B – Power to issue orders regarding terms and conditions of service pending settlement of disputes

(1) Where an industrial dispute has been referred by the State Government to a Labour Court or Tribunal under sub-section (1) of Section 10 and, if in the opinion of that Government it is necessary or expedient so to do for securing the public safety or convenience or the maintenance of public order or supplies and services essential to the life of the community or for maintaining employment or industrial peace in the establishment concerning which such reference has been made, it may, by general or special order, make provision—

(a) for requiring the employers or workmen or both to observe such terms and conditions of employment as may be specified in the order or

as may be determined in accordance with the order, including payment of money by the employer to any person who is or has been a workman;

(b) for requiring any public utility service not to close or remain closed and to work or continue to work on such terms and conditions as may be specified in the order; and

(c) for any incidental or supplementary matters which appear to it to be necessary or expedient for the purposes of the order:

Provided that no order made under this sub-section shall require any employer to observe terms and conditions of employment less favourable to the workmen than those which were applicable to them at any time within three months immediately preceding the date of the order.

Explanation.— For the purposes of this sub-section, "public utility service" means—

(i) any section of an industrial establishment on the working of which the safety of the establishment or the workmen employed therein depends;

(ii) any industry which supplies power, light or water to the public; (iii) any industry which has been declared by the State Government to be a public utility service for the purposes of this Act.

(2) An order made under sub-section (1) shall cease to operate on the expiry of a period of six months from the date of the order or on the date of the award of the Labour Court or the Tribunal, as the case may be, whichever is earlier. Any money paid by an employer to any person in pursuance of any order under sub-section (1) may be deducted by that employer from any monetary benefit to which such person becomes entitled under an award passed by the Labour Court or the Tribunal, as the case may be.

12.3 The language employed in Section 10B of the ID Act further reinforces that the statutory mechanism under these provisions is predicated upon the existence of an industrial dispute involving workmen, and the powers conferred are structured accordingly.

13 Section 12 of the ID Act, titled "***Duties of Conciliation Officers***",

obligates the Conciliation Officer, whenever any industrial dispute is referred, to conduct conciliation proceedings in the prescribed manner. The Conciliation Officer is empowered to investigate the merits and all issues pertaining to the dispute and to take such steps as may be necessary to facilitate a fair and amicable settlement.

13.2 The Conciliation Officer is further obligated, on the success or failure of the conciliation proceedings, to prepare and forward a report to the appropriate Government. In the event of failure, the dispute is to be referred to the competent authority, such as a Board, Labour Court, Tribunal, or National Tribunal, as the circumstances may require.

13.3 The relevant provisions of Section 12 of the ID Act read as follows:

> **"12. Duties of conciliation officers**
>
> (1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under Section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof, and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute, or of any of the matters in dispute, is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate Government [or an officer authorised in this behalf by the appropriate Government] together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, [Labour Court, Tribunal, or National Tribunal], it may make such reference. Where the appropriate Government does not make such a reference, it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this Section shall be submitted within fourteen days of the commencement of the conciliation proceedings, or within such shorter period as may be fixed by the appropriate Government: Provided that, subject to the approval of the conciliation officer, the time for submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.

This provision underscores that the role of the Conciliation Officer is procedural and facilitative, aimed at promoting settlement between the parties to an industrial dispute, with a clear mandate for reporting to the appropriate Government.

14. Chapter V – Strikes and Lockouts

Chapter V of the ID Act, titled *"Strikes and Lockouts"*, contains independent, standalone provisions relating to the prohibition of strikes and lockouts. The relevant provisions, Sections 22, 23, and 24 of the ID Act, read as follows:

14.1 Section 22 – Prohibition of strikes and lock-outs

(1) *No person employed in a public utility service shall go on strike in breach of contract*—

(a) without giving the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) *during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings*.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a

conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this Section shall not be necessary where there is already in existence a strike or, as the case may be, a lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared to such authority as may be specified by the appropriate Government.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as referred to in sub-section (1) or gives to any persons employed by him any such notices as referred to in sub-

section (2), he shall within five days report the same to the appropriate Government or to such authority as that Government may prescribe.

14.2 **Section 23 – General prohibition of strikes and lock-outs**

No workman who is employed in any industrial establishment shall go on strike in breach of contract, and no employer of any such workman shall declare a lock-out—

(a) *during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings*;

(b) during the pendency of proceedings before a Labour Court, Tribunal, or National Tribunal, and two months after the conclusion thereof;

(bb) during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion thereof, where a notification has been issued under sub-section (3A) of Section 10A; or

(c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

14.3 **Section 24 – Illegal strikes and lock-outs**

(1) *A strike or a lock-out shall be illegal if—*

(i) *it is commenced or declared in contravention of Sections 22 or 23; or*

(ii) it is continued in contravention of an order made under sub-section (3) of Section 10 or sub-section (4A) of Section 10A.

(2) Where a strike or lock-out pursuant to an industrial dispute has already commenced and is in existence at the time of reference of the dispute to a Board, Labour Court, Tribunal, or National Tribunal, the continuance of such strike or lock-out shall not be deemed illegal, provided that it was not at its commencement in contravention of the Act or prohibited under sub-section (3) of Section 10 or sub-section (4A) of Section 10A.

(3) A lock-out declared in consequence of an illegal strike, or a strike declared in consequence of an illegal lock-out, shall not be deemed

illegal.

(emphasis supplied)

15. **Observations on Sections 22, 23, and 24 of the ID Act**

1. *Expression "no person employed" under Section 22 of the ID Act*

Section 22 of the ID Act uses the expression *"no person employed in a public utility service"* as opposed to the specific expressions "*employer*" or "*workman*" used elsewhere in the ID Act. The statutory embargo on strikes and lockouts therefore applies not only to workmen but also to non-workmen, provided they are employed in a PUS.

2. *Legislative intent*

Had Parliament intended Section 22 of the ID Act to apply only to workmen, it would have used the term "workman" instead of "any person." The use of a broader expression indicates that Section 22 of the ID Act applies to all employees in a PUS, including non-workmen.

3. *Distinction between Sections 22 and 23 of the ID Act*

Section 23 of the ID Act specifically restrains workmen from resorting to strikes and lockouts, whereas Section 22 of the ID Act imposes a broader statutory embargo applicable to any person employed in a PUS. The existence of separate provisions demonstrates that Section 22 of the ID Act is intended to cover non-workmen as well.

4. *Section 24 of the ID Act – Declaration of illegality*

Section 24 of the ID Act reinforces the statutory prohibition by declaring strikes and lockouts illegal if undertaken in contravention of Sections 22 or 23 of the ID Act. Sub-section (1)(i) of Section 24 of the ID Act targets strikes and lockouts before their commencement, while sub-section (1)(ii) of Section 24 of the ID Act addresses those continuing in contravention of Section 10A of the ID Act.

5. *Omnibus applicability of Section 22 of the ID Act*

The statutory embargo under Section 22 of the ID Act operates

perpetually and applies to all persons employed in the concerned industrial establishment once it is notified as a PUS under Section 2(n) of the ID Act by the Central Government. Any person employed with a PUS is statutorily prohibited from participating in strikes and lockouts.

This framework highlights the legislative distinction and clear intent of Parliament to impose restrictions on both workmen and non-workmen employed in a PUS.

16. Viewed in the above perspective, a strike or lockout cannot be resorted to, declared, or commenced by any person without fulfilling the prerequisites prescribed under Sections 22(1)(a), (1)(b), (1)(c), and (1)(d) of the ID Act.

16.1 Section 22(1)(d) of the ID Act, insofar as it states, *"during the pendency of any conciliation proceedings before a conciliation officer,"* cannot be construed as restricting the debarment only to workmen. It is a settled principle of statutory interpretation that a sub-clause cannot be

elevated to serve as the principal or charging provision, nor can it be used to interpret the main charging clause. A sub-clause must be given subsidiary status relative to the principal clause.

16.2 Accordingly, Section 22(1)(d) of the ID Act cannot dictate the interpretation of Section 22(1) of the ID Act, which is the principal or charging provision. What Section 22(1)(d) indicates, in fact, is that *no person employed in a public utility service may go on strike during the pendency of conciliation proceedings*. The focus is on the conduct of the strike, not the status of the person - whether workman or non-workman.

16.3 Interpreting Section 22(1) through the lens of Section 22(1)(d) of the ID Act would dilute the principal provision, undermining its scope and purpose. Such an interpretation is impermissible, as it would subordinate the main charging provision to its sub-clause, defeating the very object for which Section 22 of the ID Act was enacted.

17. The Hon'ble Supreme Court has consistently reiterated that the conduct of employees, including proceeding on strike in

establishments, organizations, or any vital sector of the financial economy, cannot be treated as a facet of Article 19(1)(c) of the COI. In the judgment of ***T.K. Rangarajan v. Government of Tamil Nadu & Ors.***[4], the Apex Court categorically held that the right to strike cannot be considered a fundamental right. Even the most liberal interpretation of Article 19(1)(c) of the COI does not confer upon trade unions a guaranteed right to collective bargaining or to strike.

17.1 Subversive activities that disrupt or halt the functioning, operation, and working of an industrial establishment can never be justified as an exercise of a fundamental right, nor can any legal or statutory right be attached to such activities. Referring to the provisions of the ID Act, as well as the Tamil Nadu Government Servants Conduct Rules, 1973, the Supreme Court observed that if strikes were treated as a permissible mode of protest, the tool would likely cause more harm than

[4] (2003) 6 SCC 581

good, with society and the public at large being the ultimate sufferers.

17.2 Strikes affect the social fabric, particularly when a large number of employees participate *en masse*, bringing administration to a standstill. Employees who go on strike thereby commit misconduct of the highest order by jeopardizing the peaceful functioning and operation of public sector organizations, which renders such activity unconstitutional.

17.3 Referring extensively to the judgments in ***Ex-Capt. Harish Uppal v. Union of India***[5], and ***Communist Party of India (M) v. Bharat Kumar***[6], the Hon'ble Supreme Court, in Paras 19 to 21 of ***T.K. Rangarajan*** (supra), held as follows:

> *"19. Apart from statutory rights, government employees cannot claim that they can take the society at ransom by going on strike. Even if there is injustice to some extent, as presumed by such employees, in a democratic welfare State, they have to resort to the machinery provided under different statutory provisions for redressal of their grievances. Strike as a weapon is mostly misused which results*

[5] (2003) 2 SCC 45
[6] (1998) 1 SCC 201

in chaos and total maladministration. Strike affects the society as a whole and particularly when two lakh employees go on strike en masse, the entire administration comes to a grinding halt. In the case of strike by a teacher, the entire educational system suffers; many students are prevented from appearing in their exams which ultimately affects their whole career. In case of strike by doctors, innocent patients suffer; in case of strike by employees of transport services, entire movement of the society comes to a standstill: business is adversely affected and number of persons find it difficult to attend to their work, to move from one place to another or one city to another. On occasions, public properties are destroyed or damaged and finally this creates bitterness among the public against those who are on strike.

20. Further, Mr K.K. Venugopal, learned Senior Counsel appearing for the State of Tamil Nadu also submitted that there are about 12 lakh government employees in the State. Out of the total income from direct tax, approximately 90% of the amount is spent on the salary of the employees. Therefore, he rightly submits that in a society where there is large scale unemployment and number of qualified persons are eagerly waiting for employment in government departments or in public sector undertakings, strikes cannot be justified on any equitable ground.

21. We agree with the said submission. In the prevailing situation, apart from being conscious of rights, we have to be fully aware of our duties, responsibilities and effective methods for discharging the same. For redressing their grievances, instead of going on strike, if employees do some more work honestly, diligently and efficiently, such gesture would not only be appreciated by the authority but

> *also by people at large. The reason being, in a democracy even though they are government employees, they are part and parcel of the governing body and owe duty to the society."*
>
> *(emphasis supplied)*

18. Ready reference may also be made to the Constitution Bench judgment of the Hon'ble Supreme Court in ***All India Bank Employees' Association v. National Industrial Tribunal (Bank Disputes), Bombay & Others***[7], wherein the question arose regarding the constitutional validity of Section 34A of the Banking Companies Act, 1949, as amended by the 1960 amendment. It was contended that the right to collective bargaining is implicit under Article 19(1)(c) of the COI and cannot be restricted.

18.1 The Supreme Court, repelling this contention, held that reasonable restrictions on the rights guaranteed under Article 19(1)(c) of the COI can always be imposed by statute, particularly when such restrictions are enacted in the interest of the general public. By no

[7] 1961 SCC OnLine SC 5

stretch of imagination was Article 19(1)(c) of the COI intended to encompass a right to go on strike, whether as part of collective bargaining or otherwise. Such a right to strike, or the right to declare a lockout, can always be regulated, controlled, or even prohibited by appropriate industrial legislation.

18.2 The Court further held that the right to strike cannot be justified as a concomitant of the right to assemble and form associations under Article 19(1)(c). The following observations of the Supreme Court in ***All India Bank Employees' Association*** (supra) are particularly pertinent in this context:

> *"Besides the qualification subject to which the right under sub clause (c) is guaranteed, viz., the contents of clause (4) of article 19 throw considerable light upon the scope of the freedom, for the significance and contents of the grants of the Constitution are best understood and read in the light of the restrictions imposed. If the right guaranteed included not merely that which would flow on a literal reading of the article, but every right which is necessary in order that the association brought into existence fulfils every object for which it is formed, the qualifications therefor would be not merely those in clause (4) of article 19, but*

would be more numerous and very different, restrictions which bore upon and took into account the several fields in which associations or unions of citizens might legitimately engage themselves. Merely by way of illustration we might point out that learned counsel admitted that though the freedom guaranteed to workmen to form labour unions carried with it the concomitant right to collective bargaining together with the right to strike, still the provision in the Industrial Disputes Act forbidding strikes in protected industries as well as in the event of a reference of the dispute to adjudication under section 10 of the Industrial Disputes Act was conceded to be a reasonable restriction on the right guaranteed by sub-clause (c) of clause (1) of article 19. It would be seen that if the right to strike were by implication a right guaranteed by sub-clause (c) of clause (1) of article 19, then the restriction on that right in the interests of the general public, viz., of national economy while perfectly legitimate if tested by the criteria in clause (6) of article 19, might not be capable of being sustained as a reasonable restriction imposed for reasons of morality or public order. On the construction of the article, therefore, apart from the authorities to which we shall refer presently, we have reached the conclusion that even a very liberal interpretation of sub-clause (c) of clause (1) of article 19 cannot lead to the conclusion that the trade unions have a guaranteed right to an effective collective bargaining or to strike, either as part of collective bargaining or otherwise. The right to strike or the right to declare a lock-out may be controlled or restricted by appropriate industrial legislation, and the validity of such legislation would have to be tested not with reference to the criteria laid down in clause (4) of article 19 but by totally different considerations."

(emphasis supplied)

19. From the foregoing, it is evident that the reliance placed by the RWP on the judgment is of no avail. On the contrary, the judgments in ***T.K. Rangarajan*** (supra) and ***All India Bank Employees' Association*** (supra) support the submissions of the appellant bank. It can be safely concluded that the right to collective bargaining by resorting to strikes or lockouts by employees of any establishment falls outside the constitutional protections of Article 19(1)(c) of the COI. There is no dispute with the legal position that the right to form an association, or a trade union, does not automatically confer a right to go on strike or disrupt the functioning of the employer through anti-establishment actions. This is precisely the Parliamentary intent behind the enactment of the provisions under Chapter V of the ID Act, namely Sections 22, 23, and 24 of the ID Act.

20. This legal position is further echoed in the judgment of ***B.R.***

Singh & Ors. v. Union of India & Ors[8]**,** wherein the Hon'ble Supreme Court considered the legitimacy of strikes in non-public utility services at the behest of employee workmen of the Trade Fair Authority of India (TFAI). The Court, interpreting the provisions of the TU Act, the ID Act, and related enactments, held that the right to form associations or unions is a fundamental right guaranteed under Article 19(1)(c) of the COI. However, the right to strike is not absolute under Indian industrial jurisprudence, as statutory restrictions have been imposed on it. This is evident from provisions regulating and restricting the right to strike under certain conditions, particularly Sections 10 and 10A of the ID Act. Sections 22 and 23 of the ID Act operate in a different field and are distinct from the cognate provisions of Sections 10 and 10A of ID Act.

21. The Hon'ble Supreme Court held that Sections 22 and 23 of the ID Act prohibit strikes at the threshold by placing an omnibus

[8] (1989) 4 SCC 710

embargo on '*any person*' associated with the relevant industry. In Paras 16 and 17 of ***B.R. Singh*** (supra), the Supreme Court observed as follows:

> *"16. The field of operation of Sec. 22 and 23 is different. While Sec. 10(3) and Sec. 10-A(4-A) confer power to prohibit continuance of strike which is in progress, Sec. 22 and 23 seek to prohibit strike at the threshold. Sec. 22 provides that no person employed in a public utility service shall proceed on strike unless the requirements of clauses (a) to (d) of sub-Sec. (1) thereof are fulfilled. The expression "public utility service" is defined in Sec. 2(n) and indisputably TFAI does not fall within that expression. Sec. 23 next imposes a general restriction on declaring strikes in breach of contract during pendency of (1) conciliation proceedings, (ii) proceedings before Labour Court, Tribunal or National Tribunal, (iii) arbitration proceedings and (iv) during the period of operation of any settlement or award. In the present case no proceedings were pending before any of the aforementioned fora nor was it contended that any settlement or award touching these workmen was in operation during the strike period and hence this provision too can have no application. Under Sec. 24 a strike will be illegal only if it is commenced or declared in contravention of Sec. 22 or 23 or is continued in contravention of an order made under Sec. 10(3) or 10-A(4-A) of the ID Act. Except the above provisions, no other provision was brought to our attention to support the contention that the strike was illegal. we, therefore, reject this contention.*
>
> *17. The next question is whether the material on record reveals that the of ice-bearers of the Union had given threats to officials of TFAI as alleged. The Labour*

> *Court has negatived the involvement of office-bearers of the Union in giving threats either in person or on telephone. we have perused the evidence on record in this behalf and we are inclined to think that there were angry protests and efforts to obstruct the of icers from entering the precincts of TFAI but there is no convincing evidence of use of force or violence."*
>
> *(emphasis supplied)*

Accordingly, from the foregoing, it is clear that the fundamental right under Article 19(1)(c) of COI does not encompass the right to go on strike or declare lockouts, independent of the statutory provisions of the ID Act.

Consideration and findings

22. As stated supra, the RWP has vehemently contended that the embargo under Sections 22 and 23 of the ID Act applies only to workmen, and that the very purpose of instituting conciliation proceedings is to settle an industrial dispute, which, it is argued, cannot arise without a workman on one side. This contention is rejected for the fundamental reason that Sections 22 and 23 of the ID Act operate in different spheres. While Section 22 of the ID Act places a statutory embargo on "*any*

person", Section 23 of the ID Act imposes an embargo specifically on "*workmen*". For the reasons discussed supra, the ambit and scope of Section 22 cannot be controlled by the provisions of Section 12 or Section 22(1)(d) of the ID Act, but must be given an independent interpretation, regardless of whether the employees are classified as workmen. If this distinction is not recognized, the very purpose of enacting Section 22 of the ID Act would be defeated.

22.1 Section 22 of the ID Act, as discussed above, applies even when workmen are not involved, whereas Section 23 of the ID Act applies only when a dispute involves workmen. The gravamen of Section 22 of the ID Act is triggered the moment it concerns a PUS as notified under Section 2(n) of the ID Act. Strikes or lockouts as modes of protest are statutorily prohibited because they have the effect of paralyzing the functioning of establishments of immense public utility, such as the banking sector, which is at the forefront of the Indian economy.

22.2 The reasoning of the learned Single Judge is therefore based

on a misunderstanding of the statutory scheme and is, consequently, erroneous. The Single Judge relied extensively on the judgment in ***Workmen of Dimakuchi Tea*** (supra) to conclude that conciliation proceedings can only be initiated in the context of an industrial dispute, which, by necessary implication, cannot arise without the involvement of workmen. We are not addressing the broader question of whether the members of the RWP are workmen, as on other issues we are already persuaded that the findings of the learned Single Judge are unsustainable and incorrect.

23. The judgment in ***Workmen of Dimakuchi Tea Estate*** (supra) did not concern the interpretation of Section 22 of the Act. To the contrary, it held that the expression "*any person*" must be interpreted differently from "*workman*". The expression "*any person*" cannot be treated as equivalent or synonymous with "workman" under the ID Act. The Hon'ble Supreme Court explicitly held that nothing in the ID Act suggests that the word "*person*," as employed in Section 22(1) of the ID

Act, refers only to a workman. The Court expressly rejected the contention that the focus of Section 22 of the ID Act would be displaced from workmen if the expression "any person" is interpreted to include non-workmen as well.

24. Reference may be made to the observations of the Supreme Court in paragraphs 38 to 40 of ***Workmen of Dimakuchi Tea Estate*** (supra), which read as follows:

> *"38. The first reason, then, is that in certain sections, the Act uses the words "any person". I will assume that by the use of these words only workmen are intended to be referred to in these sections. But the question arises why is such intention to be inferred? Clearly, because the context requires it. I will refer to some of these sections to make my point clear. Section 2(1) defines a lock-out as "the closing of a place of employment, or the suspension of work, or the refusal by the employer to continue to employ any number of persons employed by him". Section 2(q) defines a strike as "a cessation of work by a body of persons employed in any industry acting in combination, or concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment". Lock-outs and strikes are dealt with in Sections 22, 23 and 24 of the Act. Section 22(2) says that no employer carrying on any public utility service shall lock-out any of his workmen*

except on certain conditions mentioned in the section. Section 23 says that no employer of any workman employed in any industrial establishment shall declare a lock-out during the periods mentioned in the section. Section 24 states that a strike or a lock-out shall be illegal if commenced or declared in contravention of Section 22 or Section 23. The definitions of lock-outs and strikes are for the purposes of Sections 22, 23 and 24. There are other sections in which lock-outs and strikes are mentioned but they make no difference for our present purpose. The lock-outs and strikes dealt with in Sections 22(2), 23 and 24 are lock-outs of and strikes by workmen. It may hence be said that in Section 2(1) and (q) by the word person a workman is meant. Therefore, it is these sections viz. 22(2), 23 and 24, which show what the meaning of the word 'person' in the definitions is. I would like to point out in passing that Section 22(1) says that no person employed in a public utility service shall go on strike except on certain conditions and there is nothing in the Act to show that the word "person" in Section 22(1) means only a workman. Proceeding however with the point we are concerned with, the question is, is there any provision in the Act which would show that the words "any person" in Section 2(k) were meant only to refer to persons of the workman class. I have not been able to find any and none has been pointed out. Therefore, the fact that in Section 2 sub-sections (1) and (q) the word "persons" means workmen is no reason for concluding that the same word must be given the same restricted meaning in Section 2(k). The position with regard to Section 33-A, in which the word employee has to be read as meaning a workman because of Section 33, is the same and does not require to be dealt with specially. I may add that if it has to be said that because in certain other sections the word

"person" has to be understood as referring to a workman only, in Section 2(k) also the same word must have the same meaning, then we have to read the words "any person" in Section 2(k) as meaning only a workman as defined in the Act. This however is not the contention of the learned counsel for the respondent. I may further say that it was not contended that the word "person" in Section 2 sub-sections (1) and (q) and the word employee in Section 33-A has to be read as including not only a workman in employment but also a discharged workman and a person who in future becomes a workman, and it seems to me that such a contention would not have been possible.

39. I proceed now to deal with the second group of reasons based on the object and scheme of the Act. It is said that the Act makes a distinction between employees who are workmen and all other employees, and that the focus of the Act is on workmen and it was intended mainly for them. This was the view taken in United Commercial Bank Ltd. v. Kedar Nath Gupta15. I will assume all this. It may also be true that the Act is not much concerned with employees other than workmen. But I am unable to see that all this is any reason for holding that the words "any person" must mean a person of the workman class. The definition in Section 2(k) would be fully concerned with workmen however, the words "any person" in it may be understood because the dispute will be one to which a workman is a party. Is it to be said that the Act would cease to be intended for workmen or the focus of it displaced from workmen or that the distinction between workmen and other employees would vanish if a dispute relating to the dismissal of one who is not a workman is held to be an industrial dispute, even though the dispute is one to which workmen are parties? I am unable to subscribe

to such an argument. But it is said that in such a case the workmen would not be interested in the dispute, the dispute would not really be with them and they would not be in any real sense of the word parties to it. So put the argument comes under the last of the three reasons earlier stated, namely, that in order that there may be an industrial dispute the workmen must be interested in that dispute. This contention I will consider later. It is also said in United Commercial Bank case that the main purpose of the Act is to adjust the relations between employers and workmen by securing for the latter the benefit provided by the Act. It is really another way of saying that the workmen must be interested in the dispute, for if they are not interested no benefit can accrue to them from an adjustment of it. This, as I have said, I will discuss later.

40. It is also said that the Act is for the benefit of workmen and therefore if a dispute concerning a person who is not a workman, is an industrial dispute capable of being resolved by adjudication under the Act, then, if the award goes in favour of the workmen raising it, a benefit would result to a person whom the Act did not intend to benefit.

.....”

(emphasis supplied)

25. The reasoning of the learned Single Judge, therefore, is clearly erroneous, as it proceeds on an incomplete and improper understanding of the judgment of the Hon’ble Supreme Court in ***Workmen of Dimakuchi Tea Estate*** (supra). The judgment, in fact,

reaffirms the contention of the appellant herein that Sec. 22(1) of the ID Act deals with a much broader spectrum, including all categories of employees (both workmen and non-workmen) employed in any industrial establishment. Consequently, the finding of the learned Single Judge on this count is liable to be set aside.

26. In view of the above analysis, we unhesitatingly hold that the rigors of Sec. 22(1) of the ID Act and the statutory prohibition contained therein shall apply squarely to the RWP association. Acceptance of the association's contention would effectively amount to interpreting the judgment of this Court as legalizing the draconian actions of strikes and lockouts by trade unions, something the Indian Constitution does not envisage. There is no basis for the inference that managerial or supervisory employees of higher ranks or cadres are excluded from the provisions of the ID Act. While it may be argued in an appropriate case that managerial and supervisory employees do not fall within the definition of '*workman*', it is entirely different to contend that they

cannot be covered by the statute itself, particularly Sec. 22(1) of the ID Act. The learned Single Judge clearly glossed over this crucial aspect, rendering the reasoning suspect.

27. Further, the restrictions imposed under Section 22 of the ID Act are designed to protect the interests of the public and ensure the smooth operation of a PUS. A PUS provides services of immense public importance, and permitting strikes or lockouts in such services would have unforeseeable repercussions on the public and the citizenry at large. The very definition of '*strike*' under Sec. 2(q) of the ID Act contemplates that officers and non-workmen employees are included within the expression "*body of persons employed in any industry*". Had Parliament intended a limited scope, it could have used the term '*workman*' instead of '*body of persons*'. A conjoint reading of Sec. 2(q) with Sec. 22(1) of the ID Act clearly demonstrates that the learned Single Judge erred by overlooking the essential submission of the appellants - that Section 22, not Sections 12 or 23 of the ID Act, is applicable.

27.1 The fundamental question, therefore, is *whether the call for a strike by the RWP association could have been made at the outset*. If the strike itself was statutorily prescribed under Sec. 22(1) of the ID Act, there is no question of the legality of appointing a conciliation officer or referring the association to conciliation proceedings.

28. Therefore, the reasoning in the impugned judgment is based on a misconstruction of the provisions of Chapter V of the ID Act, particularly the definitions of '*strike*' and '*PUS*' read conjointly with Section 22(1) of the Act. It is the '*call for strike' per se* that may trigger the initiation of conciliation proceedings, either at the behest of the RLC or the employer establishment. '*Strike*' is an expression entirely distinct from *'industrial dispute'* as defined under Section 2(k) of the ID Act, and the moment the employer receives intimation, directly or indirectly, that employees are proposing to go on strike against the establishment, he is competent to register and initiate appropriate proceedings before the RLC and trigger conciliation proceedings.

29. Once conciliation proceedings have been triggered by virtue of the call for strike, the call for strike cannot be carried forward or acted upon by the employees during the continuance of such proceedings. By holding that an '*industrial dispute*' is a precondition for initiating conciliation proceedings, the learned Single Judge overlooked both the spirit and the substance of the provisions of Chapter V of the ID Act, which deal with the broader menace of strikes and lockouts as constitutionally incompatible modes of protest by employees of any notified PUS. The findings that conciliation proceedings cannot be initiated without an industrial dispute, and that an industrial dispute can only arise at the behest of workmen, are based on an incomplete and unsustainable reading of Chapter V of the ID Act.

30. We, therefore, hold unhesitatingly that even a call for strike, if communicated to the employer, entitles him to trigger conciliation proceedings. It is not necessary that such proceedings be preceded by an '*industrial dispute*' at the behest of workmen when the provisions of

Section 22(1) of the ID Act are applicable. Acceptance of the opposite argument would mean that strike or lockout could never serve as a ground for initiating conciliation proceedings, thereby defeating the Parliament's objective and intent in enacting these provisions.

31. It must be remembered that the root purpose of Section 22(1) of the ID Act is to address the menace of strikes, not to regulate an 'industrial dispute,' which is the focus of Sections 10, 10A, and 10B under Chapter III Section 22(1) of the ID Act is a self-contained, special provision that applies to employees working in a notified PUS, an establishment of immense public interest, whose activities cannot be halted, suspended, or hindered by resorting to collective bargaining through strikes.

32. This Court cannot ignore the practical realities of the present day, where strikes by employees, workmen, or even officers of any sector of public importance primarily harm the public at large, particularly ordinary citizens. If bank officers go on strike, it is the common citizen,

the lower-middle-class or poor citizens, who are most adversely affected, not the wealthy. This is because the banking sector's interface today is far more with ordinary citizens than with the affluent. Even for basic services such as issuing a money order or demand draft, ordinary citizens must wait in long queues, running from one counter to another.

33. Suspension of work through strikes or lockouts, therefore, directly impacts the ordinary citizen. To address this menace, Section 22(1) of the ID Act has been enacted. If the interpretation given in the impugned judgment is accepted, the provisions of Section 22(1) of the ID Act would be rendered *otiose*. Conciliation proceedings before the Conciliation Officer provide a level playing field for both the employer and the employee to settle their grievances amicably in a structured environment. There is no justification for the RWP association to oppose conciliation proceedings while resorting to strikes and lockouts, which often have the potential to escalate into violent agitations, resulting in not only loss of public confidence but also damage to public property and

assets.

34. The proceedings before the Conciliation Officer do not undermine the employees' ability to raise grievances; rather, they facilitate resolution by bringing the employer and employee to the same negotiating table. They can appropriately be treated as a 'safety valve mechanism,' whereby any person employed in a PUS must follow a prescribed procedure before resorting to strike action or patiently pursue conciliation proceedings. This crucial aspect appears to have been overlooked by the learned Single Judge.

35. Although lengthy arguments and submissions were made regarding the previous history and litigation between the parties whenever strikes were called, with active interventions by various Single Judges of this Court, we have refrained from delving into these aspects, as the present judgment concerns a pure question of law. We have also not addressed ancillary contentions regarding the premature filing of the writ petition or the alleged absence of cause of action. Since

the larger issue, the interpretation of Section 22(1) of the ID Act, has been decided in favour of the appellant, other contentions are not being considered. In a PUS, the law safeguards the public first - no strike or lockout can trump the larger interest of the nation.

The Writ Appeal stands allowed. Accordingly, the impugned judgment dated 28.03.2025, passed by the learned Single Judge in W.P.(C) No.9196/2023, is set aside for the reasons stated above, and the writ petition filed by the RWP is dismissed. There shall be no order as to costs.

Sd/-
SUSHRUT ARVIND DHARMADHIKARI
JUDGE

Sd/-
SYAM KUMAR V.M.
JUDGE

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