

Government of West Bengal

Labour Department, I. R. Branch

N. S. Building, 12<sup>th</sup> Floor, 1, K.S. Roy Road, Kolkata – 700001

No. Labr./ 738 /(LC-IR)/22015(16)/37/2024

Date : 31-07-2024

ORDER

WHEREAS an industrial dispute existed between M/s. Armenian College and Philanthropic Academy, 56B, Mirza Ghalib Street, Kol -700016 and its Non-Teaching Staff represented by Armenian College & Philanthropic Academy and Davidian Girls' School Non-Teaching Staff Union, 50/1, Nirmal Chandra Street, Kolkata – 700012 regarding the issues being a matter specified in the second schedule of the Industrial Dispute act, 1947 (14 of 1947);

AND WHEREAS the Non-Teaching Staff has filed an application directly under sub-section 2 of Section 2A of the Industrial Dispute act, 1947 (14 of 1947) to the Second Industrial Tribunal specified for this purpose under this Department Notification No. 101- IR dated 2.2.12;

AND WHEREAS the said Second Industrial Tribunal has submitted to the State Government its Award dated 16.07.2024 in Case No. VIII-04 / 2016 on the said Dispute vide Memo No. Dte/2<sup>nd</sup> I.T./073/2024 dated 22.07.2024.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said Award as shown in the Annexure hereto.

ANNEXURE

(Attached herewith)

By order of the Governor,

Sd/-

Assistant Secretary

to the Government of West Bengal

No. Labr/ 738 /1(5)/(LC-IR)

Date : 31-07-2024

Copy with a copy of the Award forwarded for information and necessary action to :-

1. M/s Armenian College and Philanthropic Academy, 56B, Mirza Ghalib Street, Kol - 700016.
2. Armenian College & Philanthropic Academy and Davidian Girls' School Non-Teaching Staff Union, 50/1, Nirmal Chandra Street, Kolkata – 700012.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11<sup>th</sup> Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
- ✓ 5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

Assistant Secretary

No. Labr/ 738 /2(3)/(LC-IR)

Date : 31-07-2024

Copy forwarded for information to :-

6. The Judge, Second Industrial Tribunal & i/c of Second Industrial Tribunal, N. S. Building, 3<sup>rd</sup> Floor, 1, K. S. Roy Road, Kolkata - 700001 with reference to his Memo No. Dte/2<sup>nd</sup> I.T./073/2024 dated 22.07.2024.
7. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
8. Office Copy.

Assistant Secretary

Depan Banerjee (SSP)  
02/8/24



**Case No. VIII- 04/2016**

M/s. Armenian College and Philanthropic Academy

Vs.

Non-Teaching Staff represented by Armenian College and  
Philanthropic Academy and Davidian Girls' School  
Non-Teaching Staff Union

Order No. 72

Date: 16.07.2024

Both parties are present.

Record shows that on 14.06.2024 it was held that before proceeding further in this case, it is legally necessary to consider as to whether the Opposite party namely Armenian College and Philanthropic Academy is an industry according to The Industrial Disputes Act, 1947 and 04.07.2024 was fixed for hearing on the point of maintainability and on 04.07.2024 the PO was on leave and today i.e. 16.07.2024 was fixed for hearing on the point of maintainability.

Accordingly one issue as preliminary issue is framed today to the point "Is the Armenian College and Philanthropic Academy an industry according to The Industrial Disputes Act, 1947?"



During hearing the Ld. Advocate for the Union filed a petition praying for adjournment of hearing because the Union wants to move the Hon'ble High Court Calcutta against the Order dated 14.06.2024 passed by this Tribunal regarding maintainability of this case.

Heard both sides on this petition of the petitioner. The Ld. Advocate for the Opposite Party raised strong objection to allow this petition because the case is not maintainable in law and the Opposite Party is not an industry under The Industrial Disputes Act, 1947.

The petitioner has not produced any stay order against the order dated 14.06.2024 passed by this Tribunal and moreover, the petitioner has not yet moved the Hon'ble High Court, Calcutta against this order though on 14.06.2024 it was within the knowledge of the petitioner about said hearing on 04.07.2024 and on 04.07.2024 the petitioner did not file any petition stating that the petitioner will move the Hon'ble High Court, Calcutta against the Order dated 14.06.2024 and for such type of circumstances, the present petition of the petitioner praying for adjournment is rejected.

In its written statement in para No. 13 (ii) the Opposite Party has taken a plea that the Opposite Party is a



purely philanthropic, unaided, non-profit educational organisation and it had never been associated with any trade or industry.

It is true that the case is pending for evidence for the petitioner but according to Order 14 Rule 2(2) of the CPC, before discussing all other issues the Court has power to dispose of any issue as preliminary issue if the allegation is related to the jurisdiction of the Court and any matter barred by law.

It is not legally necessary that the Opposite Party has to take any plea regarding non-maintainability of the case on the point of law or jurisdiction of the Court.

The Court suo motto can decide at any stage of the case or even at the time of filing of the case, as to whether the case is barred by law or by jurisdiction of the Court.

In this case it is to be considered as to whether the Opposite party namely Armenian College and Philanthropic Academy is an industry under The Industrial Disputes Act, 1947.

According to the substituted definition of Industry w.e.f. **21.08.1984**, hospitals and institutions owned or



managed by organisation wholly or substantially engaged in any charitable, social, or philanthropic service or educational, scientific, research or training institutions are not industries according to The Industrial Disputes Act, 1947.

In this case the petitioner has mentioned Armenian College and Philanthropic Academy as the Opposite Party in this case and accordingly there is no need to prove that the Opposite Party is not a college and philanthropic academy.

Accordingly, I hold that the Opposite Party of this case is not an industry and there cannot be any relationship of employer and employee between the petitioner and the Opposite Party of this case and as the Opposite Party is not an industry, the case is not maintainable **legally** against the Opposite Party and there is no legal necessity to proceed further with this case as it is not legally maintainable.

So in view of the above position of the record and definition of the term 'industry' as per The Industrial Disputes Act, 1947, I hold that this case is not maintainable in law as the Opposite Party is not an industry and I also hold that the petitioner is not



entitled to get any relief in this case as the Opposite party is not an industry.

Hence it is

### **ORDERED**

that the Case No. VIII - 04/2016 under Section 10(2A) of The Industrial Disputes Act, 1947 is dismissed on contest against the Opposite Party as the case is not legally maintainable according to The Industrial Disputes Act, 1947.

Let this Order be treated as an Award.

According to Section 17AA of The Industrial Disputes Act, 1947, let a certified copy of this award be sent to the Principal Secretary to the Government of West Bengal, Labour Department, New Secretariat Buildings, 1, K.S. Roy Road, Kolkata 700 001 for information, and let a certified copy of this award be supplied to each of both the parties of this case, free of cost, forthwith for information.

The case is disposed of today.

Dictated & corrected by me.

  
Judge



(Shri P.S. Mukhopadhyay)  
Judge  
2<sup>nd</sup> Industrial Tribunal  
Kolkata  
Judge  
2<sup>nd</sup> Industrial Tribunal  
West Bengal