of the Society and, therefore, he was subject to a disqualification which prevented him from seeking election. This is so but having successfully contested the election as member of the committee of the society and thereafter its President even though he was ineligible, his election could be challenged by raising an election dispute under Section 55 of the Act but his membership could not be ceased under Clause (g) of Rule 26 of the Rules. It must, therefore, be held that Clause (f) of Rule 26 has no applicability to a case where a person though ineligible to seek the election has yet been elected as a member of a Committee when he has not incurred the disqualification after the election. In this view of the matter, the impugned order dated 29th September, 1997 holding that the petitioner had ceased to be the President of the Socieity cannot be sustained.

(6) In the result, the writ petition is allowed and the impugned order dated 29th September, 1997 quashed. There is no order as to costs.

R.N.R.

Before N.K. Sodhi and N.K. Sud, JJ.

ALL INDIA INSTITUTE OF MEDICAL SCIENCES,—*Petitioners*
THROUGH ITS DIRECTOR AND ANOTHER

versus

ATTAR SINGH AND OTHERS,—*Respondents*

C.W.P. No. 15686 of 1999

5th November, 1999

Constitution of India, 1950—Art. 226—Industrial Disputes Act, 1947—Ss. 2(j) and 25-F—Petitioner and the State of Haryana started a joint venture at Ballabgarh—Petitioner made appointment of the workman on daily wages and posted him at Ballabgarh—Termination of the workman after 8 years continuous service without complying with the provisions of S. 25-F—Haryana Government making the reference to Labour Court—Labour Court finding the termination wrongful and contrary to law and directing reinstatement of the workman—Challenge thereto—Mere fact that the project was a joint venture did not make the Haryana Government a necessary party to the reference—Cause of action arisen in the State of Haryana, so State Government was the appropriate Government to make the reference—Workman completed more than 240 days so it was imperative upon the petitioner to comply with the mandatory provisions of S. 25-F—

Petitioner's plea that AIIMS is not an 'industry' rejected—Writ dismissed.

Held, that the workman was employed by the petitioner and the mere fact that the Comprehensive Rural Health Services (CRHS) scheme was a joint venture did not make the Haryana Government a necessary party to the reference. We have, therefore, no hesitation in rejecting the contention of the petitioner that the Haryana Government was a necessary party and since it was not impleaded to the reference the same was illegal and liable to be rejected on the ground of non-joinder of a necessary party.

(Para 5)

Further held, that the petitioner undoubtedly is a statutory body which is functioning at Delhi. It has undertaken a project with the State of Haryana at Ballabgarh where the workman was employed. What has to be seen is as to where the cause of action arose. Since the workman was working at Ballabgarh and his services were terminated from there can be no doubt that the cause of action arose at Ballabgarh in the State of Haryana and, therefore, the State Government alone was the appropriate Government. The fact that the petitioner is a statutory body at Delhi is of no consequence. We are, therefore, satisfied that the State of Haryana was the appropriate Government which could validly made the reference.

(Para 6)

Further held, that the question whether the petitioner is an industry or not depends upon the nature of activities undertaken by it by no evidence in this regard has been led before the Labour Court. On the other hand, it was conceded before the Labour Court that the petitioner is an industry and, therefore, it is not open to the learned counsel to contend to the contrary before us for the first time.

(Para 7)

Further held, that the fact that the workman was employed on 7th August, 1986 and he continuously worked up to 31st July, 1994 was not disputed even before the Labour Court and, therefore, it cannot be said that the workman had been employed only to meet a temporary need of short duration. He had completed more than 240 days of service and, therefore, before his services could be terminated, it was imperative upon the petitioner to comply with the mandatory provisions of Section 25-F of the Act. The workman was neither given any notice nor paid any compensation in terms of Section 25-F of the Act. In this view of

the matter, the Labour Court was justified in holding that the termination was wrongful and contrary to the provisions of the Act.

(Para 8)

Mukul Gupta, Advocate with Manju Dwivedi, Advocate, *for the petitioner*

JUDGMENT

N.K. Sodhi, J.

(1) This order will dispose of three writ petitions Nos. 15686, 15687 and 15692 of 1999 which are directed against similar awards passed by the Presiding Officer, Labour Court, Faridabad. The questions of law and fact which arise in these petitions are identical and, therefore, these are being disposed of by a common order. Facts are being taken from Civil Writ Petition No. 15686 of 1999 in which arguments were addressed.

(2) Respondent No. 1 (hereinafter called the workman) was appointed on 7th August, 1986 as a Sweeper on daily wages by the All India Institute of Medical Sciences, New Delhi and posted at Ballabgarh in the State of Haryana in the civil hospital run by the State Government. It is alleged by the workman that when he demanded pay equal to that of a regular employee, the petitioner terminated his services without giving any notice, charge-sheet or compensation. It was also alleged that the provisions of Section 25-F of the Industrial Disputes Act, 1947, (for short the Act) were not complied with. The termination gave rise to an industrial dispute which was referred for adjudication by the State Government to the Presiding Officer, Labour Court, Faridabad. On receipt of notice of the reference, the workman filed his statement of claim and the petitioner filed its written statement. It was pleaded by the petitioner that the reference was bad in law because the same had not been made by the appropriate Government and that the State of Haryana was a necessary party and since it had not been impleaded the reference was liable to be dismissed on the ground of non-joinder of a necessary party. It was also pleaded that the project at Ballabgarh was a joint venture of the All India Institute of Medical Sciences and the State of Haryana and that the activitiy undertaken by the petitioner was not an industry being a welfare service project. On merits, it was pleaded that the workman was a temporary employee and his services could be terminated at any time without assigning any reason. An additional plea was taken to the effect that the workman was an employee of the All India Institute of Medical Sciences but the latter had not been made a party to the reference.

Pleadings of the parties gave rise to the following issues which were framed on 18th September, 1995 :

1. Whether the All India Institute of Medical Sciences is a necessary party to the proceedings and as such the case is bad for non-joinder of necessary party ?
2. Whether the reference has not been made by appropriate Government and if so, its effect ?
3. Whether the respondent is not covered within the definition of industry as defined under section 2 (j) of the Industrial Disputes Act, 1947 and if, so, its effect ?
4. As per reference.

(3) On a consideration of the oral and documentary evidence led by the parties, the Labour Court decided all the issues in favour of the workman and against the petitioner and consequently the award was made in favour of the former holding him entitled to reinstatement. He was awarded 30% of his back wages. Hence this writ petition.

(4) Counsel for the petitioners has been heard and we are of the view that there is no merit in the writ petitions.

(5) The first argument of the learned counsel for the petitioners before us is that the Haryana Government was necessary party and since it was not impleaded to the reference the same was illegal and liable to be rejected on the ground of non-joinder of a necessary party. It is contended that the petitioner and the State of Haryana started a joint venture called the Comprehensive Rural Health Services (CRHS) for providing basic health facilities to persons in the rural areas adjoining Delhi and that with this object eminent doctors were provided by the petitioner and it also employed other staff at Civil Hospital at Ballabgarh where the workman was posted. The argument indeed is that since the venture was joint the Haryana Government should also have been impleaded to the reference. The argument is being noticed only to be rejected. Admittedly, the workman was employed by the petitioner and the mere fact that CRHS scheme was a joint veture did not, in our opinion, make the Haryana Government a necessary party to the reference. We have, therefore, no hesitation in rejecting this contention.

(6) It was then contended that the appropriate Government was not the State of Haryana and that the petitioner being a statutory body is being controlled by the Government of India at Delhi and, therefore, the Central Government ought to have made the reference. It is argued that the workman is an employee of the petitioner whose

appointment was made at Delhi and his work was being controlled from there and, therefore, the Central Government was the appropriate Government. This argument is equally devoid of merit. The petitioner undoubtedly is a statutory body which is functioning at Delhi. It has undertaken a project with the State of Haryana at Ballabgarh where the workman was employed. What has to be seen is as to where the cause of action arose. Since the workman was working at Ballabgarh and his services were terminated from there, there can be no doubt that the cause of action arose at Ballabgarh in the State of Haryana and, therefore, the State Government alone was the appropriate Government. The fact that the petitioner is a statutory body at Delhi is of no consequence. We are, therefore, satisfied that the State of Haryana was the appropriate Government which could validly made the reference.

(7) The next argument of the learned counsel is that the petitioner being All India Institute of Medical Sciences is not an industry within the meaning of clause (j) of Section 2 of the Act and, therefore, the proceedings were void, *ab initio*. The contention is that the petitioner carries on public welfare activities and is, therefore, outside the scope of industry. This argument too cannot be accepted. The question whether the petitioner is an industry or not depends upon the nature of activities undertaken by it and no evidence in this regard has been led before the Labour Court. On the other hand, it was conceded before the Labour Court that the petitioner is an industry and, therefore, it is not open to the learned counsel to contend to the contrary before us for the first time.

(8) Another argument of the learned counsel for the petitioners is that the workman was a daily wager and, therefore, the provisions of Section 25-F of the Act were not applicable. He has in this regard placed reliance on a judgement of the Apex Court in *Himanshu Kumar Vidyarthi and others* v. *State of Bihar and others* (1). In our view, this contention must also fail. We have gone through the judgement of the Apex Court in *Himanshu Kumar Vidyarthi's* case (*supra*). In that case the petitioners were appointed in a Cooperative Training Institute as daily wage employees. The appointments in the Training Institute were governed by statutory Rules and since the petitioners therein were not appointed acording to the Rules and were engaged on the basis of need of work, it was observed by their Lordships that their termination did not amount to retrenchment within the meaning of the Act. In the case before us, it has not been suggested that the service conditions of the petitioner were governed by any statutory Rules. Moreover, the fact

(1) JT 1997 (4) S.C. 560

that the workman was employed on 7th August, 1986 and he continuously worked up to 31st July, 1994 was not disputed even before the Labour Court and, therefore, it cannot be said that the workman had been employed only to meet a temporary need of short duration. He had completed more than 240 days of service and, therfore, before his services could be terminated it was imperative upon the petitioner to comply with the mandatory provisions of Section 25-F of the Act. It is common ground between the parties that the workman was neither given any notice nor paid any compensation in terms of Section 25-F of the Act. In this view of the matter, the Labour Court was justified in holding that the termination was wrongful and contrary to the provisions of the Act.

(9) Lastly, it was urged that the findings recorded by the Labour Court are perverse and, therefore, the impugned award was liable to be set aside. We have perused the award under challenge and find no perversity in the findings recorded by the Labour Court. Having conceded before the trail court that the petitioner was an industry it cannot be said that the finding of the Labour Court in this regard is in any way perverse. The other finding in regard to the workman having completed more than 240 days of service has not been challenged even before us. This contention too is, therefore without any merit.

(10) No other point was raised.

(11) In the result, the writ petitions fail and the same stand dismissed.

R.N.R.

Before V.S. Aggarwal, J.

DR. J.S. SODHI AND OTHERS,—*Petitioners*

versus

MELA RAM,—*Respondent*

C.R. No. 2745 of 1999

11th January, 2000

East Punjab Urban Rent Restriction Act, 1949—S. 13—Materially impaired the value and utilitiy of the property—Whether every change materially impaires the value of the premises.

Held, that every change in the property does not materially impair the value and utility of the premises. The value and utility of the