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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1780-1781/1997@@
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Shri Gajanan Maharaj Sanathan .. Appellant

Vs.

Shri Gajanan Karmachari Sangh & Anr. .. Respondents

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These appeals are directed against an order made by the High Court affirming an award made by the Industrial Tribunal in a reference made to it under Section 10 of the Industrial Disputes Act for adjudication of demands put forth by respondent No.1 -Union on behalf of certain employees who are mentioned in the schedule to the reference. The principal demand is in regard to fixation of higher classified basic pay scales with fitment of the employees therein and for certain allowances as well.

The appellant raised a preliminary objection to the reference made and contended that the appellant is a public trust registered under the Bombay Public Trusts Act carrying on religious and charitable activities at Shegaon; that one Gajanan Maharaj, it is claimed, had super natural and divine powers and he attracted a large

number of people from Vidarbha area and even from outside; that With the passage of time, the devotees increased in number; that When the said Gajanan Maharaj left this mortal world, he was cremated and on that place a Samadhi was erected and the devotees of the said Gajanan Maharaj periodically visited the said place and liberally contributed into the collection box kept at that place; that taking into consideration the large number of devotees visiting the temple, the Management of the temple made provision for accommodation, food,medical aid at nominal cost and above all performance of worship of the deity; that all the inmates of the Sansthan and devotees are fed, accommodated and looked after by the appellant which service is rendered on voluntary basis, selflessly to acquire spiritual grace of the Maharaj; that substantial number of participants make available their services on voluntary basis without any wages though there are a few who are employed on regular basis for wages. The predominant character of the appellant and the nature of relations resulting in services do not indicate the same to be industry. This stand of the appellant is seriously challenged by the 1st respondent-

Union.

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The Tribunal did not analyse either the pleadings or the evidence adduced except to narrate the various contentions raised by the parties in passing the award. The High Court, though adverted to the various contentions raised before it and the evidence adduced before the Industrial Tribunal, lost sight of the observation made by this Court in Bangalore Water Supply & Sewerage Board Vs. A Rajappa and Ors. - (1978)2SCC 213 to the following effect :

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".....If a philanthropic devotion is the basis for the charitable foundation or establishment, the institution is headed by one who whole-heartedly dedicates himself for the mission and pursues it with passion, attracts others into the institution, nor for wages but for sharing in the cause and its fulfilment, then the undertaking is not 'industrial.' Not that the presence of charitable impulse extricates the institution from the definition in Section 2(j) but that there is no economic relationship such as is found in trade or business between the head who employs and the others who emotively flock to render service. In one sense, there are no employers and employees but crusaders all. In another sense, there is no wage basis for the employment but voluntary participation in the production, inspired by lofty ideals and unmindful of remuneration, service conditions and the like. Supposing there is an Ashram or Order with a guru or other head. Let us further assume that there is a band of disciples, devotees or priestly subordinates in the Order, gathered together for prayers, ascetic practices, bhajans, meditation and worship. Supposing further, that outsiders are also invited daily or occasionally, to share in the spiritual proceedings. And, let us assume that all the inmates of the Ashram and members of the Order, invites, guests and other outside participants are fed accommodated and looked after by the institution. In such a case, as often happens, the cooking and the cleaning, the bed making and service, may often be done, at least substantially by the Ashramites

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themselves. They may chant in spiritual ecstasy even as material goods and services are made and served. They may affectionately look after the guests, and, all this they may do, not for wages but for the chance to propitiate the Master, work selflessly and acquire spiritual grace. It may well be that they may have surrendered their lucrative employment to come into the holy institution. It may also be that they take some small pocket money from the donations or takings of the institution. Nay more; there may be a few scavengers and servants, a part-time auditor or accountant employed on wages. If the substantial number of participants in making available goods and services, if the substantive nature of the work, as distinguished from trivial items, is rendered by voluntary wageless sishyas, it is impossible to designate the institution as an industry, not withstanding a marginal few who are employed on a regular basis for hire. The reason is that in the

crucial, substantial and substantive aspects of institutional life the nature of the relations between the participants is non-industrial. Perhaps, when Mahatma Gandhi lived in Sabarmati, Aurobindo had his hallowed silence in Pondicherry, the inmates belonged to this chastened brand. Even now, in many foundations, centres, monasteries, holy orders and Ashrams in the East and in the West, spiritual fascination pulls men and women into the precinct and they work tirelessly for the Maharishi or Yogi or Swamiji and are not wage-earners in any sense of the term. Such people are not workmen and such institutions are not industries despite some menials and some professionals in a vast complex being hired. We must look at the predominate character of the institution and the nature of the relations resulting in the production of goods and services. Stray wage earning employees do not shape the soul of an institution into an industry."

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The appropriate tests to be adopted are indicated in the aforesaid passage extracted from Rajappa's case. The High Court has not adverted to this aspect of the matter at all. What it has done is to find out the nature and activities carried on by employees of the appellant and not the totality of the matter as indicated by the Court.

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In the circumstances, we have no option but to set aside the order made by the High Court and quash the award and remit the matter to the Industrial Tribunal for fresh consideration in accordance with law. However, inasmuch as the appellant has already given effect to the award made by the Tribunal as affirmed by the High Court, the status as to emoluments shall continue until disposal of the matter by the Industrial Tribunal and subject to its award that may be passed.

Parties are at liberty to raise further pleadings and also adduce additional evidence with the permission of the Tribunal.

It is open to the Industrial Tribunal to inquire into this reference alongwith another reference stated to be pending between the parties. The appeals are allowed accordingly. In the circumstances of the case, there will be no order as to costs.

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[S. RAJENDRA BABU]@@
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[RUMA PAL]@@
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New Delhi, @@
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January 31, 2002.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 2727/1998

U.O.I. .. Appellant (s)

Vs.

Gajanan Maharaj Sansthan .. Respondent(s)

(With Prayer for Interim Relief)

With C.A. No. 5393/1998, C.A. No. 1780-1781/1997,

W.P.(C) No. 632/2000 (With Office Report)

DATE : 31.1.2002 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU

HON'BLE MRS.JUSTICE RUMA PAL

For Appellant (s) : Mr. T.L.V. Iyer, Sr. Adv.
In 2727/98 & Res. In M/s Sanjay R Hegde, S.M. Matto,
5393/1998 R.N. Poddai, Priya Hegde,
Y.P. Mahajan,
Arvind Kumar Sharma, Advs.

For Gajanan Maharaj Sansthan Mr. H.W. Dhabe, Sr. Adv.
Mr. A.K. Sanghi, Adv.
Mr. A.R. Patil, Adv.

- For Appll. in Mr. Kiran Suri, Adv.

C.A. No. 5393/98

- For Respondent (s) : Mr. R.M. Lambat, Adv.

In C.A. 1780-81/97

- For Respondent in Mr. B.V. Balram Das, Adv.

W.P. 632/2000

UPON hearing counsel the Court made the following

O R D E R

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Mr. A.K. Sanghi, learned counsel argued from 10.35 a.m. and 11.55 a.m. Thereafter, Mr. T.L.V. Iyer, learned senior Advocate started arguments and argued till 12.10 p.m. Then Ms. Kiran Suri, learned counsel made short submissions. Thereafter, Mr. A.K. Sanghi, learned counsel started arguments in C.A. No. 1780-1781/1997 and concluded at 2.45 p.m.

C.A.No.2727/1998, C.A.No.5393/1998,W.P.(C)No.632/2000@@

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Arguments concluded. Judgment reserved.

C.A.Nos.1780-1781/1997@@

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The appeals are allowed in terms of the signed order.

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(Meenu Sethi)

Court Master

[Om Prakash]

Court Master

Signed order is placed on the file