Page 585 - 598 **DOI:** *https://doij.org/10.10000/IJLMH.114088*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 1

2023

State of Bombay v. The Hospital Mazdoor Sabha, 960 AIR 610, 1960 SCR (2) 866: Critical Analysis

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ABSTRACT

The Industrial Disputes Act of 19471 was created to avoid industrial unrest, allow for peaceful resolution of labour disputes, and protect employees from exploitation and mistreatment by their employers. The Act anticipates pragmatic and dependable talks with the help of the Act's mediation system. If the parties' disagreement cannot be settled peacefully through consensus, the labour court system and industrial tribunals established under the act to adjudicate industrial conflicts are expected to deal with referrals as early as possible in order to do equality for both the employees and the employer in accordance with the approved definition of social justice. The act broadened the definitions of "industry" & "industrial dispute" to include a wide variety of industrial operations, ensuring that industrial issues are addressed in a way that is more comparable to mediation and settlement than conventional legal procedures and concepts. Capital-labour conflicts should now be settled on social standing as opposed to a contract-based basis. The ideas outlined above, which define 'industry' in its broadest sense and "sovereign functions within a circumscribed circle," have had a significant impact on industrial adjudication. As a result, an entity cannot be excluded from the act purely based on the personal opinions of a judge.

Keywords: *Industrial Disputes, labour, capital-labour, industrial adjudication.*

I. INTRODUCTION

The term "industry" refers to any trade, business, endeavour, production, or vocation, as well as any employment, calling, service, handicraft or industrial profession. "Individual security is a fundamental human right, and as such, individual protection is a fundamental government responsibility."[3] The primary idea behind industrial regulations is to connect capital and labour in ways that create an environment in which they become inseparable in the production process. It's the field of law that has the most widespread and profound impact on social activity and social engineering. Industrial law differs from other legal disciplines in that it is a collection of

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 [ISSN 2581-5369]

legislative actions and judicial principles that govern non-employment and employment, social security, working conditions, industrial relations, employee labour welfare and compensation. Limits on employers and employees, on the one hand, are in the best interests of the state. Our legislators created the Industrial Disputes Act [4] to preserve workplace peace and harmony by providing a means and tool for examining and resolving industrial disputes via discourse. The fundamental purpose of the 1947s "Industrial Disputes Act" [5] is to guarantee that employees and employers are treated fairly, as well as workers and employers. It not only assists in the prevention of difficulties between employees and employers, but also in learning how to deal with such issues without jeopardizing the organization's effectiveness. The term "industry" is defined under § 2 (j) of the Industrial Disputes Act of 1947 as "any business, trade, undertaking, manufacture, or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen".[6] As this phrase is so wide, it has resulted in a multitude of contradicting meanings. An industry exists only when employers and employees are linked, with the former enterprise, production, engaging in business, employers' commerce or calling, and the latter's occupation, in calling, handicraft, service or industrial activity, and avocation. This definition is extensive as well as comprehensive. The terms employed have a broad range of volume. A substantial amount of difficulty was found in interpreting these diverse words. Without a sure, the process of interpretation is straightforward. However, due to the different kinds of industry, particularly after fast industrial expansion and the use of the broadest language the definition of industry expanded in all directions. The current definition is the same as it was in the 1947 Industrial Disputes Act.[7] This term has been subjected to a variety of legal interpretations despite the fact that it has not been changed. Throughout history, legislative acts and judicial rulings have significantly transformed and enlarged the idea of "industry." The voyage of such expansion has been symbolic due to a lack of clarity in the legislative goal as described in legislation, as well as inconsistent court judgments on the scope of such definition.

II. Definition of Industry laid under § 2(j) of Industrial Disputes Act, 1947

The term "industry" is important in the ID Act because, according to § 2 (j), the ID Act only applies to industries, which means that an analysis of the industry can only be filed if there is an industry involved. In the summary, the industry has already been mentioned. § 2 (j) is divided into two §s, one from the employer's perspective and the other from the worker's perspective. Regardless of its importance, § 2 (j) is merely descriptive and does not provide

any standards or methodology for determining what constitutes an industry. As a result, the phrase has been used in a number of significant court cases.[8]

In the case of D.N Banerjee v. P.R Mukherjee[2], the municipality was found to be a "industry" under the definition of "undertaking." The claim that the term "undertaking" derives its meaning from four other phrases in the definition's first section was rejected, and municipalities and non-profit organizations were categorized as industries as a result. In "Nagpur City Corporation v. Employees",[3] the question was whether the Nagpur Corporation qualified as an industry under the "C.P. and Berar ID Act 1947"[4]. The municipality was classified as a "industry" within "trade, commerce" rather than a "undertaking" in this case. The court made a distinction between royal and municipal authority in this case, concluding that the corporation was more business-like than imperial in nature. In the case of "State of Bombay v. Hospital Mazdoor Sabha",[5] it was determined that a government-run hospital is a "business." Furthermore, economic incentives and capital investment were judged immaterial, and It was found that a government-run hospital that is not for profit is covered by "industry."

The cases of the Corporation of the City of Nagpur[13] and the Hospital Mazdoor Sabha[14] were overruled by the Supreme Court, which ruled that legal firms, academic institutions, members' clubs such as the Gymkhana Club, & charitable government hospitals are not businesses. The following decisions were reversed and the Corporation of City of Nagpur [15]and Hospital Mazdoor Sabha[16] cases were reinstated in the Bangalore Water Supply Case[6], in which Justice Krishna Iyer articulated the three-part criterion for deciding whether a firm is an industry or not. The three tests were as follows:

- It must be a methodical process.
- It must be organized by the employer and workers working together.
- It should be used to create and distribute goods and services that are tailored to meet human needs and desires.

As a result, occupations, unions, academic institutions, co-operatives, research organizations, philanthropic enterprises, and other comparable activities that met the triple test were classified as "industry."

[2] D.N. Banerjee v. P.R. Mukherjee, AIR 1953 SCR 302.
[3] Corpn. of the City of Nagpur v. Employees, (1960) 2 SCR 942.
[4] C.P. and Berar ID Act, 1947, No. 11, Acts of Maharashtra State Legislature, 1947 (India)
[5] State of Bombay v. Hospital Mazdoor Sabha, (1960) 2 SCR 866.
[6] Bangalore Water Supply & Sewerage Board v. A. Rajappa, (1978) 2 SCC 213.

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(A) Research objectives

'State of Bombay v. The Hospital Mazdoor Sabha, 960 AIR 610, 1960 SCR (2) 866- Critical Analysis,'[18] the study aims to do exactly what its title suggests: analyze the case. The study's objectives are as follows:

- To identify all of the present case's facts.
- To examine the decisions made in the current case.
- To identify opinions that support or criticise the case's court decisions.
- To comprehend the specific meaning of "Industry" as stated in the case.

(B) Research methodology

The research approach known as 'doctrinal research' is used in the research entitled 'State of Bombay v. The Hospital Mazdoor Sabha, 960 AIR 610, 1960 SCR (2) 866- Critical Analysis.'[19] A doctrinal research, also known as an armchair research, is a type of research approach in which the researcher obtains the knowledge needed for the research within the four walls of a library. This would imply that the material required for doctrinal study is received mostly through books, papers, journals, and so on. The doctrinal kind of research technique is the most appropriate for the current investigation and has thus been used. Books, articles, and other materials that give explanations of defamation, as well as any legal database or website that provides the complete text of the case dealing with this topic, would therefore be required for the research to be carried out effectively. The interpretation of terms and the reference to precedents pertinent to the current issue are all doctrinal study. As a result, the researcher suggests doctrinal research since it best matches the current case analysis.

(C) Literature review

1. Shalu Sharavan Singh (2006), The Industrial Disputes Act of 1947[7]: An Analysis.

This article discusses the significance of industries in the country and the necessity to foster positive relationships between employees and employers. The significance of § 33 has been emphasised in the current environment, where it discusses the employer's responsibility to its employees and the necessity to follow industry standards for a healthy and peaceful work culture in Indian companies.

[7] Shalu Sharavan Singh, *Analysis of The Industrial Disputes Act of 1947,* 20 (2006).

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2. Industrial Dispute Resolution in India: Theory and Practice, Paul Lansing, 1987.[8]

This article focuses heavily on international adjudication in cases of industrial disputes arising in India and the parties located in other countries, with conditions akin to the "Bhopal Gas Tragedy." It discusses the labour-related issues that have arisen in India as a result of industrialization and urbanisation. The article discusses the legal and jurisdictional issues of industrial disputes in India, as well as the remedies accessible to workers in such situations.

3. Avtar Singh and Harpreet Kaur's Introduction to Labour and Industrial Laws.[9]

The book "Introduction to Labour and Industrial Law" 3rd Edition by Avtar Singh and Harpreet Kaur was used in the research to identify an in-depth understanding of the concept of industrial laws and to analyze whether the elements of the same are present in the case dealing with same, and the book is an excellent source of information for the study.

4. Complaint Under Section 33A For Violation Of Section 33(2)(B), Path Legal, 2016.[10]

This article was mostly a case study, in which several occurrences involving worker disagreements were examined and feasible solutions, as well as important portions, were addressed. It also briefly outlines the complete process of bringing a lawsuit and the processes that follow. It also lists the penalties for various offenses under § 33 of the 1947 Industrial Disputes Act.

III. BRIEF FACTS OF THE CASE

Mrs. Ruth Isaac and Ms. Vatsala Narayan worked on the wards of JJ Hospitals, one of the appellant's five hospitals. The appeal was filed by the State of Bombay and two others. In response to the writ petition filed under the Industrial Trade Union Act[11] against the Hospital Mazdoor Sabha,[25] a trade union was created. So, in this case, the two employees who were terminated from the civil supply department without prior notice, as the petitioners claimed, since this is a case of retrenchment under § 2 (o o) of the Industrial Disputes Act.[26] Their services were discontinued in 1954. Both applicants received a notice of termination. According to the claim, the rationale for the firing was that numerous employees from the Civil Supplies Department were being retrenched, and the defendants had to be let go in order to accommodate them. Defendants' positions were filled by two retrenched Department of Civil

[8] Paul Lansing, *Industrial Dispute Resolution in India in Theory and Practice*, P., & Kuruvilla, S. (1987).
[9] Dr Avtar Singh & Harpreet Kaur, *Introduction to Labour and Industrial Laws*, (Lexis Nexis 2016)
[10] Dr. PBS Kumar, *An Incisive Analysis of Section 33A of The Industrial Disputes Act, 1947*, 2015, https://www.citehr.com/538560-incisive-analysis-section-33a-i-dact.html
[11] The Trade Unions Act, 1926, No. 16, Acts of Parliament, 1926 (India).

Supplies employees. As a result, the defendants brought a mandamus petition in the Bombay High Court in 1956, claiming that the termination notification was erroneous, their dismissal was null and void. The HC of Bombay, determined that hospital authorities did not fall underneath the definition of "industry" as defined by the law, and therefore the notification was legal.

IV. CASE ANALYSIS AND CASE COMMENTS

§s have been interpreted and examined

- § 2 (j): According to § 2 (j) of the “Industrial Disputes Act of 1947”, "industry" means "any business, trade, enterprise, manufacture, or calling of employers, as well as any calling, service, employment, handicraft, or industrial profession or avocation of workers.[27]"
- § 25 (F): The § 25F establishes the requirements previous to workmen's retrenchment.[28]

(A) Issues

- Is it correct that the 'Industrial Disputes Act' [29]applies to healthcare institutions?
- Does this suggest that institutions are classified as an 'Industry'?
- Is the dismissal order against the two employees illegal since they did not comply with the § 25F of act?

(B) Appellant's contentions

- Appellants argued that the Act's provisions do not apply to them since they don't fall with in the ambit of 2(j). Their argument is based on the premise that the phrases "business and commerce" have some essential characteristics that should be interpreted in the context of most popular and conventional usages, even if they are used widely.
- Apex Court issued the challenged judgement, which held the appellants liable for infringing § 25F of the act.
- The appellants further stated that the principle of 'noscitur a sociis' doesn’t apply in this case since there is no 'quid pro quo' in the healthcare industry.

(C) Defendants' Claims

- The defendants claimed that no payment was done at the time of layoff , resulting in a

comprehensive violation of Sec. 25F. (b).

- The layoff order for their dismissal was unlawful and inappropriate due to their failure to comply with the standards set out in Sec. 25F.

(D) Principles of Interpretation

According to § 2(j) of the 'Industrial Disputes Act'[30] of 1947, the term 'industry' was construed using external aid, such as a dictionary:

- The phrases employed in the phrase's explanation have a variety of meanings. The Court stated that if there's such a deliberate usage of terms in such broad meaning, then it is preponderance of the evidence compelled to conform to interpretation of such broad definition.
- To define particular expressions under § 2 j, the Court used the 'Webster dictionary'[12] as a foreign assistance of interpretation. The phrase "undertaking" was used to apply to any firm or organisation in which one is involved or works. Furthermore, the Court uses Halsbury's definition of "trade" to define the word. The primary definition is the exchange of things for monetary assistance or for goods, while the secondary definition is any activity carried out with the intention of earning from money.
- The term "business" has been broadened to include any activity that is an occupation rather than a pastime.
- In the current appeal, the Court argued that the phrases are employed in an inclusive definite manner, indicating an expansion, and so the meaning of the terms cannot be limited in any way. The court also used the 'noscitur a sociis' criterion to determine whether hospitals were deemed industry.
- The court cited 'Maxwell's' formulation of the principle[13], which argues that the meaning of an ambiguous or obscure phrase in law should be established by evaluating the context's words. The goal of this strategy is to define the meanings of a statute's more generic terms in relation to the meanings of considerably more restricted and specialized phrases.
- The court determined that noscitur a sociis is only a construction rule that can be used

[12] Merriam webster, https://www.merriam-webster.com/
[13] Srikrishna, B. N. "MAXWELL v. MIMAMSA." *Student Bar Review*, vol. 16, Student Advocate Committee, 2004, pp. 1–14, http://www.jstor.org/stable/44308380.

when the meaning of words with broader implications must be assessed or the legislative intent is in dispute.

- The court based its ruling on the learned judge's findings in the case of "Corporation of Glasgow v. Glasgow Tramway and Omnibus Co. Ltd,"[14] in which the judge concluded that the meanings of such broad phrases should not be altered or lessened by their association with other terms.
- The theory behind the concept of noscitur a sociis, according to the court, is that the meaning of disputed terms can be discovered by referring to the meaning of words with which it is associated. The court went on to interpret whether or not 'Governmental Activities' are within the scope of 'undertaking' under § 2(j) by looking at the Legislature's intention and goal.
- The court referred to § 2's definition of "employer" to address the foregoing question (g). After careful consideration, the Court determined that the wording clearly indicates that the Legislature clearly intended to make the Act's provisions applicable to government actions protected under § 2. (j)[34].
- The court mainly relied on the Labor Appellate Tribunal's ruling in Sri 'Vishuddhananda Saraswati Marwari Hospital v. Workmen,[15] in which the Labour Appellate Tribunal decided that the prerogative of 2(j) was broad, and there was no relationship that required it to be limited to profit-making corporations. The lawsuit was founded on the assumption that hospitals were a component of industry.
- The court cited Supreme Court precedent in 'D.N. Banerjee v. P.R. Mukherjee and Ors,' [36]in which the learned court ruled that the absence of a monetary incentive made no difference in determining the nature of the action. The genuine exam determines other critical features, such as the true nature of the activity.
- In establishing the scope and nature of the concept of 'Industry,' the Court relied on Isaac J.'s ruling in 'The Federated State School Teachers' Association of Australia v. The State of Victoria and Ors.'[16] According to the erudite Judge, while dealing with such "industrial" concerns, the adjudicators must be aware of the ever-changing

[14] Corporation of Glasgow v. Glasgow Tramway and Omnibus Co. Ltd., 1898 AC 631.
[15] Vishuddhananda Saraswati Marwari Hospital v. Workmen, 1952, II L. L. J. 327.

[16] Association of Australia v. The State of Victoria and Ors, 1929, HCA 11 - 41 CLR 569.

currents of life and well-versed in the topic.

(E) The Final Verdict

Following a thorough analysis and application of interpretation ideas such as 'noscitur a sociis' & 'looking at the goal and intent of legislators,' as well as external assistance in finding the broad meanings of specific phrases, the court determined:

- When the state supervises a network of hospitals for the purpose of providing medical aid to citizens and assisting in the provision of medical education, it is regarded to be carrying out a "undertaking" within the meaning of § 2(j).[38]
- The court went on to declare that if an activity is performed with the assistance of employees with the objective of producing or distributing commodities to the broader public, it is constituted a "undertaking."
- The presence of a profit incentive is not a substantial step in influencing an activity or undertaking under the authority of § 2's jurisdiction (j).[39] In reality, the character and character of the relevant activity determine its business status.
- It makes no difference if the conduct in question is regulated by the state. Some activities performed for charitable reasons will be referred to as a 'undertaking.'

(F) The Case Analysis

- The court in the preceding judgement made several substantial revisions in the sense that the term "industry" is understood. Additionally, the simple presence of a profit motive has been shown as unimportant in broadening the concept of "industry."
- Furthermore, to establish such a broad reach, the court declared in "Bangalore Water Supply v. A. Rajappa"[40] that any government body involved in humanitarian operations is not a part of the sovereign powers. As a result, any hospital is undeniably a service and so falls inside the jurisdiction of § 2(j) of the act[41].
- Justice Gajendragadhkar may be the first to propose a new definition of "industry," but he did so with caution. While the wording in § 2(j)[42] has a wide meaning, the judge concluded that a reasonable boundary must be established to exclude certain services and activities.
- Following the standard established by the case, the court has said that duties and functions falling under Part IV of the Constitution of India, such as "law and order," "defense," and so on; such government powers are sovereign and do not come under

the scope of 2. (j). As a result, the term "industry" would have an overly broad definition..

V. CRITICAL ANALYSIS

Throughout history, legislative acts and judicial rulings have considerably enlarged and transformed the concept of "industry." Both the federal and state governments have taken advantage of the concurrent list since labour is on it. There has been a considerable deal of difference and uncertainty over the scope due to ambigious legal definition established in the 1947 Act and contradicting court judgements. Various areas of the labor market are currently governed by around 40 core regulations. According to the "2nd National Commission on Labour", present labour laws are unclear, with old-fashioned sections & inconsistent interpretations. On September 29, 2020, the current NDA administration will unify numerous essential laws into four codes.: "The Industrial Relations Code, the Occupational Safety, Health, and Working Conditions Code (OSH), the Social Security Code, and the Wage Code are all part of the Occupational Safety, Health, and Working Conditions Code (OSH)."[17]

(A) The Evolution of Industry's Definition through critical analysis:

"§ 2 (j) of the Industrial Disputes Act of 1947 defines "industry" in two parts: the first enumerates the legal definition of "industry," and the second explains what an industry entails from the standpoint of employees."[44]

"§ 2 (j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen"[45]

This concept has been interpreted and modified throughout time as a result of court judgements and government actions, as detailed below:

Stage 1: Broad interpretation: The idea of industry was first articulated in the case of "D. N. Banerji vs. P R Mukherjee" in 1953.[46] The Workers Union filed a grievance, seeking that the Municipality restore the sanitary inspector and head clerk who had been fired. The Municipality claimed in the Supreme Court that it is not an industry since it is exercising a sovereign responsibility under the Bengal Municipal Act.[18] The Municipality was designated as an industry since sanitation and recycling are synonymous with trade and industry.

[17] The Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Ministry of Labour & Employment, 2020 (India)
[18] Bengal Municipal Act, 1884, Act no. III, 1884 (India)

In the 1960 Hospital Mazdoor Sabha Case,[48] all types of hospitals, whether public or private, were brought under the scope of industry. The Court began with the premise that a "industry" is defined as any company that engages in any systematic activity for the manufacturing or sale of products or services with the help of employees. Hospitals fall under the concept of industry since they perform systematic operations and provide material services with the help of their staff. The exam was based on the nature of the action rather than who was performing it. So, if hospital operations undertaken by private actors may be considered as an industry, then hospital operations supervised by the government fall within the scope of definition as well.

Stage 2: Strict exemption: In 1961, an error was committed in the University of Delhi Case.[19] The Supreme Court declared that teachers are not employees who give education. The legislators did not want to include educational institutions in the definition of industry in order to offer incentives to drivers and non-key service providers.

Stage 3: Reversal: In 1967, the Safdarjung case[20] reversed the results of the Hospital Mazdoor Sabha Case. [51]This case addressed the similar question of whether hospitals are under the purview of industry. The Court presented a compelling justification for assessing whether a hospital business should be classified as industry or not.

It was discovered that ‘material services' should be an activity carried out for the community by the collaboration of employees and employers, such as electrical energy, water, transit, mail service, communication devices, and so on, in order to bring a company inside the definition of 'industry.' As they do not engage in occupations where employers and employees interact, it does not apply to professionals who operate in private practice, such as physicians, attorneys, and instructors. In addition, the court determined that hospitals run by the government or charity organizations do not qualify within the definition of "industry."[52]Only those hospitals that are conducted as a company in a commercial manner are covered by the definition.

Stage 4: Objective interpretation: The most complete judgement, laying forth objective standards to assess what falls within the concept of 'industry' and what does not, came in the Bangalore Water Supply case in 1978.[53] It established the triple test criteria, which state that:

Furthermore, the court established the following guidelines:

Stage 5: Legislators attempted to modify the definition in 1982: In response to the court's judicial activism in the Bangalore water supply case,[54] the government moved to change the

[19] University of Delhi v. Ram Nath, (1964) 2 SCR 703
[20] Safdarjung Hospital v. Kuldip Singh Sethi, (1970) 1 SCC 735

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scope of the term in 1982 by implementing the triple test through the Industrial Disputes (Amendment) Act.[55] This new definition aims to balance the influence of numerous different viewpoints on what constitutes "industry." Furthermore, this phrase was significantly more broad and elaborative than the 1947 statute's first meaning. However, it would be another 38 years before the idea of "industry" was re-examined under the Industrial Relations Code in 2020,[56] in the Supreme Court hallways, dissenting opinions on the meaning and scope of the law remained.

The court disagreed with the result in the Bangalore water supply [57]case in the 1990 Coir Board Case,[58] holding that not every organisation that offers a valued service and hires people qualifies as industry.

In the Jai Bir Dispute,[21] the Supreme Court overturned the Bangalore water supply case[60] once more in 2005. The state's social forestry department is a sovereign responsibility, not a corporation, according to the Court.

Stage 6: The Industrial Relations Code, 2020[61]:In accordance with the recommendations of the 2nd National Commission on Labor, the government attempted to rationalize and streamline central labor legislation under this code. Any organized activity involving employers and workers for the purpose of manufacturing, delivering, or distributing goods and services, regardless of profit or capital expenditure, is defined as "industry" under 2(prevised).[62] Hospitals, educational institutions, and research institutes are all categorised as industry under the new definition. The following activities are expressly excluded from the concept of 'industry' under the new definition.

- A non-profit organisation that provides charitable, social, or philanthropic services.
- A federal government effort in the realms of military, atomic energy, and space research.
- Some domestic activity.
- Some other activity that the central government expressly forbids by decree comes under the category of 'industry.'

(B) An Analysis of the New Definition:

- Employees benefit from include hospitals, educational institutions, and scientific institutions in the idea of "industry.

[21] State of U.P v **Jai Bir** Singh (2005) 5 SCC1.

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- Personnel recruited through contractors are now included in the definition.
- Due to the sheer vagueness of the term "social activity," a wide range of institutions may claim exemption from labour laws.
- The new definition permits the federal government to remove any activity from the definition of 'industry' at any moment by notice, which is contradicting to Article 19 (1)(g)[63] of the Constitution of India. It provides the government unfettered and arbitrary power. On the one hand, the Constitution guarantees the "right to practice any profession or carry on any occupation, trade, or business"; however, when an activity is specifically allowed to come within the definition of 'industry' once, it would be unjust to deny employees their basic needs, as well as that industry's protection under labour laws, if the central government chooses to exclude said activity from the definition of 'industry' at any time. Any activity that has been allowed to come within the definition should continue to do so, and the government should not evict anybody unless it is absolutely necessary to do so in the interests of India's sovereignty and integrity, or public order.

VI. CONCLUSION AND SUGGESTIONS

While the act allows for both internal and external authorities for dispute resolution and the prohibition of unlawful demonstrations, lock - outs, and the use of unfair labour practises, it is crucial to have effective internal processes in place to manage conflicts from a compliance standpoint. External methods typically need a significant amount of work, money, and time, resulting in a strained relationship between employer and employee. Thus, having internal processes is desirable since it decreases the possibility of having to rely on adjudication or other conflict resolution, allowing for a more harmonious working environment and, eventually, improved productivity.

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 [ISSN 2581-5369]

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 [ISSN 2581-5369]