**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**NAGPUR BENCH : NAGPUR**

## WRIT PETITION NO.2204 OF 2018
(DIPAK JAGANNATHSING CHAVAN..VS.. VIDARBHA STATUTORY DEV. BOARD & ANR)
**AND**
## WRIT PETITION NO.2207 OF 2018
(PANDURANG RAMRAOJI CHOUDHARY..VS.. VIDARBHA STATUTORY DEV. BOARD & ANR)

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders | Court's or Judge's orders |
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Shri V.D.Raut, Advocate for Petitioner.
Shri D.P.Thakre, A.G.P. for Respondent No.1.

**CORAM : ANIL S. KILOR, J.**
**DATED : MARCH 08, 2023.**

1. Heard.

2. In these writ petitions a challenge is raised to the order passed by the Industrial Court in Revision Nos. 103/2011 and 104/2011 dismissing both the revisions. The only ground argued by the learned counsel for the petitioner is that the Labour Court as well as the Industrial Court have failed to consider that the Development Board is an 'industry' and without proper appreciation, the Courts below have held that the Development Board is not an industry.

3. In the light of the above referred submissions, I have perused the findings recorded by the learned Industrial Court in the impugned judgment and order, which reads thus :

"*12) Revision petitioners have not pleaded in their complaints the activities carried on by the respondents. In their evidence also they have not stated the activities carried on by the respondents. On the contrary, the respondents have stated activities carried on by them. In evidence also the respondents have stated the activities carried on by them. From the contentions and evidence of respondents' witness it appears that the Statutory Development Boards were formed in 1996. Development Boards were constituted initially for a fixed term of five years in exercise of power of the President under Article 371(2) of the Constitution of India following a resolution of the State of the State Legislature.*

*Article 371(2) of the Constitution of India reads as under:*

*Notwithstanding anything in the Constitution, the President of India may by order made with respect to State of Maharashtra or Gujarat, provide for any special responsibility of the Governor for:*

*(a) the establishment of separate development boards for Vidarbha, Marathwada and rests of Maharashtra, as the case may be, Saurashtra, Kutch and the rest of Gujarat, with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly.*

*(b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and*

*(c) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State*

*Government in respect of all the said areas, subject to the requirements of the State as a whole.*

*Under Article 371(2) of the Constitution of India, the Hon'ble President of India has been empowered for establishing Development Board's for Vidarbha, Marathwada and rest of Maharashtra. Both the houses of the Maharashtra State Assembly had unanimously passed a resolution. Accordingly, the Hon'ble President of India issued an order on 9th March, 1994 for constituting three Development Boards.*

*As per order of Hon'ble President dated 9th March 1994, the Hon'ble Governor of Maharashtra issued an order dated 30.04.1994 constituting three Boards for a period of 5 years.*

*The Hon'ble Governor of Maharashtra in exercise of powers conferred by clause 11 of the Development Board's has been made rules for Vidarbha, Marathwada and rest of Maharashtra vide order dated 5th August 1994.*

*Functions of Statutory Development Boards are as under:*

*1) Ascertaining relative levels of development in different sectors in relation to its area on the basis of appropriate indicators, having regards to the levels of development in the state as a whole.*

*2) Assessing the impact of various development efforts in removing backlog and in achieving over all development within their respective area.*

*3) Suggesting the levels of development expenditure over the area of the development during a plan period, including the annual plan.*

*In addition to this, other committees were* *formed for routine functions.*

*Routine Functions are as under.*

*1) Preparation of projects/ programs for utilization of special fund.*

*2) Carrying out studies on various development interveentions.*

*3) Conducting awareness generation programmes.*

*4) Submitting annual reports of their activities to the State Legislature.*

*It appears that Vidarbha Statutory Development Board is working under the control of Planning Department, Government of Maharashtra. Funds are received from Planning Department for the salary of employees, office expenditure, travelling allowance and other miscellaneous expenditure. Governor of Maharashtra earmarked a special fund to all the three Development Boards. The nature of work of Vidarbha Statutory Development Board is only to submit the recommendations in development concerns to the Hon'ble Governor and Government and it is used only for regional development of Vidarbha. No funds are available with the Board to start any developmental work or establishing any infrastructure. The work done by Board and work used by Hon'ble Governor and Government is only for development vision and not any productive nature. The Scheme is for development of Vidarbha. The Board is implementing the scheme.*

*13. …*

*14. Now, I have to examine whether work carried out by the respondent Board is regal functions or sovereign functions of State considering the nature of work. Whether respondent Board is fulfilling the State's constitutional obligations or in* *discharge of its constitutional functions. Sovereign functions can only be discharged by the State and not bay, a private person. The activities are undertaken by the State by establishing development Boards. Discharging of its constitutional obligations are the sovereign functions of the State and it does not doing the activities of trade or business. Only those services which are governed by separate rules and constitutional provisions, such as Article 310 and 311 should strictly speaking be excluded from the spheres of industry by necessary implication. Hon'ble President of India as per Article 371(2) of Constitution of India the Board has been constituted for development by notification dated 09.03.1994 and accordingly, the Government has passed resolution to constitute the Boards for development of Vidarbha, Marathwada and rest of the Maharashtra. Considering the nature of work and activities carried out by the respondent Board it appears that the respondent Board is implementing the scheme of development of Vidarbha, Marathwada and rest of Maharashtra which is a regal functions of the State. In my view, if the activities carried out by the respondent Board is regal and sovereign functions of the State it cannot be termed as an 'industry'. The rulings which are cited by the learned advocate for the revision petitioners do not assist the revision petitioners to the effect that respondent Board is an 'industry' as defined under Section 2(j) of the Industrial Disputes Act. Therefore, in my view, the learned labour Judge has rightly considered this aspect and held that the respondent Board is not an* *'industry' as defined under Section 2(j) of the Industrial Disputes Act.*"

4. It is evident from the discussion made by the learned Industrial Court that there is no activity carried out in the Development Board as regards manufacturing or production.

5. Thus, in absence of any contrary evidence brought on record by the petitioner to show that the findings recorded by the Industrial Court are perverse and contrary to the record, I do not find any merit for interference in this case. Hence, I pass the following order:

Both the Writ Petitions are **dismissed**. No order as to costs.

JUDGE

*RRaut..*