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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3551/2025 C.M. APPL. 16588/2025**

**MS SOM VIHAR HOUSING MAINTENANCE CO-OPERATIVE
SOCIETY LTD**Petitioner

Through: Ms. Tanvi Malpani, Mr. Siddharth
Dias, Mr. Mayank Das, Advocates.

versus

RAMPHAL SON OF MR. SHIV CHARAN & ANR.

.....Respondents

Through: Ms. Avni Singh, Advocate, Panel
Counsel for GNCTD/R-2, Mr. Gaurav
Mundra, Advocate.

**CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER
21.03.2025**

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1. This petition has been filed assailing the order dated 16th December 2024 passed by Appellate Authority under the *Payment of Gratuity Act, 1972*.
2. By the impugned order, the appeal filed by appellant against the order of the Controlling Authority, dated 19th December 2022 was disposed of, remanding the matter back to the Controlling Authority for continuing the proceedings, hearing both the sides and deciding the matter in accordance with law.
3. A perusal of the order of 19th December 2024, would bear out that upon receipt of the claim, the petitioner-management filed an application which was dismissed by Controlling Authority, dated 03rd April 2022.



4. In para 13 of the said order, the Controlling Authority stated that petitioner society is an establishment as per the Payment of Gratuity Act, 1972.
5. Counsel for petitioner states that that they had presented the decision of the Supreme Court in *Som Vihar Apartment Owners' Housing Maintenance Society Ltd. v. Workmen* (2002) 9 SCC 652, where it was held that the society in question was not considered as “*industry*” under the Payment of Gratuity Act, 1972.
6. This aspect, according to counsel for petitioner, was ignored by Appellate Authority and the matter has been remanded back without considered the contentions of the petitioner society.
7. The Appellate Authority in fact does not take into note, the said judgment.
8. Accordingly, in the opinion of this Court, the matter is remanded back to the Appellate Authority, to determine and to pass a reasoned order, relating to the contentions of the petitioner, their status, and the applicability of the *Payment of Gratuity Act, 1972* to the petitioner’s society.
9. Accordingly, Appellate Authority may pass a reasoned decision in this regard.
10. Needless to say, that either of the parties have rights to assail any such order by the Appellant Authority, in accordance with law.
11. Petition is disposed of.
12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MARCH 21, 2025/RK/kp