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

+ W.P.(C) 11628/2025 & CM APPL. 47581/2025

SOM VIHAR HOUSING MAINTENANCE

CO-OPERATIVE SOCIETY LTD.Petitioner

Through: Mr. Siddharth Dias, Adv.

versus

CHANDRAWATI & ANR.Respondents

Through: None for respondent No.1

Ms. Kaveri Mahesh Srivastava, Adv.

Ms. Urvi Mohan, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **23.12.2025**

1. This hearing has been done through hybrid mode.
2. The present petition under Article 226 of the Constitution of India, 1950, seeks the following prayers:

“(a) Issue a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction quashing the Impugned Judgement/Orders dated 16.12.2024 of the Learned Authority under the Payment of Gratuity Act, 1972.

(b) Issue a Writ in the nature of prohibition and /or any other appropriate writ, Order or direction calling upon the Respondent to cease and desist from giving effect to and /or acting upon the aforesaid judgment/order dated 16.12.2024;

(d) Allow the Writ Petition and pass any such Order and further Orders which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. *Vide* the impugned order dated 16.12.2024, the Appellate Authority under the Payment of Gratuity Act, 1972 has remanded the matter back to the Controlling Authority.



4. Learned counsel appearing on behalf of the petitioner submits that while disposing of the appeal, the Appellate Authority did not consider the decision of the Hon'ble Supreme Court in **Som Vihar Apartment Owners' Housing Maintenance Society Ltd. v. Workmen, (2002) 9 SCC 652**, wherein, it has been held that society has not been considered as an 'industry' under Section 2(j) of the Industrial Disputes Act, 1947. It is further pointed out that, in similar circumstances, an order passed by the Appellate Authority was challenged by the present petitioner by way of a petition, **W.P.(C) 3551/2025**, in which *vide* order dated 21.03.2025 a Coordinate Bench of this Court had remanded back the matter to the Appellate Authority to determine and pass a reasoned order with respect to the contents of the petitioner therein and the applicability of the aforesaid judgment with respect to the Payment of Gratuity Act, 1972.

5. Notice was issued to the respondents *vide* order dated 07.08.2025; however, today none appears on behalf of respondent No. 1 despite service.

6. Perusal of the impugned order reflects that the aforesaid judgment cited on behalf of the petitioner has not been considered by the Appellate Authority and the matter was remanded back to the Controlling Authority.

7. Learned counsel for respondent No. 2 fairly admits that the aforesaid contention of the petitioner has not been considered by learned Appellate Authority.

8. In view of the aforesaid, the matter is remanded back to Appellate Authority to determine and to pass a reasoned order with respect to the contentions of the petitioner, their status and the applicability of Payment of Gratuity Act, 1972, to the petitioner-society, after providing an opportunity of hearing and under due intimation to the parties.



9. Needless to state that either of the parties will have the right to assail any such order to be passed by the Appellate Authority, in accordance with law.
10. The present Petition is disposed of accordingly.
11. Pending application(s), if any, also stand disposed of.
12. Copy of the order be sent to the learned Appellate Authority, under the Payment of Gratuity Act, 1972, Labour Department, New Delhi District, Pusa Road, New Delhi, for necessary information and compliance.
13. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

DECEMBER 23, 2025/kr/ns