

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 4452 of 2026

Commerce House Owners Association Ltd.
Vs
The State of West Bengal & Ors.

For the Petitioner	:	Mr. Jayanta Dasgupta, Mr. R. Guha Thakurta.
For the Respondent No. 3	:	Mr. Soumya Majumder, ld. Sr. Adv. Mr. Kinnor Ghosh.
For the P.F. Authorities	:	Mr. Ravi Kr. Dubey, Ms. Aparna Banerjee.
For the State	:	Mr. Susanta Pal, Ms. Debangana Dey.
Judgment reserved on	:	11.03.2026
Judgment delivered on	:	24.03.2026

Shampa Dutt (Paul), J.:

1. The respondent no. 2, the tribunal be deleted from the cause title. Note accordingly.
2. The writ application has been preferred praying for quashing of an impugned order dated 12.12.2025 and all subsequent orders thereto

passed in Case No. 29/2013/2A(2) by the learned Seventh Industrial Tribunal, West Bengal.

3. Vide the impugned order the learned Tribunal, considered the prayer of the petitioner herein, who by way of a petition prayed to keep the proceeding of the instant case in abeyance in view of the new I.R. Code, 2020 as well as the Gazette Notification relating to Labour Code dated 21.11.2025.
4. The petitioner's case is that on the date of the impugned order dated 12.12.2025, the Tribunal did not have the power/jurisdiction to hear the case, in view of the fact, that vide notification no. S.O. 5320 (E) dated 21.11.2025, the Industrial Relations Code, 2020 had come into effect and as Section 104 of the Industrial Relations Code also states that the provisions of the Industrial Disputes Acts, 1947 stands repealed with effect from the date of the said notification and thus prays to keep the proceeding of the instant case in abeyance, till the transfer of the present case in view of the I.R. Code, 2020 as well as the Gazette Notification relating to Labour Code dated 21.11.2025.
5. Mr. Dasgupta, learned counsel for the petitioner submits that it is fact that on and from 21.11.2025, the new Labour Code has been effective vide notification no. S.O. 5320(E) dated 21.11.2025, and vide Notification No. S.O. 5683(E) dated 08.12.2025 the Ministry of Labour and Employment issued a Gazette Notification to remove the difficulties raised in view of the notification no. S.O. 5320(E) dated 21.12.2025.
6. It is thus submitted by the learned counsel for the petitioner, that the Tribunal was wrong in relying upon the said notification dated

08.12.2025, as the same had not come into effect till 16th February, 2026, when the amendment as in the notification dated 08.12.2025 Act was published giving effect to the clarification of Section 104 of the Code of 2020 by invoking Section 103 of the Code, 2020.

7. It is further stated that as on 12.12.2025, the notification dated 08.12.2025 had no legal force and as such the Tribunal could not have relied upon the clarification in the notification dated 08.12.2025 on 12.12.2025, while rejecting the petitioners application.
8. On the other hand, Mr. Majumder, learned senior counsel for the workman/private respondent submits that the Industrial Disputes Act 1947 had not been repealed till the date of the order, as required vide Section 104 of the Industrial Relations Code, 2020 and the Notification dated 21.11.2025 bringing into effect, the new I.R. Code does not specify the date of repeal of Industrial Disputes Act, 1947 and/or provisions of Industrial Disputes Act, 1947, as required by Section 104 of the Industrial Relations Code 2020.
9. It is further argued by Mr. Majumder, that Section 103 of the Code, 2020, provides that such Notification by order **published in the official Gazette**, in this case on 08.12.2025, has legal force on the date of publication and Section 103(2) is to be complied with after the coming into force of the notification and **not a condition precedent** to the notification having legal force.
10. Mr. Majumder, further states that if the intention of the Government was not to give legal force to the (clarification) notification under Section 103

of the Code, then Section 99 of the Code, 2020 which came into effect on 21.11.2025 would have been taken recourse to.

- 11. Section 99 of the Industrial Relations Code of 2020**, empowers the appropriate Government to make rules. **Section 5 to Section 99, provides as follows:-**

“(5) Every rule made under this section and notification issued under clause (p) of section 2, by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.”

- 12.** Admittedly, such rigour has not been made applicable to a clarification issued for removal of difficulties under Section 103 of the Code, 2020, by way of a notification in the official Gazette. As such a notification issued for clarification as per provision of an Act (Section 3 of the Code) **already in force** (admitted), and **not inconsistent** with the provisions of the

Code, draws it legal force from the provision of Section 103 of the Code and having such legal force, can be relied upon to remove difficulties.

13. A notification (only clarification) as in this case, thus has legal force even before the process under Section 103(2) is acted upon and does not require the rigour of Section 99(5) of the Code, 2020 which is an Act/process to be undertaken, prior to the said rule/notification not a clarificatory one, to have legal force.
14. As such, there is no error on the part of the Tribunal in relying upon the clarification/notification dated 08.12.2025.
15. **Be that as it may**, this Court finds that **Section 104** of the Industrial Relations Code, 2020, **even without the assistance of the clarificatory notification dated 08.12.2025**, (and now the Amendment Act, dated 16th February, 2026) is **complete and unambiguous** in its original form (prior to the Amendment Act dated 16th February, 2026 was as follows:-

“104. Repeal and savings.

(1) In the notification issued under sub-section (3) of section 1 for the commencement of any provision of this Code, the Central Government may specify that the provisions of—

(a) the Trade Unions Act, 1926 (16 of 1926);

(b) the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946); and

*(c) the Industrial Disputes Act, 1947 (14 of 1947), shall stand repealed with effect from the date appointed in the notification in this behalf **and the remaining provisions of the enactments referred to in clauses (a) to (c) shall remain***

in force till they are repealed by like notifications in the like manner.

(2) Notwithstanding such repeal under subsection (1), anything done or any action taken under the provisions of the enactments so repealed including any rule, regulation, notification, nomination, appointment, order or direction made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code.

(3) Without prejudice to the provisions of subsection (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.”

16. Section 104 of the Code of 2020, as on the date of order dated 12.12.2025, clearly provides ***“the remaining provisions of the enactments referred to in clauses (a) to (c) shall remain in force till they are repealed by like notifications in the like manner.”***
17. As the Section 104 of the Code of 2020 has been now clarified vide notification dated 08.12.2025 and Amendment Act dated 16.02.2026, it is clear that **as on the date of the impugned order, i.e. on 12.12.2025, the said Acts from clauses (a) to (c) under Sub-Section 1 to Section 104 of the Code of 2020 were in force and not repealed and the (remaining) provisions of the enactments were also in force on 12.12.2025.**

18. **Thus, the Tribunal as on 12.12.2025 had the jurisdiction to hear the case, and also has the jurisdiction after the clarificatory Amendment Act dated 16th February, 2026.**
19. **The impugned order dated 12.12.2025 being in accordance with law requires no interference.**
20. **The case is pending before the Tribunal since 2013 and 13 long years have passed,** when at this stage, the petitioner, on a technical issue which did not need any specific clarification has further sought to delay the case before the Tribunal.
21. Keeping in mind the harassment of a workman, who has been pursuing justice for last 13 years, **the writ application is dismissed with cost of Rs.30,000/- (Rupees Thirty Thousand) to be paid to the workman within 15 days from the date of this order.**
22. The Tribunal shall make all endeavour to dispose of the case before it, preferably within 60 days of this order, by giving an opportunity to the opposite party/petitioner herein, without unnecessary adjournments, as the case is pending at the stage of further OPW's.
23. **WPA 4452 of 2026 is dismissed.**
24. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)