25.11.2026
Court No.13
Item No.19
pk

MAT 448 of 2025
CAN 2 of 2025

Indian Institute of Management Calcutta (IIMC)
Vs.
Union of India and others

Mr. Soumya Majumder, Sr. Adv.,
Mrs. Sharmistha Ghosh,
Ms. Sanjukta Dutta,
Mr. R. Ray
...for the appellant.

Mr. K. Dalal
... for the Union of India.

1. The instant appeal is directed against judgment and order dated 17.02.2025 passed by the Single Bench of this Court. The subject matter of challenge was an order of reference made by the Central Government on 18.10.2023.

2. The facts of the case are that the respondent employees and their unions had raised grievance against the IIMC and the contractors who had engaged them of wrongful retrenchment. According to the IIMC, the respondent workman represented by the union were employees of previous contractors, one Aslam and/or M/s. Sanchari Caterer.

3. The contractor Sanchari Caterer was to supply food to the students of IIMC, Kolkata residing in the hostels of the institute. The students' council that had engaged the contractor, M/s. Sanchari Caterer terminated their contracts for irregular supply, poor quality of food and in some cases adulterated food. A new contractor M/s.

Jana enterprise was engaged and is continuing to supply food to the hostel of the IIMC.

4. At the time when the earlier contractor M/s. Sanchari Caterer was disengaged by the students' council unrest ensued in the hostel and supply of food even by food aggregators was stopped by certain third persons. It is with the intervention of the State in consultation with the management of IIMC that the new contractor M/s. Jana Enterprise was engaged.

5. The workman who raised the conciliation proceeding were admittedly employees of a previous contractor M/s. Sanchari Caterer whose contract was terminated. The said employees of M/s. Sanchari Caterer claimed wrongful retrenchment and approached the conciliation officer under the ID Act. All parties were duly notified.

6. The conciliation failed and failure report was sent to the Central Government. The Central Government by reference dated 18.10.2023 by exercise of power under Section 12(5) read with Section 10(2)(A) referred the following disputes for adjudication before the CGIT, Kolkata vide its order dated 18.10.2023:

> "Whether the stand of the management of the Indian Institute of Management Calcutta (IIMC) that they do not have any employer-employee relationship with the contractual workers working for the contractor M/s. Sanchari Caterers, Kolkata in the premises of IIMC, is legal and justified in the eye of law or not? If not, what relief the workers are entitled to for their retrenchment?".

7. Mr. Soumya Majumder, learned senior advocate appearing for the IIMC would argue that some decisions of a Co-ordinate Benches have held that given the form and text of reference, in the event it is held that the appellant may be the principal employer his defence to justify termination of the workman concerned cannot be agitated. He submits that the last sentence of the reference i.e. “if not, what relief the workers are entitled to for their retrenchment” is not sufficient to permit the employer to lead evidence to justify termination and/or retrenchment of the workman in question. The Single Bench according to the appellant has failed to notice the same.

8. While this Court is of the view that the last sentence of the reference as set out herein above would include and would clearly entitle the appellant to raise a defence and justify the termination of the workman under the previous contractor M/s. Sanchari Caterer.

9. MAT 448 of 2025 is therefore disposed of clarifying that in the event the appellant is held to be principal employer by the Tribunal, they would definitely be entitled to raise all defences and justify the termination and/or retrenchment of the workman including the termination of the contract of M/s. Sanchari Caterer before the CGIT at Kolkata as and when the reference is taken up.

10. Consequently all pending applications are also disposed of.

11. There will be no order as to costs.

12. All parties shall act on the server copy of this order and duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Anuj Singh, J.)