Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA**
**CONSTITUTIONAL WRIT JURISDICTION**
**APPELLATE SIDE**

Present :

**The Hon'ble Justice Raja Basu Chowdhury**

**WPA 8913 of 2021**
**Krishnadas Bhattacharjee**
**-Versus-**
**The State of West Bengal & Ors.**

For the petitioner : Mr. Rananees Guha Thakurta, Adv.,
Ms. Senjuti Sengupta, Adv.,
Ms. Dona Ghosh, Adv.,
Mrs. Dipa Roy, Adv.

For the State : Mr. Narayan Bhattacharya, Adv.,
Mr. Prabir Kumar Roy, Adv

For the respondent no.3 : Mr. Shounak Mitra, Adv.,
Mr. Soumalya Ganguli, Adv.,
Ms. Prerana Banerjee, Adv.

**With**
**WPA 1550 of 2022**
**With**
**WPA 1553 of 2022**
**With**
**WPA 1555 of 2022**
**With**
**WPA 1557 of 2022**
**With**
**WPA 1558 of 2022**

**Pulse Pharmaceuticals Private Limited**
**-Versus-**
**The State of West Bengal & Ors.**

For the Petitioner : Mr. Soumya Majumder, Adv.,
Mr. Sounabha Ghosh, Adv.,
Mr. Soumalya Ganguli, Adv.,

Mr. Jeevan Ballav Panda, Adv.,
Mr. Vishal Sinha, Adv.,
Mr. Tiana Bhattacharya, Adv.

For the State in WPA 1550 of 2022, WPA 1557 of 2022 & WPA 1558 of 2022 : Mr. Sirsanya Bandopadhayay, Adv.
Mr. Arka Kr. Nag, Adv.

For the workman : Mr. Anindya Lahiri, Adv.,
Mr. Manas Malakar, Adv.

**With**
**WPA 15636 of 2021**

**Centre For Women's Developments Studies**
**-Versus-**
**The State of West Bengal & Ors.**

For the Petitioner : Ms. Lovely Dasgupta, Adv,
Mr. Rananeesh Guha Thakurta, Adv,
Ms. Senjuti Sengupta, Adv.

For the State : Mr. Bipin Ghosh, Adv.

For the Respondent no.3: Mr. Lakshman Chandra Halder, Adv.

**With**
**WPA 16391 of 2021**
**M/s. Jaya Shree Textiles**
**-Versus-**
**The State of West Bengal & Ors.**

For the petitioner : Mr. Soumya Majumder, Adv.,
Mr. Victor Chatterjee, Adv.

For the State : Mr. Sirsanya Bandopadhayay, Adv.,
Mr. Arka Kr. Nag, Adv.

For the Respondent : Mr. Debopam Ray, Adv.,
Mr. Sachit Talukdar, Adv.

Heard on : 21.11.22,10.01.2023,
11.01.2023 & 13.01.2023.

Judgment on : 12.04.2023

**Raja Basu Chowdhury, J:**

1. The present batch of writ applications concerns challenge to the orders passed by the Tribunals/Labour Courts constituted under the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as the said Act), whereby the Tribunals/Labour Courts have been, *inter alia*, pleased to not only entertain proceedings but have also proceeded to hear out matters, by exercising jurisdiction under section 2A(2) of the said Act, notwithstanding the repeal of the Industrial Disputes (Amendment) Act, 2010 (hereinafter referred to as the "Amendment Act of 2010") as a whole, by the Repeal and Amendment Act of 2016 (hereinafter referred to as the "Repealing Act").
2. Since all the aforesaid applications raise a common question, as regards the legality and validity of proceedings under section 2A (2) of the said Act, the hearing of all the aforesaid applications is taken up together.
3. It appears that there are two sets of contenders, one set of parties who are mostly representing the employers, claim, consequent upon repeal of the Amendment Act of 2010, as a whole, section

2A(2) of the said Act, does not survive in the statute book, for the Tribunals/Labour Courts, to exercise jurisdiction. On the other hand, the other set of parties who are primarily the employees/ workman claim, notwithstanding repeal of the Amendment Act of 2010 the provisions of section 2A (2) of the Amendment Act of 2010, continue to survive in the statute book and there is no irregularity on the part of the learned Labour Courts/Industrial Tribunals, assuming jurisdiction under section 2A(2) of this said Act.

4. In most of the cases the learned Labour Court/tribunals have held, notwithstanding the repeal of the Amendment Act, of 2010 the learned Labour Courts/Industrial Tribunals are competent to exercise jurisdiction under section 2A(2) of the said Act. In one of the matter (being WPA 1891 of 2021), the First Industrial Tribunal Kolkata, West Bengal, has, however, been pleased to uphold the objection as to the maintainability of the application filed under section 2A(2) of the said Act, consequent upon the Repealing Act, being notified.
5. Challenging the aforesaid orders, the parties have moved this Hon'ble Court, in exercise of its extraordinary writ jurisdiction.
6. For convenience, this court has permitted the parties who, *inter alia*, contend that notwithstanding the repeal of the Amendment Act of 2010, the provisions inserted by the said

Amendment Act of 2010 continues to survive in the principal act, to argue first.

7. The learned Advocates representing the workman, by referring to the provisions of the Amendment Act of 2010, submits that the said Amendment Act of 2010, which was notified in the Gazette of India on 19th August, 2010, consequent upon publication of notification, as aforesaid, the Amendment Act of 2010 had been incorporated in the principal Act. In terms of the provisions contained in Section 3 of the Amendment Act of 2010, section 2A of the principal Act had been re-numbered, as sub-section (1) thereof and after sub-section (1) so renumbered, sub-section 2 had been inserted. On the said section 2A(2) being inserted, the same has become incorporated in the statute book and despite the Repealing Act being notified, whereby the whole of the aforesaid Amendment Act of 2010 has been repealed, the said section 2A(2) continues to remain in the statute book, as if the same has not been repealed. By referring to Section 4 of the Repealing Act, it is submitted that notwithstanding the Legislature purporting to repeal the Amendment Act of 2010, the Legislature, by incorporating Section 4 in the Repealing Act, has provided for a saving clause, so as to save the said section 2A(2) in the principal Act.

8. The Repealing Act is a Central Act and Section 6A of the General Clauses Act, 1897, protects the continuation of the amended provision in the principal Act, notwithstanding such repeal. Thus, by referring to section 6A of the General Clauses Act, 1897, it is submitted that notwithstanding the Repealing Act being notified, the Amendment Act of 2010, *inter alia*, including section 2A (2) of the principal Act, which was introduced by way of Amendment Act of 2010, is saved. Once the Amendment Act of 2010 was notified and the Amendment Act of 2010 was incorporated in the principal Act, the purpose for which the said Amendment Act of 2010 was introduced was achieved and as such, the Legislature had removed the same by way of notifying the Repealing Act. Despite repeal of the Amendment Act of 2010, the effect of such Amendment Act is always retained in the statute book. In support the learned advocates have relied on the following judgments: -

    a. ***Khuda Bux v. Manager, Calendonian Press.,*** AIR 1954 Cal 484.
    b. ***Jethanand Betab v. State of Delhi*****,** AIR 1960 SC 89.
    c. ***Independent Schools' Foundation of India (Regd.) v. Union of India & Another*****,** 2022 SCC OnLine SC 1113.
    d. ***Central Model School, Barrackpore & Anr. v. State of West Bengal & Ors.*****,** 2022 SCC OnLine Cal 3994 : (2023) 176 FLR 341.

e. ***Development Consultants Private Limited & Anr. v. The State of West Bengal & Ors.,*** (2023) 176 FLR 347 : 2022 SCC OnLine Cal 3996.

f. ***Secretary of State for India v. The Hindustan Co-Operative Society, Limited*****,** (1931) 33 BomLR 1006.

g. ***Damodar Ganesh & Ors. v. State*****,** AIR 1951 Bom 459

9. The learned Advocates representing the employers submit that the object of the Repealing Act is to expurgate a matter which is objectionable. The intention of the Legislature to introduce the Repealing Act, was to remove from the principal Act the objectionable material which remained therein. The real intention behind introduction of the Repealing Act was to revive the original object of the said Act. It is the anomaly, created by the Amendment Act of 2010, which was sought to be removed by the Repealing Act. Section 2A(2) of the said Act, entitles an individual by making a reference, which is to be considered as a deemed reference, despite the scheme of the said Act, not providing for the same. Section 2A(2) of the said Act, has the effect of bypassing the conciliation proceedings, which is the main and primary object of the said Act. By referring to Section 3 of the Amendment Act of 2010, it is submitted that a limitation had been introduced by sub-section 3 of section 3 of Amendment Act

of 2010, which is not present in the principal Act. Since, it had never been the intention of the Legislature to provide for such limitation, and as such, to do away with such limitation as well, inter alia, the objectionable parts of the said Act which were introduced by the Amendment Act of 2010, the Repealing Act had been notified.

10. By referring to section 2 of the Repealing Act it is submitted that by introducing the said Act, the Legislature intended to repeal the enactments mentioned in the First Schedule of the Repealing Act, to the extent mentioned in the Fourth Column thereof. At the same breath, the Legislature, by the aforesaid enactment also wanted to, and had amended certain provisions of certain Acts, which are notified in the Second Schedule, to the extent mentioned in Fourth Column thereof. By referring to the First Schedule of the Repealing Act, it is submitted that if it was the intention of the Legislature to retain the repealed enactments in the statute books as a whole, then the Legislature would not have made an exception in the Fourth Column, by repealing in some cases, the whole, and in other cases, part of the Acts, which featured in the First Schedule of the said Repealing Act. By referring to Section 4 of the Repealing Act, it is submitted that the same does not save the repeal of the Acts which are incorporated in the principal Act.

11. By further referring to the last entry at page no. 13 of the notification dated 9th May 2016, published in the Gazette of India, notifying the Repealing Act, it is submitted that since the Legislature has thought it fit only to repeal Sections 2 and 3 of the Representation of Peoples Amendment and Validation Act, 2013, in the Forth column of the First Schedule of the Repealing Act, only section 2 and 3 are mention. In case of Amendment Act of 2010 in the Forth column of First Schedule, the words "The whole" is mentioned so as to signify that it is the legislative intent to repeal the Amendment Act of 2010, as a whole. It is submitted that ordinarily when an Act is repealed as a whole, the same does not survive. In support of such contention, reliance has been placed on the following judgments.

- ***Maharashtra State Road Transport Corporation v. State of Maharashtra and Others*****,** (2003) 4 SCC 200.
- ***G. P. Nayyar v. State (Delhi Administration),*** AIR 1979 SC 602
- ***His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala & Anr.*****,** (1973) 4 SCC 225.

12. By referring to the judgment delivered by the Hon'ble Supreme Court in the case of ***Maharashtra State Road Transport Corporation*** (supra) a distinction has been attempted to drawn between the expression "incorporation by reference" and "incorporation in the parent Act". In case a prior Act is

incorporated by reference in a second statute, the repeal of the first statute does not invalidate the second, such is not the case for a principal Act. According to the learned Advocates, the incorporation must be in a different Act and not in the principal Act, for the provisions of Section 6A of the General Clauses Act to apply. Section 6A of the General Clauses Act, only deals with textual amendment unlike the present case where the whole of the Act has been repealed.

13. While distinguishing the judgment delivered in the case of **Khuda Bux** (supra), it is submitted that in the said case the Court was not concerned whether the inconsistencies were being removed by the Repealing and Amendment Act.

14. By referring to the judgment delivered by the Hon'ble Supreme Court in the case of ***His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala & Anr.*** (supra), it is submitted that although an amendment does not amount to repeal, but the same has a consequential effect. The Hon'ble Supreme Court had the occasion to consider the effect of repeal and has interpreted that repeal is abrogation of a legislative Act. When in a particular statute it refers to both the repeal and amendment as in Repealing and Amendment Act, 2016, the repeal should mean and understood to be a repeal of a particular law which does not survive in the statute book at all.

15. While attempting to distinguish the judgment delivered in the case of **Jethanand Betab** (supra), it is stated that the Hon'ble Supreme Court was not concerned with the issue to expurgate and remove inconsistencies. The judgment delivered in the case of **Jethanand Betab** (supra) is based on **Khuda Bux** (supra) and as such is not applicable in the present case.

16. Reliance has, however, been placed on the judgment delivered in the case of ***New India Assurance Co. Ltd. v. Tara Sundari Phqauuzdar & Others.,*** reported in **AIR 2004 Cal 1** for the proposition, if the Court finds that judgments of equal strength has been delivered by the Hon'ble Supreme Court, it is for the Court to follow the preferable judgment.

17. Since, consequent upon the Repealing Act being notified, the Amendment Act of 2010 having been repealed as a whole, section 2A(2) of the said Act, does not survive in the statute book for the learned Labour Courts/Industrial Tribunals to assume jurisdiction. Continuance of proceedings by the Labour Courts/Industrial Tribunals, by exercising jurisdiction under 2A(2) of the said Act, despite repeal of such provision from the statute book is illegal and irregular exercise and all proceedings thereunder should be set aside.

18. By referring to the provisions of West Bengal Amendment Act 33 of 1989 (hereinafter referred to as the "1989 Act"), it has also been submitted that Section 10(1)(b) of the 1989 Act, has

been incorporated by the aforesaid Amendment Act, and an individual workman, notwithstanding repeal of Section 2A(2) of the said Act, is entitled to raise a dispute. Rules have also been framed being West Bengal Industrial Disputes Rules, 1958. As such the repeal of section 2A(2) of the said Act, would not create an anomalous situation, as the right of the workman to raise an industrial dispute stands protected.

19. I have heard the learned advocates appearing for the respective parties and have considered the materials on record. The primary question that falls for consideration in this batch of applications is whether consequent upon the Repealing Act, being notified and published in the Gazette of India on 9th May, 2016, and the Amendment Act of 2010, in terms of Section 2 of the Repealing Act, being repealed as a whole, whether the amendments brought about by the Amendent Act of 2010 survives in the principal Act, for the Tribunals/Labour Courts to exercise jurisdiction on the basis of the amended provisions of the principal Act, which were brought about by the Amendment Act of 2010.

20. In order to appreciate the submissions made by the respective parties the relevant provisions of (Act No. 24 of 2010) Amendment Act of 2010, by which the said Act had been amended by inserting section 2A(2) in the principal Act, is extracted hereinbelow:

> *"**3. Section 2A** of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (l) as so numbered, the following sub-sections shall be **inserted**, namely:-*
>
> *"(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of three months from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government."*

21. I find that primarily the advocates representing the workmen have, *inter alia*, contending that notwithstanding the Repealing Act being notified, and notwithstanding the whole of the Amendment Act of 2010 being repealed, the provisions introduced by way of the Amendment Act of 2010, continues to survive in the statute book, for the Labour Courts/Tribunals to exercise jurisdiction on the basis thereof. To substantiate the aforesaid contention, reliance has been placed on Section 4 of the

Repealing Act and Section 6 and 6A of the General Clauses Act, 1897. By further referring to Section 4 of the Repealing Act, it has been contended that notwithstanding repeal of any of the enactments, the same shall not affect any other enactment in which the repealing enactment has been applied, incorporated or referred to. It has also been, *inter alia,* contended that notwithstanding the aforesaid repeal, the same shall not affect any principle or rule of law. It has submitted that the Amendment Act of 2010, has been applied, incorporated and referred to in the said Act and as such notwithstanding repeal of the Amendment Act of 2010, the same is saved.

22. On the contrary, I find that the learned advocates representing the employers in the respective cases have claimed that consequent upon repeal of the said Amendment Act of 2010, the objectionable parts which were introduced by the said Act, had been expurgated. It has also been claimed that had it been the intention of the legislature to retain the amended provisions in the statute book, it would not have provided for repeal of the whole of the Amendment Act of 2010. In this context, reference has also been placed on Section 2 of the Repealing Act.

23. The advocates for the employer by referring to the last entry in Schedule-I, of the Repealing Act, claims that the legislature in that case only provided for amendment by Section 2 and 3 of the Representation of Peoples (Amendment and

Validation) Act, 2013. Had the legislature chosen not to repeal the whole of the said Amendment Act of 2010, similar provision would have been made. Since legislature intended to repeal and expurgate the whole of the Amendment Act of 2010, the same had been repealed as a whole, in support thereof reliance has been placed on the judgment delivered by the Hon'ble Supreme Court in the case of ***Maharashtra State Road Transport Corporation*** (supra)**.**

24. A distinction has been attempted to be drawn between the expression "incorporation by a reference" and "incorporation in the principal Act", it has been argued that in case of incorporation by reference, in a subsequent Act, the repeal of the first statute does not invalidate, the second, and the provisions of Section 6A of the General Clauses Act apply. To appreciate the aforesaid contention, it is necessary to refer to the provisions of Section 6 and 6A of the General Act, the same is extracted hereinbelow:

> *"**6. Effect of repeal.—**Where this Act, or any 4 [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—*
> *(a) revive anything not in force or existing at the time at which the repeal takes effect; or*

*(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or*

*(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or*

*(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or*

*(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;*

*and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.*

*[6A. Repeal of Act making textual amendment in Act or Regulation.—Where any 4 [Central Act] or Regulation made after the commencement of this Act repeals any enactment by which the text of any 4 [Central Act] or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.] "*

25. The provisions of section 6 and section 6A of the General Clauses Act, would abundantly make it clear that where after

commencement of the General Clauses Act, a Central act is amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal. The judgment delivered in the case of Maharashtra State Road Transport Corporation (supra) also does not assist the employers, as in the said case the Hon'ble Supreme Court was concerned with the incorporation of a statute by reference to a second statute, wherein the Hon'ble Supreme Court had held that the repeal of the first statute does not affect the second.

26. In this case, the amendments introduced by the Amendment Act of 2010, have been incorporated and inserted in the principal Act. It would, apparent from a plain reading of Section 4 of the Repealing Act that the same provides that the repeal shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing; nor shall this Act affect any principle or rule of law, or

established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from any enactment hereby repealed. In view thereof by reasons of Section 4 of the Repealing Act, the amendments introduced by the Amendment Act of 2010 are saved. This has, however, not being considered by the learned advocates representing employers.

27. I also find that learned advocates representing the employers have strenuously argued that in order to remove the anomaly created, which was brought about by incorporation of the Amendment Act of 2010, the Repealing Act had been notified. I am afraid that I am unable to accept such contention. Although an attempt has been made to, *inter alia,* contend that the object of conciliation has been removed by the Amendment Act of 2010, I am afraid such is not the case. A perusal of Section 2A (2) of the said Act, would reveal that in order to invoke the provisions of the said section, an application to the Conciliation Officer is mandatory and it is only on the expiry of 45 days from the date of making such an application that a proceeding can be initiated before learned Labour Court. The said section read with the obligation of the conciliation Officer as provided in the Act, and rules framed thereunder, to initiate the conciliation proceedings,

in my view, does not create any incongruity in the Scheme of the said Act. The object of the Repealing Act also does not in any way provide that the Amendment Act of 2010 has been removed by reasons of its incongruity.

28. I find that it has also been argued that if it was the intention of the legislature, notwithstanding the Repealing Act being notified, to retain the amendments in the statute book, then the Repealing Act, would not have provided for repeal of only Section 2 and 3 of the Representations of People (Amendment and Validation) Act, 2013 ( herein after referred to as the Amendment Act 2013), instead would have provided for repeal of the provisions of the Representation of People (Amendment and Validation) Act 2013, as a whole. The distinction made by the legislature in repealing an Act, as a whole, and in repealing a particular section of a certain act, clearly highlight the intention of the legislature. By placing reliance on the aforesaid, it has been contended that if the legislature wanted to repeal only a part of the Amendment Act of 2010, then it would have provided for the same, as has been done in the case of Representation of People (Amendment and Validation) Act, 2013. Before proceeding to deliberate further on this aspect it is necessary to refer to the provisions of the Amendment Act of 2013. The Amendment Act 29 of 2013, by

which the Representation of People (Amendment and Validation) Act, 2013, was introduced is extracted hereinbelow:

> *"1. (1) This Act may be called the Representation of the People (Amendment and Validation) Act, 2013.*
> *(2) It shall be deemed to have come into force on the 10th day of July, 2013.*
> *2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in section 7, in clause (b), after the words "or Legislative Council of a State", the words "under the provisions of this Chapter, and on no other ground" shall be inserted.*
> *3. In section 62 of the principal Act, after the proviso to sub-section (5), the following proviso shall be inserted, namely:—*
> *"Provided further that by reason of the prohibition to vote under this sub-section, a person whose name has been entered in the electoral roll shall not cease to be an elector.*
> *4. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of the Representation of the People Act, 1951, as amended by this Act, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act had been in force at all material times."*

29. A perusal of the Amendment Act of 2010 and Section 2 and 3 of the Amendment Act of 2013, would in no uncertain terms clarify that by the aforesaid amendments only section 2 and 3 have been inserted in the principal Act. While in the case of the

Amendment Act 2010, all the sections seek to insert the respective amendments in the principal Act, in the case of Amendment Act, 2013, only Section 2 and 3 seeks to amend the provision of the Representation of Peoples Act, 1951. Insofar as sections 1 and 4 of the Amendment Act 2013, are concerned the same do not seek to insert and or in way amend any of the existing provisions of the principal Act. The aforesaid contention raised by employers, thus cannot be sustained and is accordingly, rejected.

30. The judgement delivered in the case of ***G.P. Nayyar*** (supra) also does not assist the employers. The same is distinguishable on facts. In the aforesaid case the Hon'ble Supreme Court was dealing with the effect of repeal of section 5(3) of the Prevention of Corruption Act, and the effect of section 6 of the General Clauses Act 1897, with reference to Article 20(1) of the Constitution of India. The Hon'ble Court did not have the occasion to consider the effect of repeal of any Central enactment by which the text of any Central Act was amended by the express omission, insertion, or substitution of any matter. Effect of section 6A of the General Clauses Act 1897 was also not considered. The judgement delivered by the Hon'ble Supreme Court in the case of ***Kesavananda Bharati*** (supra) also does not assist the employers. The aforesaid judgement does not lay down any proposition that consequent upon repeal of an Amendment Act

(Central Act), by which text of any Central enactment has been amended by express omission, insertion, or substitution of any matter, the amendments incorporated and inserted in the principal Act, can be removed from the statute book, forever notwithstanding the amended provisions by then being inserted and incorporated in the principal Act, especially when the effect of the amended provision in the principal Act is saved.

31. As noted above the Amendment Act of 2010, has already been applied and incorporated to the principal Act. The object of this repealing Act is not to alter the existing law but to remove certain amendments which become unnecessary. In the case of ***Independent School Federation of India (Regd.)*** (supra), the Hon'ble Supreme Court while considering the impact of the Repealing Act, in its application to the Payment of Gratuity Act 1972, had also, *inter alia,* relied on and had noted with approval the following paragraph from the judgment delivered by this Hon'ble Court in the case of ***Khuda Bux*** (supra)

> ***"****In Khuda Bux v. Manager, Caledonian Press, Chakravartti, C.J., neatly brings out the purpose and scope of such Acts. The learned Chief Justice says at p. 486:*
>
> *"Such Acts have no Legislative effect, but are designed for editorial revision, being intended only to excise dead matter from the statute book and to reduce its volume. Mostly, they expurgate amending Acts, because having imparted the amendments to*

*the main Acts, those Acts have served their purpose and have no further reason for their existence. At times, inconsistencies are also removed by repealing and amending Acts. The only object of such Acts, which in England are called Statute Law Revision Acts, is legislative spring-cleaning and they are not intended to make any change in the law. Even so, they are guarded by saving clauses drawn with elaborate care, …"***"**

32. The Repealing Act, therefore, does not have the effect of removing section 2A(2) from the statute book, so as to ouster jurisdiction of the Labour Courts/Tribunals. The object of the Repealing Act is to remove unnecessary Acts, which have achieved their purpose and to strike out dead matter from the statue book. This Court has while considering the impact of repeal of the Payment of Gratuity Amendment Act 2009, whereby the definition of an employee was amended, by an Amending Act, had taken a similar view in the case of ***Central Model School, Barrackpore*** (supra). The case of ***Development Consultant Private Limited & Anr.*** (supra) also supports the above view. Lastly, although it has been argued that notwithstanding repeal of sections 2A(2) of the said Act, the workman continues to enjoy the benefit of raising an individual dispute, since the West Bengal amendment protects such individual workmen, in my view the aforesaid state amendment does not have the effect of removing sections 2A(2) of the said Act, from the statute book. The

contention, therefore, raised by the advocates representing the employers fail and is accordingly rejected.

**In Re: WPA 1558 of 2022**

33. Consequentially the order passed by the learned Tribunal on 30th November, 2021 in case no. 04 of 2020, in upholding the authority of the Tribunal to proceed with the case filed under Section 2A(2) of the said Act, cannot be said to be irregular or without jurisdiction. The learned Tribunal had already rejected the application questioning jurisdiction of the Tribunal to exercise jurisdiction in the matter. The writ application is, accordingly, dismissed.

There shall be no order as to costs.

**In Re: WPA 1550 of 2022**

34. The order passed by the learned Seventh Industrial Tribunal on 30th November, 2021, in case no. 08 of 2020, in upholding the authority of the Tribunal to proceed with the case filed under Section 2A(2) of the said Act, by rejecting the application filed by the petitioner, questioning the jurisdiction of the tribunal to proceed in the matter, cannot be said to be irregular or without jurisdiction. No case for interference has been made out.

35. The writ application is, accordingly, dismissed.

36. There shall be no order as to cost.

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**In Re 1555 of 2022**

37. The order passed by the learned Seventh Industrial Tribunal on 30th November, 2021, in case no. 06 of 2020, in upholding the authority of the Tribunal to proceed with the case filed under Section 2A(2) of the said Act, by rejecting the application filed by the petitioner, questioning the jurisdiction of the tribunal to proceed in the matter, cannot be said to be irregular or without jurisdiction. No case for interference has been made out.

38. The writ application is, accordingly, dismissed.

**In Re: WPA 1553 of 2022**

39. The order passed by the learned Seventh Industrial Tribunal on 30th November, 2021, in case no. 07 of 2020, in upholding the authority of the Tribunal to proceed with the case filed under Section 2A(2) of the said Act, by rejecting the application filed by the petitioner, questioning the jurisdiction of the tribunal to proceed in the matter, cannot be said to be irregular or without jurisdiction. No case for interference has been made out.

40. The writ application is, accordingly, dismissed.

41. There shall be no order as to costs.

**In Re: WPA 1557 of 2022**

42. The order passed by the learned Seventh Industrial Tribunal on 30th November, 2021, in case no. 05 of 2020, in upholding the authority and jurisdiction of the Tribunal to proceed with the case filed under Section 2A(2) of the said Act, by rejecting the application filed by the petitioner, questioning the jurisdiction of the tribunal to proceed in the matter, cannot be said to be irregular or without jurisdiction. No case for interference has been made out.

43. The writ application is, accordingly, dismissed.

44. There shall be no order as to costs.

**In Re: WPA 15636 of 2021**

45. For reasons more fully discussed hereinabove, the order dated 27th January 2021, passed by the learned First Labour Court, West Bengal in case no. 01 of 2014, in refusing to recall the order no. 66 dated 4th January 2021, dismissing the application, questioning jurisdiction of the Labour Court, cannot be said to be irregular. The first Labour Court has rightly upheld the jurisdiction of the Labour Court to hear out the matter. The order dated 4th January 2021 or the order dated 27th January 2021, cannot be said to be illegal or without jurisdiction. No case for interference has been made out.

46. The writ application is accordingly dismissed.

47. There shall be no order as to cost.

**In Re: WPA 16391 of 2021**

48. Consequentially the order passed by the learned Third Industrial Tribunal, West Bengal on 7th May, 2021, in case no. 01 of 2016, in upholding the authority of the Tribunal to proceed with the case filed under section 2A(2) of the said Act, cannot be said to be irregular or without jurisdiction. The rejection of the petitioner's application, questioning jurisdiction of the Tribunal to adjudicate the case also cannot be said to be irregular or without jurisdiction. There is also no irregularity in the finding arrived at by the tribunal that the domestic inquiry held in the case is found to be invalid. It appears that the tribunal has given opportunity to the petitioner to adduce evidence in order to justify the order of dismissal. The Tribunal cannot be faulted for having granted such an opportunity. No case for interference has been made out. The writ application is, accordingly, dismissed.

49. There shall be no order as to costs.

**In Re: WPA 8913 of 2021**

50. For reasons morefully discussed hereinabove, the Award dated 23rd February 2021, passed by the learned 1st Industrial Tribunal, West Bengal and the publication dated 19th March, 2021 in case no. 02 of 2017, whereby the objection as to the

maintainability of the application under Section 2A(2) of the said Act, consequent upon notifying of the Repealing Act, has been upheld, cannot be sustained. The aforesaid order is, accordingly, set aside. Since the case is pending from 2017, the learned Tribunal is directed to hear out and expeditiously disposed of the said case, preferable within a period of 6 months from the date of communication of this order.

51. With the aforesaid observations and directions, the writ application stands allowed.

52. There shall be no order as to costs.

53. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon completion of requisite formalities.

**(Raja Basu Chowdhury, J.)**