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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9482 OF 2024



**Mumbai Fire Services Union**,
A Trade Union registered under the Trade Unions Act, 1926, having its office at 237-239, N.M. Joshi Marg, Opp. Bawla Masjid, Lower Parel, Mumbai 400 013 … **Petitioner**

**V/s.**

1. **Municipal Corporation of Greater Mumbai**, Mahapalika Marg, Mumbai – 400 001
2. **Ajay Mehta**, or his successor in office, The Municipal Commissioner, The Municipal Corporation of Greater Mumbai, Municipal Head Office, Mahapalika Marg, Mumbai 400 001
3. **Ram Dhas**, or his successor in office, Deputy Municipal Commissioner (CPD), The Municipal Corporation of Greater Mumbai, central Stores Bldg., Byculla, Mumbai – 400 011
4. **Prabhat Rahangdale** or his successor in office, Chief Fire Officer, Chief Fire Officer, Mumbai Fire Brigade, The Municipal Corporation of Greater Mumbai, Byculla, Mumbai 400 001
5. **M.S. Behre** or his successor in office, Assistant Chief Officer (Enquiry),

The Municipal Corporation of Greater
Mumbai, K-West Municipal Ward
Office, 5th Floor, Paliram Road,
Andheri (West), Mumbai 400 058 ... Respondents

Ms. Neeta Karnik i/by Mr. Piyush Todkar for the petitioner.

Mr. B.D. Birajdar with Mr. Santosh Mali for the respondent-MCGM.

CORAM : AMIT BORKAR, J.

RESERVED ON : FEBRUARY 6, 2026.

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT:

**1.** By the present writ petition instituted under Article 227 of the Constitution of India, the petitioner assails the Judgment and Order dated 15 September 2021 passed by the Industrial Court at Mumbai in Revision Application (ULP) No. 31 of 2020, insofar as the said order records a finding that the Fire Brigade Department of respondent No. 1 Corporation does not constitute an industrial establishment.

**2.** The facts giving rise to the present proceedings may briefly be stated thus. The petitioner, being the original complainant, instituted Complaint (ULP) No. 125 of 2017 challenging the order of termination dated 16 November 2017, which was founded upon the inquiry report dated 25 December 2015 issued against one Devidas Lokhande, Assistant General Secretary of the petitioner Union. The said employee was serving as a Fireman in the Fire

Brigade Department of respondent No. 1 Corporation prior to the impugned termination.

**3.** It is the case of the petitioner that on 9 May 2015 a major fire occurred in a building known as Gokul Niwas at Kalbadevi, Mumbai, resulting in the death of four senior officers of the Mumbai Fire Brigade. According to the petitioner, the incident occurred due to the absence of a Standard Operating Procedure. Following media coverage of the incident, Mr. Lokhande, in his capacity as a Union office bearer, granted an interview to the Mi Marathi television channel. Thereafter, by notice dated 22 May 2015, he was called upon to show cause on allegations that he had levelled accusations of corruption against senior officers of respondent No. 1, including the Municipal Commissioner, and he was subsequently placed under suspension with effect from 2 June 2015.

**4.** Thereafter, Mr. Lokhande was informed that a departmental inquiry would be conducted, and on the date fixed for inquiry he was served with a charge sheet dated 7 July 2015. Pursuant thereto, the respondents constituted a five member Inquiry Board comprising departmental officers. The Board submitted its report dated 28 August 2015 to the Chief Fire Officer, respondent No. 4. The proceedings of the Board were concluded on a single day, namely 7 July 2015, wherein it was observed that Mr. Lokhande had violated the Service Conduct Rules, and the Board recommended initiation of a full-fledged departmental inquiry.

**5.** Acting upon the aforesaid recommendation, respondent No. 5 was appointed as Inquiry Officer. By communication dated 17 December 2015, Mr. Lokhande was directed to remain present on 23 December 2015, and on that date a charge sheet dated 17 December 2015 was served upon him alleging misconduct under Rules 3(1), 3(2) and 3(10) of the Brihanmumbai Mahanagarpalika Service Conduct Rules, 1999. The petitioner contends that municipal employees are governed by the Industrial Employment (Standing Orders) Act, 1946 and the Model Standing Orders framed thereunder, and consequently the inquiry conducted and the charge sheet issued were illegal and liable to be set aside. It is further stated that towards the end of June 2017, Mr. Lokhande received a show cause notice dated 20 June 2017 issued by respondent No. 3 calling upon him to explain why he should not be dismissed from service in view of the findings recorded by the Inquiry Officer and the recommendation made by respondent No. 4 under communication dated 2 May 2017.

**6.** In the aforesaid background, the petitioner Union instituted Complaint (ULP) No.125 of 2017 alleging commission of unfair labour practices under Items 1(a), (b), (f) and (g) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, and further contended that the inquiry was neither fair nor proper and that the findings recorded therein were perverse. During the pendency of the complaint, Mr. Lokhande came to be dismissed from service by order dated 16 November 2017, whereupon the complaint was amended so as to challenge the order of dismissal.

7. The respondents opposed the complaint by contending that the Municipal Corporation and its Fire Brigade Department do not constitute an industrial establishment within the meaning of the Industrial Employment (Standing Orders) Act. The Labour Court framed issues on 2 November 2018 and an additional issue on 15 January 2019. The respondents sought amendment of their written statement, which application was rejected by order dated 26 March 2019. The said order was challenged in Revision Application (ULP) No. 53 of 2019, which came to be allowed by order dated 9 July 2019 granting permission to amend the written statement. The Industrial Court further directed the Labour Court to determine the status of the Corporation as well as the fairness of the inquiry and the findings of the Inquiry Officer, with liberty to record evidence on the issue of status if necessary.

8. By order dated 17 January 2020, the Labour Court held that the Fire Brigade Department is an industrial establishment within the meaning of the Industrial Employment (Standing Orders) Act, and further recorded findings that the inquiry conducted against the employee was not fair and proper and that the findings arrived at therein were perverse.

9. The respondents carried the matter in Revision Application (ULP) No. 31 of 2020 challenging the said order. By Judgment and Order dated 15 September 2021, the Industrial Court held that although respondent No. 1 Municipal Corporation is an industrial establishment, its Fire Brigade Department cannot be treated as an industrial establishment. The issue relating to the fairness of the inquiry was kept open to be considered at the stage of final

adjudication of the complaint. Being aggrieved by the aforesaid finding, the present writ petition has been filed.

**10.** Learned Senior Advocate Ms. Karnik appearing for the petitioner submitted that the Industrial Court erred in holding that the Fire Brigade Department of respondent No. 1 Corporation does not constitute an industrial establishment within the meaning of the Industrial Employment (Standing Orders) Act, 1946. According to her, having regard to the factual background and the statutory framework governing the parties, the Fire Brigade Department ought to have been held to fall within the definition of an industrial establishment, rendering the provisions of the said Act applicable. It was contended that the Industrial Court failed to properly appreciate the scheme of the Mumbai Municipal Corporation Act, 1888, which demonstrates that the Fire Brigade Department is an integral component of respondent No. 1 Corporation and has no independent legal existence. Reliance was placed upon the decision in *Ganapathy Bhandarkar v. Regional Provident Fund Commissioner, 1989 (2) Kar LJ 480*, to submit that the test of functional integrality depends upon whether one establishment can exist independently of the other.

**11.** Learned Senior Counsel further submitted that the Fire Brigade Department cannot exist independently of the Municipal Corporation and, conversely, the Municipal Corporation cannot effectively discharge its statutory obligations under the Mumbai Municipal Corporation Act, 1888 in the absence of the Fire Brigade Department. It was therefore urged that once respondent No. 1 Corporation is held to be an industrial establishment, the Fire

Brigade Department must necessarily fall within the same definition. It was also pointed out that this Court, in *Writ Petition No. 50777 of 2012 and connected matters decided on 4 March 2015*, has already held respondent No. 1 Corporation to be an industrial establishment.

**12.** It was further argued that the settled position of law, as laid down in various judgments of the Supreme Court and this Court, is that where there exists unity of employment, control, administration and ownership, coupled with functional integrality, the establishment must be treated as a single industrial establishment and all departments thereof constitute parts of the same unit. Applying these principles to respondent No. 1 Corporation and its Fire Brigade Department, it was submitted that the tests of unity and functional integrality stand fully satisfied.

**13.** Learned Senior Counsel submitted that the Industrial Court failed to correctly apply the ratio of the Constitution Bench judgment in *Bangalore Water Supply and Sewerage Board v. A. Rajappa, AIR 1978 SC 548*, which elucidates the principles governing functional integrality within a municipal corporation and the interrelationship between its departments. It was contended that in the present case the Fire Brigade Department performs functions closely connected with those of the City Engineer Department, Building Proposal Department, Mechanical and Electrical Department, Special Engineering Department, Building Works Department, Disaster Management Department, Gardens and Trees Department and the Health Department. In view of such interdependence, and considering that the aforesaid

departments fall within the definition of industrial establishment under the Payment of Wages Act, it was submitted that the Fire Brigade Department would equally fall within the same definition, as the functioning of those departments is dependent upon it.

**14.** It was further submitted that issuance of a No Objection Certificate by the Fire Brigade Department is mandatory for ensuring safety and maintenance of buildings within municipal limits, and consequently departments concerned with construction and maintenance of buildings cannot effectively function in the absence of the Fire Brigade Department.

**15.** Learned Senior Counsel also pointed out that drivers employed in the Fire Brigade Department perform not merely driving duties but are also engaged in pumping operations connected with water supply. It was submitted that the department maintains a workshop where approximately 246 vehicles are repaired and modified for operational and transport purposes. According to her, the Labour Court duly considered these aspects and rightly concluded that the Fire Brigade Department is not an independent establishment but forms part of the Municipal Corporation. However, the revisional court reversed the said finding without proper consideration of the relevant factors and erroneously held the department to be an independent establishment.

**16.** The learned Senior Advocate for the petitioner relied upon the judgments in *Sitaram Tukaram Walunj v. M.C.G.M & Ors*, (Writ Petition No.8711 of 2007, decided on 15 April 2008), *Associated*

*Cement Co. Ltd., Jhinkpani v. Their Workmen,* MANU/SC/0119/1959, *B. Ganapathy Bhandarkar v. Regional Provident Fund Commissioner*, MANU/KA/0321/1989, *The U.P. State Electricity Board & Anr. v. Hari Shankar Jain & Ors.*, (1978) 4 Supreme Court Cases 16, *M.C.G.M. v. Nilima Sunil Nadkarni*, (Writ Petition No.5077 of 2012 with connected petitions, decided on 4 March 2015), *Divisional Forest Officer, Gadchiroli v. Madhukar Ramaji Undirwade & Ors.*, MANU/MH/0274/1995, *Pyarelal v. Municipal Council & Ors.*, MANU/MH/0492/1991, *M.C.G.M. & Anr v. Laxman Saidoo Timmanepyati & Ors.*, 1991 (2) Bom. C.R. 353.

**17.** Per contra, learned Advocate Mr. Birajdar appearing for the respondents invited attention to the schedule annexed to application Exhibit C-13, particularly paragraph 13(h-1). He submitted that the Mumbai Fire Brigade existed even prior to the establishment of respondent No. 1 Corporation, has a separate budget administered by the Chief Fire Officer, and therefore constitutes a separate establishment under his control. It was contended that officers of the Fire Brigade are not transferable to other departments. He further submitted that the department does not operate any workshop where articles are produced, adapted or manufactured and hence cannot be treated as an industrial establishment, with the result that the Industrial Employment (Standing Orders) Act, 1946 would have no application. Reliance was also placed upon the observations of this Court in paragraph 15 of the order below Exhibit U-2 dated 10 November 2017, wherein it was noted that the applicability of standing orders to

the complainant's service had not been finally determined. Reference was further made to section 3(mm) relating to the BEST Undertaking, section 3(d) defining the Commissioner, section 60A concerning appointment of the General Manager of the BEST Undertaking, and section 64 of the Mumbai Municipal Corporation Act, 1888 dealing with the functions of municipal authorities.

**18.** Learned Advocate for respondent relied upon the judgments in *Messrs Alloy Steel Project v. The Workmen*, 1971 1 L.L.J 217 (S.C.), *Sangli Miraj Kupwad Cities Municipal Corporation, Sangli v. Mahapalika Kamgar Sabha*, 2012 III CLR 167 (H.C Bom), *Pune Municipal Corporation v. Keshav Ganpat Bhise & Anr.*, 1983 (2) Bom.C.R. 715 (S.C), *Commonwealth Trust India Ltd. v. Labour Commissioner*, 2009 1 CLR 475 (H.C Kerala), *K. A Mohandas v. National Centre for the Performing Arts & Anr.*, 2013 II CLR 317 (H.C Bom), *Mangal Bharat Shinde v. Pimpri Chinchwad Municipal Corporation & Anr.*, 2018 (6) Mh.L.J 328, *Sandip Baliram Sandbhor & Ors. v. Pimpri Chinchwad Municipal Corporation & Ors.,* 2016 (3) Mh.L.J 562 (H. C Bom), *Indraprastha Medical Corporation Ltd. v. NCT of Delhi & Ors.,* 2006 (110) FLR 1176 (H. C Delhi), *Coimbatore Municipality v. K. Thiruvenkataswami*, 1974 LAB 1.C. 667 (V 7 C 150) (H.C Madras), *The Andhra University v. The Regional Provident Fund Commissioner and Others*, 1986-1-L.L.J. 155 (SC).

## REASONS AND ANALYSIS

### Governing Legal Principles on Unity of Establishment and Functional Integrality.

**19.** In *Torino Laboratories Pvt. Ltd. v. Union of India and Others, 2025 SCC OnLine SC 1440*, the Supreme Court has once again clarified that disputes concerning whether different units form one establishment are to be resolved by applying well settled principles evolved through earlier decisions. The Court emphasised that the enquiry is not mechanical. The Court must examine the real relationship between the units and determine whether there exists unity of ownership, management and control, and whether the functioning of the units shows functional integrality. The judgment makes it clear that this area of law is settled, and the tests are already laid down through a long line of precedents. The task of the Court in each case is to apply those principles to the facts before it and ascertain the true nature of the establishment.

**20.** The Court traced the origin of these principles to *Associated Cement Companies Ltd. [AIR 1960 SC 56]* , where the question arose in the context of lay off compensation under the Industrial Disputes Act. Since the statute did not define what constitutes one establishment, the Court held that the answer must be found by examining practical industrial realities. The Court observed that modern industrial organisations often operate through different units, departments and branches, sometimes spread across different locations. In such situations, no single rigid formula can determine whether they constitute one establishment. Instead, several indicators such as unity of ownership, management, employment, functional integrality and general unity of purpose must be examined. The central question is whether the units, in their real and practical relationship, form one integrated whole. If

they do, they must be treated as one establishment. If they function independently, they may be treated as separate units. The Supreme Court reiterated that no single test can be treated as absolute. This principle is important because industrial structures differ widely, and legal conclusions cannot be drawn merely by applying one isolated factor. The object of the enquiry is to identify the real thread connecting the units. Depending on the facts, one factor may assume greater significance than another. In some cases, common ownership and control may be decisive. In others, functional dependence or unity of employment may carry greater weight. The approach must therefore remain flexible and fact oriented.

**21.** The Court then referred to *Pratap Press [AIR 1960 SC 1213]*, where the issue was whether different business activities carried on by the same owner constituted one industrial unit. The Court observed that such questions cannot be answered through rigid rules and must depend on the peculiar facts of each case. The decision recognised that two activities may appear distinct on paper but may still be so closely linked in practice that no reasonable person would regard them as independent. At the same time, the Court also emphasised that the conduct of the employer becomes an important indicator. Whether capital, workforce and management are mixed or kept distinct may reveal how the employer itself treats the units in practice. While examining the facts in *Pratap Press*, the Court first tested whether there was functional dependence between the press and the publication units. It found that each could exist independently. However, the

Court did not stop at that stage. It further examined whether the employer pooled capital, profits and labour between the units. Since there was no convincing evidence of such integration, the Court concluded that the press was a separate unit. This part of the reasoning shows that absence of functional dependence alone is not decisive; the Court must also examine managerial and financial conduct.

**22.** The judgment in *South India Millowners' Association v. The Secretary, Coimbatore Distruict Textile Workers' Union, 1962 Supp (2) SCR 926* further refined these principles. The Supreme Court explained that several factors may become relevant, such as unity of ownership, finance, management, geographical location, functional integrality and unity of purpose. The significance of each factor varies according to the facts. The Court made it clear that industrial reality cannot be reduced to a single formula. The enquiry must remain broad and practical, focusing on whether one unit forms an integral part of another or whether both together serve a common industrial purpose. Importantly, the Court rejected the argument that functional integrality alone is decisive. It held that in complex industrial organisations, insisting on one test may lead to incorrect conclusions. Functional integrality may be very relevant where different types of businesses are run together, but it may carry less weight where similar activities are carried on at different places under common ownership. The Court therefore cautioned that all relevant factors must be considered together, and no test should be elevated to an absolute rule.

**23.** The same reasoning was reaffirmed in *Management of Wenger and Co. v. Their Workmen, 1963 Supp (2) SCR 862*, where the Court examined whether restaurants and wine shops run by the same management formed one establishment. The Court observed that even if strict functional dependence was absent, other factors such as unity of ownership, finance, management and labour could still justify treating the units as one establishment. The Court noted that employees were transferable, finances were common, and the employer itself treated the units as departments rather than independent entities. On a cumulative assessment, the units were held to be one establishment.

**24.** From these authorities, the Supreme Court in *Torino Laboratories* clarified that courts cannot stop the enquiry merely by asking whether one unit can survive without the other. Functional dependence is only one indicator. The Court must look at the overall picture. If the activities are coordinated, controlled under one management, financially connected, and aimed at a common purpose, they may still constitute one establishment even when each unit can theoretically exist independently. The Court then referred to several later cases under welfare legislations like the EPF Act, where authorities had clubbed separate entities based on unity of ownership, common management, shared workforce, common finance and common business purpose. Decisions such as *Rajasthan Prem Krishan Goods Transport Co. v. Regional Provident Fund Commissioner, New Delhi, (1996) 9 SCC 454*, *Regional Provident Fund Commissioner, Jaipur v. Naraini Udyog, (1996) 5 SCC 522* and *L.N. Gadodia and Sons v. Regional Provident Fund*

*Commissioner, (2011) 13 SCC 517* demonstrate that separate registration under different statutes or maintenance of separate accounts does not by itself prove independence. Courts are required to look beyond formal structures and examine the real operational relationship between entities.

**25.** At the same time, cases like *Regional Provident Fund Commissioner v. Dharamsi Morarji Chemical Co. Ltd., (1998) 2 SCC 446* and *Regional Provident Fund Commr.* v. *Raj's Continental Exports (P) Ltd*, *(2007) 4 SCC 239* show that where there is no evidence of common management, financial control or interconnection, units may be treated as separate. These decisions underline that the outcome always depends on facts. The law does not presume integration or separation. The conclusion must flow from evidence showing how the units actually function. The Supreme Court also stressed that artificial structures may sometimes be created to project separate identity. Courts are therefore required to lift the veil and examine substance over form. Particularly in welfare legislations, the approach must be practical and realistic. Separate incorporation or separate registration cannot automatically defeat the application of beneficial statutes if, in reality, the units operate as one establishment.

**26.** Another important principle emerging from these decisions concerns burden of proof. Where the management claims that units are genuinely independent, the burden lies on it to produce the best evidence because the relevant facts are within its knowledge. Failure to produce such evidence permits the authority or court to draw adverse inference regarding unity of management

or finance.

**27.** Finally, the Court in *Torino Laboratories* summarised the legal position by stating that the enquiry must always be holistic. Each factor by itself may not be conclusive. What matters is the cumulative effect of all circumstances. The Court must examine ownership, control, finance, employment, functional relationship, unity of purpose and the conduct of the employer. The objective is to identify whether the units form one integrated whole or are genuinely independent.

**28.** Applying these principles to the present case, the enquiry before this Court cannot be confined to a single test such as whether the Fire Brigade Department can function independently in theory. The Court must examine the broader statutory framework, administrative control, financial structure, functional relationship with other municipal departments, and the manner in which the Municipal Corporation itself treats the department. The focus must remain on substance and not on labels. If the material on record demonstrates unity of ownership, management, finance and purpose, and shows that the department forms an integral part of the larger municipal structure, the conclusion would naturally follow that it constitutes part of the same establishment. Conversely, if the evidence establishes genuine independence in management, finance and operation, a different conclusion may arise. The determination therefore depends on a careful and cumulative appreciation of all relevant facts in light of the settled principles explained above.

Material on Record Relevant to Determination of Status:

**29.** The record contains the following relevant materials:

(i) The Fire Brigade functions under the administrative hierarchy of the Municipal Corporation and reports into the municipal corporation.

(ii) The department performs statutory municipal functions and issues mandatory No Objection Certificates for buildings.

(iii) The department maintains a workshop that services and adapts about 246 vehicles.

(iv) The Chief Fire Officer administers a dedicated budget line for the Fire Brigade.

(v) Respondents assert that officers of the Fire Brigade are not transferable and that the Brigade existed prior to the current municipal structure.

(vi) The Labour Court found the Fire Brigade to be part of the Corporation and held the departmental inquiry unfair.

Tests of Ownership, Legal Identity, Financial Structure and Administrative Control:

**30.** Analysis of ownership and legal identity. The starting point of the discussion has to be the legal character of the Municipal Corporation itself. The Corporation is not a private entity created by contract. It is a statutory body brought into existence by law, and all its departments function under that statutory framework. When the Court examines whether a particular department has a

separate legal identity, the first question is whether the law recognises it as an independent person in the eyes of law. In the present case, no material has been placed to show that the Fire Brigade has such independent status. It cannot institute proceedings in its own name, nor can proceedings be maintained against it separately from the Corporation. Service conditions, disciplinary control and employment rules flow from municipal statutes and regulations. These are strong indicators that the employer remains one. The argument that a fire service existed historically before the present municipal corporation does not advance the respondents' case. History may explain origin, but legal identity depends on the present statutory framework. Once the department is absorbed into a statutory corporation and functions under its control, past existence loses decisive value. What matters is who controls the department today, and the answer on record is the Municipal Corporation.

**31.** Analysis of financial control. Financial structure often reveals the true nature of an establishment. The respondents relied upon the fact that the Fire Brigade has a separate budget. On first impression, that may appear to suggest independence. However, in practical administration, large organisations frequently create separate budget heads for internal management. A separate budget line does not automatically translate into financial autonomy. The real test is deeper. The Court must ask whether the department can independently raise funds, enter contracts in its own name, frame its own financial policy or decide remuneration without approval of the parent body. Nothing on record indicates

that such powers exist. The budget is processed through the municipal system and remains subject to municipal oversight. No independent borrowing power, separate treasury or independent financial decision making has been demonstrated. In the absence of such evidence, the claim of financial independence remains unsupported.

**32.** Analysis of management and control. Management structure provides another important indicator. The materials show that departmental officers function within the municipal administrative hierarchy. Policy decisions are framed under municipal rules. Recruitment, appointments and disciplinary proceedings are governed by the service framework applicable to municipal employees. The respondents attempted to rely on the contention that officers of the Fire Brigade are not transferable to other departments. Even if such a claim is raised, it must be supported by clear statutory provisions or binding service rules. A mere assertion is not sufficient. If a department truly operates under an independent management regime, there would ordinarily be documentary evidence demonstrating separate control, separate disciplinary authority and independent policy formulation. No such material has been produced. Therefore, on the evidence available, management and control continue to rest with the Corporation and not with a distinct employer.

**33.** Analysis of employment patterns and functional integrality. The functioning of the Fire Brigade cannot be viewed in isolation. Its duties are closely connected with several other departments of the Corporation. Buildings require fire safety clearance before

occupation. Disaster management operations involve coordinated action with engineering and health departments. Mechanical and electrical teams depend on fire safety compliance. These practical linkages show that the department is woven into the daily functioning of municipal administration. The existence of operational workshops and technical staff further indicates that the department performs supportive functions necessary for municipal service delivery. Functional interdependence does not mean that one department cannot physically exist without the other. It means that, in real administration, their activities are interconnected and directed towards a common municipal purpose. Viewed in that manner, the Fire Brigade operates as part of a larger municipal system rather than as a standalone industrial unit.

**34.** Effect of workshops and technical activity. Considerable emphasis was placed on the fact that the Fire Brigade repairs vehicles and carries out pumping operations. However, the mere presence of technical work does not automatically convert a department into an industrial undertaking under the Industrial Employment (Standing Orders) Act, 1946. The Court must examine the nature and object of the activity. If such work is carried out as part of municipal service and for operational readiness, it remains incidental to the primary public function. There is no material showing that the workshops manufacture goods for sale, operate as commercial units or function independently from fire and rescue services. The activities appear operational and service oriented, meant to maintain equipment required for emergency response. In law, incidental technical

activity cannot by itself establish a separate industrial identity.

**35.** Non transferability of officers. The contention that Fire Brigade officers are not transferable to other departments also does not establish independence. Specialised departments often maintain dedicated personnel due to technical skills and safety requirements. Doctors, engineers, disaster response staff and similar categories frequently have limited transferability. That feature reflects specialisation, not separation. A department may remain fully integrated within an organisation even when its employees perform specialised roles.

**36.** Comparisons with BEST and other statutory provisions. Reliance was placed on provisions relating to BEST and other statutory definitions to suggest that certain municipal units may have separate identity. Such comparisons must be approached cautiously. Each statutory body operates within its own framework. Unless the statutory scheme clearly creates an independent legal entity, analogies cannot be mechanically applied. In the present case, the Municipal Corporation Act imposes public safety duties upon the Corporation itself. Fire services are part of discharging those duties. Therefore, comparisons with other undertakings cannot override the factual and statutory integration evident here.

**Burden of Proof and Cumulative Assessment of Relevant Factors:**

**37.** Evidence and burden. Decisions such as *L.N. Gadodia* make clear that where management claims separateness, the onus lies on it to lead cogent evidence. This principle is grounded in common sense. The internal structure, financial records and service rules

are within the knowledge and control of management. If the respondents claim that the Fire Brigade is independent, they must demonstrate this through documents showing separate contracts, independent service rules, distinct financial control or separate procurement mechanisms. The record does not reveal such evidence. Reliance on historical origin or a separate budget entry falls short of the legal requirement. Courts cannot infer independence merely from broad assertions. The absence of detailed material permits the Court to draw an inference that the department continues to function within the municipal framework.

**38.** Weighing factors cumulatively. The law repeatedly cautions that no single factor is decisive. The Court must take a holistic view. When the various factors are placed side by side, the picture becomes clear. There is no separate legal personality. Financial control remains within municipal channels. Management and service conditions are governed by municipal rules. Functional links with other departments are strong and continuous. The activities of the department are directed towards fulfilling municipal obligations rather than running an independent enterprise. When all these circumstances are read together, the only reasonable conclusion is that the Fire Brigade is a department of the Municipal Corporation for the purposes of labour law. The cumulative assessment leaves little room for a contrary inference.

**39.** When all factors are viewed together, the conclusion becomes clear. The Fire Brigade does not function as a free standing body outside municipal administration. It exists to perform essential civic functions that the Corporation itself is

statutorily bound to discharge. Its operations are intertwined with other departments. Its personnel, infrastructure and administration operate within the municipal system. Internal budgetary arrangements or departmental specialisation do not alter this basic reality. On a cumulative assessment, functional integrality stands established. The Fire Brigade must therefore be regarded as part of the same establishment for the purpose of employment regulation and application of labour protections.

**40.** Once the Fire Brigade is held to be part of the Municipal Corporation, provisions of the Industrial Employment (Standing Orders) Act and the MRTU & PUL Act can apply to the employees in the Brigade, subject to statutory exemptions and specific provisions. The Labour Court found the inquiry to be unfair and its findings perverse. The Industrial Court kept that issue open. The appropriate course is to remit the complaint for final adjudication by the Labour Court or Industrial Court as directed below.

**41.** In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:

(i) The writ petition is partly allowed.

(ii) The Judgment and Order dated 15 September 2021 passed by the Industrial Court in Revision Application (ULP) No. 31 of 2020 is set aside to the extent it holds that the Fire Brigade Department of respondent No. 1 Corporation is not an industrial establishment.

(iii) The finding recorded by the Labour Court in its order dated 17 January 2020, holding that the Fire Brigade Department constitutes an industrial establishment within the meaning of the Industrial Employment (Standing Orders) Act, 1946, is restored and shall govern further adjudication of Complaint (ULP) No. 125 of 2017.

(iv) Insofar as the findings of the Labour Court dated 17 January 2020 regarding fairness and propriety of the domestic inquiry and perversity of the findings recorded by the Inquiry Officer are concerned, the same shall remain subject to final adjudication of the complaint. The respondents shall be at liberty to challenge such findings, in accordance with law, after the final judgment and order passed in the complaint, as directed by the Industrial Court.

(v) The Labour Court shall proceed to decide Complaint (ULP) No. 125 of 2017 on merits, uninfluenced by any observations made by the Industrial Court on the issue of status of the Fire Brigade Department, and shall adjudicate all remaining issues in accordance with law.

(vi) Rule is made absolute in the above terms. No order as to costs.

**42.** At this stage, learned Advocate for respondent No.1 seeks stay of the judgment and order. However, for the reasons stated in this judgment, request for stay stands rejected.

(AMIT BORKAR, J.)