17. Having regard to the facts and circumstances narrated hereinbefore and the aforesaid discussion, the original accused No. 5, who has not preferred any appeal would be also entitled to the benefit of acquittal in the aforesaid circumstances and this proposition is not disputed by both the sides in this appeal.

18. In view of the facts and circumstances, the impugned order of conviction and sentence recorded against the appellant-original accused No. 1, Ranmal Arjan, is quashed and set side. The amount of fine, if any paid by him, shall be refunded to him after due verification. Appeal is allowed.

19. In view of the fact that the impugned conviction and sentence order under Secs. 307 and 385 of the Indian Penal Code are not sustainable, they are quashed. The question of examining enhancement of sentence in Misc. Criminal Application No. 659 of 1985, therefore, would not assume any survival value. The Misc. Criminal Application No. 659 of 1985 is, therefore, dismissed.

Cr. Appeal allowed : Misc. Cri. Appli. dismissed.

* * *

SPECIAL CIVIL APPLICATION

Before the Hon'ble Mr. Justice A. P. Ravani and the Hon'ble Mr. Justice C. V. Jani.

JAGJIVAN BHIMJI VAJA v. UNION OF INDIA & ORS.*

Industrial Disputes Act, 1947 (XIV of 1947) — Secs. 25A and 25K — The test for deciding whether a particular industrial establishment is seasonal industry or otherwise.

In case only one of the sections of the industrial establishment is working during a particular season only, can it be said that the entire establishment is seasonal in character ? This is the question to be decided. The answer to the question would again depend upon various other factors which have been referred to hereinabove. The most important factor would be the pattern of employment and the continuous employment of sizable work force. If it is shown on facts that continuously for the entire period sizable number of workmen remain employed in the establishment, the fact that one of the sections oprated only during a season would not be sufficient to label the establishment as seasonal in character. It is probably for this very reason that the legislature has refrained from giving a definition of the phrase 'seasonal in character'. (Para 23)

C. V. S. Khand Udyog v. Government Labour Officer (1), M/s. MSCO Pvt. Ltd. v. Union of India (2), The Nagpur Electric Light & Power Co. Ltd. v. E. S. I. Corporation (3), relied on.

Kohinoor Saw Mill v. State of Madras (4), Ardeshir H. Bhiwandiwala v. State of Bombay (5), Mohd. Yunus v. Mohd. Mustaqim (6), referred to.

Spl. Civil Appli. No. 6303 of 1988 :
A. K. Clerk, for the Petitioners.
M. B. Buch for *K. S. Nanavati,* for Respondent No. 4.

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* Decided on 10-11-1993. Special Civil Applns. Nos. 6303 and 6304 of 1988 against the decision of the State of Gujarat to the effect that the Co-op. Sugar factory is a seasonal industry.

(1) AIR 1981 SC 905 (2) AIR 1985 SC 76 (3) AIR 1957 Madras 410
(4) AIR 1962 SC 29 (5) AIR 1967 SC 1364 (6) AIR 1984 SC 38

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P. M. Thakkar, for Respondents No. 5 to 100.
R. M. Chhaya for State.
Spl. Civil Appli. No. 6304 of 1988 :
A. K. Clerk, for the Petitioner.
M. B. Buch for *K. S. Nanavati,* for Respondent No. 4.
R. M. Chhaya, for State.

RAVANI, J. In both these petitions the workmen, through the representative union approved under the appropriate provisions of the Bombay Industrial Relations Act, 1946, have challenged the legality and validity of the order dated May 9, 1988 passed by the State Government of Gujarat declaring that the sugar factories in question is, i. e., Una Taluka Khedut Sahakari Khand Udyog Mandali Ltd., Una (in Special Civil Application No. 6303 of 1988) and Talala Taluka Khedut Sahakari Khand Udyog Mandali Ltd., Talala (in Special Civil Application No. 6304 of 1988) are industrial establishments of seasonal character within the meaning of Secs. 25-A and 25-K of the Industrial Disputes Act, 1947.

2. The petitioners have also challenged the constitutional validity of the provisions of Secs. 25-A, 25-A(2), 25-K and 25-K(2) of the Industrial Disputes Act, 1947 ("I. D. Act" for short). However, at the time of hearing the petitioners have not pressed the challenge to the consitutional validity of the aforesaid provisions of the I. D. Act. Hence the prayer contained in para 20(B) and 20(C) in both the petitions do not survive and the petition, in so far as these prayers are concerned, stand disposed of as having not been pressed. On behalf of the petitioners it is also prayed that since the petitioners do not challenge the constitutional validity of the aforesaid provisions of the Act, the petitioners may be permitted to delete respondent No. 1 in both the petitions, i.e., Union of India through the Secretary, Labour & Employment Department, New Delhi. Permission granted. In both petitions respondent No. 1 - Union of India stands deleted.

3. In Special Civil Application No. 6303 of 1988, after the petition was filed, respondents No. 5 to 100 who claim to be permanent employees of respondent No. 4 - Industrial establishment prayed for being joined as party-respondents. They have been permitted to be joined as party-respondents as per order dated April 5, 1990. Thus in Special Civil Application No. 6303 of 1988 respondents No. 5 to 100 who are permanent employees of the establishment are also pary-respondents.

4. At the request and with the consent of the learned Advocates appearing for the parties both the petitions have been heard together and are being disposed of by this common judgment and order.

Undisputed and/or proved facts :

5. Respondent No. 4 in Special Civil Application No. 6303 of 1988, i. e., Una Taluka Khedut Sahakari Khand Udyog Mandali Ltd., Una, is a co-operative society registered under the appropriate provisions of the Gujarat Co-operative Societies Act, 1962 some time in the year 1963. It started its operations in the year 1967-68. Respondent No. 4 in Special Civil Application No 6304 of 1988, is Talala Taluka Sahakari Khand Udyog Mandali Ltd. It is also a co-operative society registered under the appropriate provisions of the Gujarat Co-operative Societies Act, 1962 in the year 1968. It is not on record as to from which year it has started its operation, but is appears that this society has also commenced its commercial production some

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time in the year 1970. Both the societies sought to lay off their employees in the month of October/November, 1987.

6. Therefore on behalf of the petitioner-Unions applications under Sec. 78 of the Bombay Industrial Relations Act, 1946 ("the Act" for short) were filed in the Labour Court challenging the action of putting employers on lay off, illegal change, which was sought to be introduced by the employers. Together with the aforesaid two societies, similar dispute arose in relation to one more society, i. e., Bileswar Khand Udyog Khedut Sahakari Mandali Ltd. Against that society also the concerned Union of workmen had filed applications before the Labour Court. In all the three applications the Labour Court had granted interim relief and restrained the employer from effecting the illegal change. The employers had preferred revision application under Sec. 85 of the Act before the Industrial Court, Rajkot, which reversed and set aside the interim order passed by the Labour Court.

7. Against the orders passed by the Industrial Court, the Union of workmen had preferred Special Civil Applications No. 269 of 1988, 270 of 1988 and 289 of 1988 before this High Court. In these three petitions this High Court, some time in February 1988 passed order directing the appropriate Government, i. e., the State Government of Gujarat to decide the question as to whether the industrial establishment in question is of a seasonal character or whether the work is performed intermittently. The said direction was given by the High Court in view of the provisions of Secs. 25-A(2) and 25-K(2) of the I. D. Act. Sections 25-A(2) and 25-K(2) provide that if a question arises whether an industrial establishment is of a sessonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final. Pursuant to the aforesaid order the State Government of Gujarat issued notice to the employer and the employees' Union. Both sides were given opportunity of being heard and to put their case. After hearing the parties the Government passed order dated May 9, 1988 and declared that respondent No. 4 - Una Sugar Society is an industrial establishment of seasonal character within the meaning of Secs. 25-A and 25-K of the I. D. Act. Similar order is passed in respect of Talala Sugar Society on the same date. Legality and validity of both these orders have been challenged in these petitions by the Union of workmen as stated hereinabove.

8. Few further facts which are undisputed may be recorded. In Una Sugar Society there were about 305 permanent employees who worked throughout the year. Over and above these permanent employees there were about 307 seasonal permanent employees who worked only during the crushing season. As disclosed in the affidavit-in-rejoinder filed on behalf of the Union on December 6, 1991 the strength of the workmen in both the categories was reduced. The total number of permanent employees were 216 and the total number of seasonal permanent employees were 264 in Una Sugar Society. As far as Talala Sugar Society is concerned, the total strength of permanent workmen was around 255 and the total number of seasonal permanent employees was around 250. (It may be noted that in the order passed by the Government the figure of seasonal permanent employees mentioned is 450, but on verification of record it appears to be a mistake. On this point there is no dispute that the seasonal permanent workmen employed in Talala Sugar Society is around 250 and not 450).

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9. Raw material for the manufacture of sugar is sugar-cane. The manufacturing season of sugar starts some time in November and it lasts upto March and some times even beyond March. During this period, crushing of sugar-cane operation is undertaken. It is in this crushing section that seasonal permanent workmen are employed. They are called seasonal permanent employees because after the work is over they are free to go to their places, but they have a right to be employed again when the crushing work starts in the next season. During the period of unemployment they get retention allowances. Skilled workmen get 50%, semi-skilled workmen get 25% and unskilled workmen get 10% of their wages. This amount is considered to be part of the wages for the purposes of Employees' Provident Fund and Miscellaneous Provisions Act, 1952. This question has been decided in the case of *C. V. S Khand Udoyg, Chalthan v. Government Labour Officer,* reported in AIR 1981 SC 905.

10. In the impugned order the appropariate Government held that the raw material for the manufacture of sugar was an agricultural produce which was dependent upon natural rain-fall and it was affected by scarcity in the area; that the period of working in the industrial establishment was controlled by seasonal conditions; that there were some workmen who were permanent and some workmen who were purely seasonal workers. For the aforesaid reasons the Government passed the impugned order declaring that each of the Sugar Co-operative Society was industrial establishment of seasonal character.

11. It is an undisputed position that in both the establishments, i.e., Una Sugar Society and Talala Sugar Society, the total strength of workmen is more than one hundred. It is also an undisputed position that the question is required to be decided by referring to the provisions of Sec. 25-K of the I. D. Act. Section 25-K occurs in Chapter V-B of the I. D. Act which makes special provision relating to lay-off, retrenchment and closure in certain establishments. Provisions of Chapter V-B apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months. Sub-section (2) of Sec. 25-K provides that if a question arises whether and industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final. Section 25-L defines "industrial establishment" for the purposes of Chaper V-B. As per this definition "industrial establishment" means-a factory as defined in clause (m) of Sec. 2 of the Factories Act, 1948. Formerly, there was no provision in the I. D. Act restricting or preventing an employer from putting the workmen on lay-off and on retrenching the workmen. Provisions of Chapter V-B have been inserted by Industrial Disputes (Amendment) Act, 1976. This provision has been enacted with a view to prevent avoidable hardship to the employees and to maintain higher tempo of production and productivity. The provisions made in the Chapter put restrictions and curbs on employer in effecting retrenchment and lay-off of industrial establishment as defined by Sec. 25-L of I. D. Act. It is an undisputed position that in both the establishments the workmen employed are not less than one hundred on an average per working day for the preceding twelve months.

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"Seasonal Establishment" not defined under I. D. Act :

12. Whether the establishment is of seasonal character or whether the work is performed only intermittently is required to be decided by appropriate Government. The phrases "the establishment is of a seasonal character" or "in which the work is performed only intermittently" have not been defined under the provisions of the Act. The definition of "seasonal establishment" given in Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Employees' State Insurance Act, 1948 would not be applicable. As laid down by the Supreme Court in the case of *M/s. MSCO Pvt. Ltd. v. Union of India,* reported in AIR 1985 SC 76, it is hazardous to interpret a word in accordance with its definition in another statute or statutory instrument which is not dealing with any cognate subject. The Supreme Court has quoted the passage from *Craies on Statute Law (6th Edn.)* which reads as follows :

> "In construing a word in an Act caution is necessary in adopting the meaning ascribed to the word in other Acts. "It would be a new terror in the construction of Acts of Parliament if we were required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to such an interpretation is given to it for the purposes of that Act alone".

In the instant case also, Chapter V-B has been enacted for specific purpose of placing restriction on the right of employer to retrench the workmen or to place them on lay-off. Definition of industrial establishment as defined under Sec. 25-L is also for the limited purpose of the Chapter. In view of this postition, the definition of "seasonal establishment" given in the aforesaid statutes cannot be taken into consideration. In our opinion the Government has rightly not taken the same into consideration.

The contentions and examination thereof :

13. It is contended that the Government has committed error in holding that the industrial activity of sugar factory is overwhelmingly dependent upon agricultural raw material. This is certainly a relevant factor. It cannot be disputed that sugar-cane is an agricultural product. It also cannot be disputed that its availability is largely dependent upon natural rain-fall. But therefrom it cannot be inferred that all the operations of the industrial establishment are controlled by seasonal conditions.

14. It is submitted that only the crushing of sugar-cane activity is seasonal. All other operations in the sugar factory are of permanent nature. In other operations about 300 permanent employees are employed in Una Sugar Society. In Talala Sugar Society about 250 permanent employees are engaged. Other sections of the sugar factory are office section, accounts section, security section, electricity department, work establishment, maintenance operations and repairs. While considering the question as to whether industrial establishment is of seasonal character, the relevant aspect as regards employment of permanent workmen in the aforesaid sections of sugar factory has been totally ignored by the Government. In fact the working of other sections of the establishment has not been referred to at all. Simply because part of the work force is engaged in seasonal activity, it cannot be said that the entire establishment is of seasonal character.

15. On behalf of the society it was submitted that if the industrial activity is predominantly seasonal, then employment of certain employees on permanent basis

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would not be a factor which should militate against the seasonal character of the establishment. The argument would have been valid had the number of permanent employees engaged in other sections of the society would have been insignificant. It may be noted that the total permanent work force during the crushing season is around 600, while all throughout the year around 300 permanent workmen are engaged. Same is the position with Talala Sugar Society. From the employment pattern of both the sugar factories, one common feature can be seen. Only during crushing season which starts some time in October-November of every year and lasts upto March-April of next year that number of seasonal operatives engaged is almost equal to the number of permanent employees, i.e., if there are about 250 permanent employees during the crushing season, roughly about 250 seasonal operatives will be engaged for the crushing operations. Thus the number of permanent employees engaged in both the societies cannot be said to be in any way insignificant or skeleton so as to come to the conclusion that the establishment is of seasonal character.

16. It was contended that the seasonal permanent employees are being paid retention allowance. The scale of payment of retention allowance is 50%, 25% and 10% of wages, depending upon as to whether the workman is skilled, semi-skilled or unskilled. The argument is that the circumstance that sugar factories are making payment of rentention allowance to seasonal employees; and this is sufficient to hold that the industrial establishment is of seasonal character. The argument cannot be accepted. It may be noted that retention allowance is not paid to all the workmen engaged by the sugar factory concerned. Retention allowance is paid to the workmen who are engaged only during crushing season. They are paid retention allowance for the period when there is no work and the idleness is forced upon them. Payment of retention allowance serves two purposes. On the one hand the workman gets something to support himself during the forced unemployment. On the other hand the employer is sure that the workman will return and the employer will not have to go in search of other workmen who may not be conversant with the crushing work of the sugar factory concerned. Had it been the case that payment of retention allowance is to all the workmen engaged by the society, then it may have assumed a different significance. In that case, all other workmen also would have remained unemployed during the period for which they received retention allowance. But that is not the case. The retention allowance is paid only to the seasonal permanent employees, on whom unemployment and idleness is thrust when crushing operations are not being carried on in the sugar factories.

17. It needs to be noted that the system of payment of retention allowance appears to have been introduced due to the special and peculiar feature of the crushing operations. The crushing operations are dependent upon availability of raw material, i.e., sugar-cane. Sugar-cane is an agricultural product. In this particular area it is available only during specified months of the year. Therefore, this type of situation has arisen wherein retention allowance is required to be paid to the workmen engaged in crushing operations. Such situation is also taken care of by certain employers by resorting to the provisions of the Contract Labout (Abolition and Regulation) Act, 1970. In cases where the employers and the employees may not evolve the arrangement of making payment of retention allowance, the employer

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may resort to invoking the provisions of the Contract Labour (Abolition and Regulation) Act, 1970 and may engage contract labour in operations which are seasonal in character. But on that count the entire establishment does not become seasonal. Only particular operation remains seasonal.

18. If the argument is accepted, it would lead to the result that in any establishment where one or other section of the factory works during a particular season only, then the entire establishment has to be declared as seasonal. This would lead to absurd result. This would not serve the purpose of the I. D. Act which is a benevolent legislation. It would frustrate the provisions of the Payment of Gratuity Act, 1972, Payment of Bonus Act, 1965 and that of the Employees' State Insurance Act, 1948. In short such argument, if accepted, would denude the entire work-force which may be permanent, from all the benefits conferred upon them under various labour legislations. Thus, the argument that because retention allowance is paid to some of the employees the establishment has to be considered a seasonal one has no merits.

19. While considering the pattern of employment, the Government has ignored the permanent nautre of the work in different sections of the sugar factory, namely, office section, accounts section, security, electricity department, workshop, maintenance operations and repairs. It may be noted that there is no reference to other departments and sections in which about three hundred permanent workmen have been continuously engaged (in case of Talala Sugar Society about 250). Non-consideration of this relevant material vitiates the order passed by the Government.

20. Learned Counsel for the respondents relied upon the decision of the Madras High Court in the case of *Kohinoor Saw Mill Co. Ltd. v. State of Madras,* reported in AIR 1957 Madras 410. It is contended that the term "seasonal" would imply dependence on nature, over which neither the employer nor the employees in a given industrial establishment had control. Relying upon these observations in para 26 of the decision it is submitted that in the instant case also neither the employer nor the employees have any control over the availability of sugar-cane which is dependent upon natural rain-fall. It is no body's case that the sugar-cane crop is not the raw material for manufacturing of sugar and that it is available all thorugh-out the year. The question is whether the industrial activities are being carried on in the establishment all throughout the year or not ? The question is whether in the activity which has been carried on round the year substantial number of employees are employed or not ? These questions need to be answered. Examining the question from this angle in both the establishments, industrial activity is being carried on for the entire year. The Government has failed to take into consideration the employment in other sections. The Government has arrived at its decision only by referring to the crushing operations.

21. The decision of Madras High Court is relied upon by the Government as regards certain observations made therein with regard to the pattern of employment. We have already pointed out that the pattern of employment in both the establishments has not been properly taken into consideration by the Government. The Government has erred in ignoring the employment in all other sections of both the sugar societies. In the aforesaid decision of Madras High Court three factors have been mentioned

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which may be taken into consideration for deciding as to whether the industrial establishment is seasonal in character or not. They are : (1) dependence on nature over which neither the employer nor the employees in a given industrial establishment may have control ; (2) the period of working in a normal year in a given industrial establishment ; and (3) pattern of employment of labour.

22. As far as the first factor, i.e., dependence on nature, is concerned, we have already dealt with the same. As far as the pattern of employment is concerned, in paras 27 of the judgment it is observed as follows :

> "Even where practically no work could be carried on in an industrial establishment when seasonal conditions necessitated virtual stoppage of work, a skeleton establishment will necessarily have to be kept on, and that by itself may not disentitle the employer from claining the exemption for which Sec. 25-A (2) provides."

In the instant case, it cannot be said that for the period during which there is no crushing activity, there will be virtual stoppage of work or that there will be only skeleton establishment which will be in operation. On the contrary, as indicated hereinabove the permanent establishment in one sugar factory, i.e., Una Sugar Factory is around 300 while in antoher, i.e., Talala it is around 250. This much employment of work force by no stretch of reasoning can be said to be skeleton in view of total strength of 600 or 500 even during the peak season as indicated hereinabove.

23. Learned Counsel for the respondents has relied upon dictionary meaning of the term "seasonal employment" occurring in *Black's Law Dictionary*, *Webster's Dictionary*, *Law Lexicon by Mulchandani* and *Law Lexicon by Mukherjee*. We do not think it necessary to refer to all these different meanings given in different dictionaries. The question as to whether the establishment is seasonal in character or not is not required to be decided by referring to the dictionary meaning of the pharse. The phrase "seasonal in character" is not to be understood by the dictionary meaning, but it is to be understood in the context of the expression used in the statute. In the instant case, what the Court has to see is as to whether the entire work of the industrial establishment is seasonal in character. In case only one of the sections of the industrial establishment is working during a particular season only, can it be said that the entire establishment is seasonal in character ? This is the question to be decided. The answer to the question would again depend upon various other factors which have been referred to hereinabove. The most important factor would be the pattern of employment and the continuous employment of sizable work force. If it is shown on facts that continuously for the entire period sizable number of workmen remain employed in the establishment, the fact that one of the sections operated only during a season would not be sufficient to label the establishment as seasonal in charatcer. It is probably for this very reason that the legislature has refrained from giving a definition of the phrase 'seasonal in character'.

24. In this connection it may be noted that the industrial establishment as defined in Sec. 25-L means a factory as defined in clause (m) of Sec. 2 of the Factories Act, 1948, which reads as follows :

> "S. 2(m) "Factory" means any premises including the precincts thereof- (i) Whereon ten or more workers are working, or were working on any day of the preceding

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twelve months and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place."

While considering the employment pattern in an establishment what is required to be taken into consideration will be the total strength of workmen engaged in the factory. The factory again, does not mean only the building in which manufacturing activity may be being carried on. Reference may be made to the decision of the Supreme Court in the case of *Ardeshir H. Bhiwandiwala v. State of Bombay,* reported in AIR 1962 SC 29. Therein the question arose as regards the meaning of 'premises' occurring in the definition of the term factory in the Factories Act, 1948. The Supreme Court held that the word 'premises' is a generic term, and observed that the expression 'premises including precincts' does not necessarily mean that the premises must always have precincts. Even buildings need not have any precincts. The word 'including' is not a term restricting the meaning of the word 'precincts' but is a term which enlarges it scope. The use of the expression, therefore, does not indicate that the word 'premises' must be restricted to mean building and be not taken to cover open land as well. Even sea water in the open where the labourers work for converting sea water into salt would be part of the factory premises.

25. In this connection reference may be made to another decision of the Supreme Court in the case of *The Nagpur Electric Light and Power Co. Ltd. v. E. S. I. Corporation,* reported in AIR 1967 SC 1364. Therein the Supreme Court considered the expression 'manufacturing process' occurring in the definition of factory. In para 5 of the judgment the Supreme Court referred to two conditions which may constitute a factory. These conditions were - (1) in the premises twenty or more persons should have been employed on any day of the preceding 12 months; and (ii) in any part thereof a manufacturing process is carried on with the aid of power. The Supreme Court then observed as follows :

"If these two conditions are satisfied, the entire premises including the precincts thereof constitute a factory, though the manufacturing process is carried on in only a part of the premises."

In this case it is not in dispute that the respondent establishments are industrial establishments withing the meaning of Sec. 25-L of the I. D. Act. Therefore, it is also not in dispute that they are factory as defined in Sec. 2(m) of the Factories Act, 1948. However, while taking into consideration the employment pattern the Government has fallen in error. It has taken into consideration the employment in actual crushing operations only. While deciding the question as to whether the establishment is seasonal in character or not, it was not open to the Government to take such restricted view and exclude employment by the industrial establishments in all other sections.

26. Learned Counsel for the respondents submitted that the question decided by the appropriate authority is essentially one of fact. Before taking decision both

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the sides have been given opportunity to represent their case. Both the sides have been heard. Therefore, it is submitted that this Court should not exercise its extraordinary powers under Art. 226/227 of the Constitution of India. In support of the submission reliance is placed on the decision of the Supreme Court in the case of *Mohd. Yunus v. Mohd. Mustaqim,* reported in AIR 1984 SC 38. The submission is sought to be reinforced by referring to the provisions of Sec. 25-K of I. D. Act which provides that the decision of the Government on the question will be final.

27. The decision of the Supreme Court in the *case of Mohd. Yunus* (supra) relates to the powers of the High Court under Art. 227 of the Constitution. These petitions are under Art. 226 of the Constitution of India. Powers of the High Court under Art. 226 of the Constitution of India are very wide. If the quasi-judicial authority, while deciding the question, has failed to take into consideration the relevant material or has taken into consideration irrelevant material and patently wrong decision has been arrived at, the same has to be interfered with by the High Court in exercise of powers under Art. 226 of the Constitution. Therefore, reliance placed on the aforesaid decision is of no help to the petitioner (Respondent).

28. Learned Counsel for the petitioners submitted that even if the Court comes to the conclusion that the decision arrived at by the Government is not in accordance with law and the same is required to be quashed and set aside, then the matter may be remanded to the Government for deciding the question afresh. We do not think that any useful purpose will be served by remanding the matter to the Government. As indicated in the foregoing discussion, the pattern of employment in both the establishments is such that it is difficult to hold that the industrial establishments in question are of seasonal in character. Remand of the matter would unnecessarily prolong the disputes and would lead to unrest amongst the employees and may strain the industrial relations. In facts of the case, such a course is not required to be adopted.

29. No other contention is raised.

30. In the result, both the petitions are partly allowed. The impugned decision produced at Annexure-A in both the petitions, dated 9th May, 1988, declaring that Una Taluka Khedut Sahakari Khand Udyog Mandali Ltd., Una (in Special Civil Application No. 6303 of 1988) and Talala Taluka Khedut Sahakari Khand Udyog Mandali Ltd., Talala (in Special Civil Application No. 6304 of 1988) are industrial establishments of seasonal character is quashed and set aside. The prayer with regard to declaration that the provisions of Sec. 25-A and Sec. 25-K of the Industrial Disputes Act, 1947 are *ultra vires* the Constitution is rejected as having not been pressed. Rule made absolute to the aforesaid extent in both the petitions, with not order as to costs.

(ATP) *Rule made absolute.*

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