

ORDER SHEET
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Judicial Member	Remark
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Case No. CGIT/LC/RC/12/2022
Jeevan Lal Aadiwasi V.s. Prism Jonson Ltd.

27.04.2026	<p style="text-align: center;"><u>ORDER</u></p> <p>Application dated 27.04.2026 has been filed by Management of Prism Jonson Ltd. through their Learned Counsel, in which they have prayed that further proceedings in the case may be kept in abeyance till constitution of Industrial Tribunal as prescribed under Section 44 of the Industrial Relations Code, 2020 (in short the 'Code').</p> <p>As stated in the application, the Industrial Dispute Act, 1947 (in short the 'Act') has been repealed w.e.f. 21.11.2025 and the Code has been brought into force vide a notification issued by the Central Government, Ministry of Labour and Employment, on 21.11.2025. Amendment has been incorporated under Section 104 by legislature by way of which Section 104(1-A) has been incorporated in the Code. This amendment states that notwithstanding such repealing under Section 104(1), the functioning of the Tribunal and Statutory Authorities functioning under the Act so repealed, shall continue to function till such Tribunals and Other Statutory Authority becomes functional under the Code.</p> <p>According to the Management, Section 44(7)(b) of the Code, provides that matters relating to discharge or dismissal of Workman including his reinstatement or grant of any relief to such a dismissed workman shall be decided by Division Bench of the Tribunal constituting of a Judicial and Administrative member. As per Section 104(2), the acts done or taken under the corresponding provisions of this Code, shall be in force to the extent, they are not contrary to the provisions of the IR Code. It is the case of the Management that since the Management under Section 104 of the Code by way of inserting Section 104(1) (A) by Amendment Act, 2026 (Amendment Act No.1 of 2016) is in contravention of the provisions of Section 104 (2) of the Code, hence the</p>	
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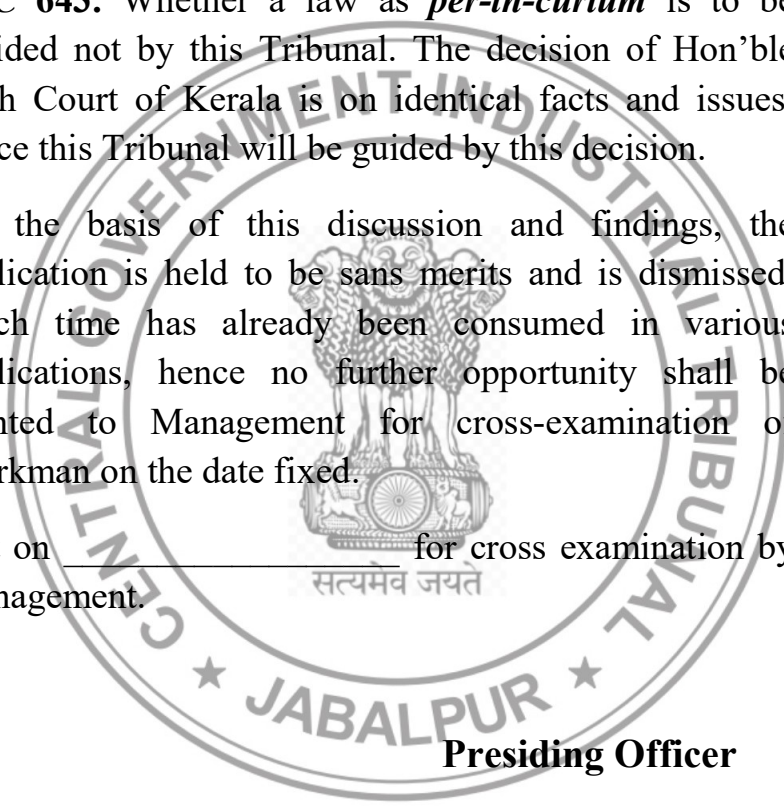
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	<p>proceedings cannot be undertaken till constitution of Industrial Tribunal under the Code and the matter requires to be heard by Division Bench as stated above.</p> <p>I have heard arguments of Learned Counsel for Management Mr. Kuldeep Bhargav and Mr. Uttam Maheswari Learned Counsel for the Workman. I have gone through the record as well.</p> <p>As it comes out, the dispute arose in the year 2022 when the Industrial Disputes Act, 1947 was in force. During the pendency of the dispute before this Tribunal, the Industrial Relation Code, 2020 was brought into force by Central Government, Ministry of Labour and Employment vide its notification dated 22.11.2025. As provided under Section 44 of the Code, the matters pending under the Industrial Disputes Act, 1947 shall stand transferred to the Industrial Tribunal, constituted under Section 44 of the Code. Section 44 (7) provides that matters regarding disputes mentioned in this provision which includes discharge or dismissal of the workman including his reinstatement or grant of relief to workman dismissed, shall be entertained by Division Bench of the Tribunal.</p> <p>Vide its notification dated 08.12.2025 issued by the Central Government it was provided that notwithstanding repeal of the Industrial Disputes Act, 1947, the existing Labour Courts, Industrial Tribunals and National Industrial Tribunals constituted under Industrial Dispute Act, 1947 shall continue to adjudicate the existing as well new cases arising out under direction and provision of Trade Union Act, 1926, Industrial Employment (standing orders) Act, 1946 and 1947 and Industrial Disputes Act, 1947 as well the Industrial Relations Code of 2020 till constitution of Industrial Tribunals and National Industrial Tribunals under the Code.</p> <p>Later on, an Amendment Act No.1 of 2026 was passed,</p>	

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	<p>which amended Section 104 (1) of the Code being reproduced as follows –</p> <p><i>The amended provisions of Section 104(1) 2026:KER:31573 W.P (C) No.14179/2026 -4- of the 2020 Code read thus:</i></p> <p><i>“(1) The following enactments shall stand repealed on and from the date appointed in the notification issued under sub-section (3) of section 1, namely:—</i></p> <p><i>(a) the Trade Unions Act, 1926;</i></p> <p><i>(b) the Industrial Employment (Standing Orders) Act, 1946; and</i></p> <p><i>(c) the Industrial Disputes Act, 1947. 16 of 1926. 20 of 1946. 14 of 1947. (1A) Notwithstanding such repeal under sub-section (1), the functioning of the Tribunals and statutory authorities functioning under the Acts so repealed shall continue to function till such Tribunals and other statutory authorities becomes functional under this Code.”</i></p> <p>The notifications as well the amendment were challenged by Hon’ble High Court of Kerala. The notification was upheld by Hon’ble High Court vide its judgment in the case <i>Suresh Kumar M.K. V.s. Union of India, 2026 (2) KHC, 371</i>. The challenge to the Amendment between the same parties in W.P. (C) No. <i>14179/2026 Suresh Kumar M.K. V.s. Union of India</i>, was also dismissed by Hon’ble High Court of Kerala, holding the amendments legal vide its judgment dated 08.04.2026, the case is reported in 2026-KEK-31573.</p> <p>Learned Counsel for the Workman submits that this Judgment settles the controversy. He further submits that, the Code as amended provides that till the Industrial Tribunal under Code are constituted, the Industrial Tribunal Constituted under the Industrial Dispute Act shall discharge all the functions of the Industrial Tribunal under the Act and under the Code. He further submits that, there is no provision of Judicial and Administrative Member in the Industrial Tribunals,</p>	

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	<p>constituted under the Act. They are presided by the Presiding Officer. Hence, there is no occasion to hold the proceeding of this case on the ground taken by Management.</p> <p>Learned Counsel for Management Mr. Bhargav submits that this Amendment contravenes the express provision under Section 104(2) hence, has no force of law and cannot taken to apply. He further submits that, the judgment of Hon'ble High Court of Kerala is not binding on facts and as <i>per-in-curium</i> in view of the Judgment of the Hon'ble Supreme Court in (2006) 9 SCC 643. Whether a law as <i>per-in-curium</i> is to be decided not by this Tribunal. The decision of Hon'ble High Court of Kerala is on identical facts and issues, hence this Tribunal will be guided by this decision.</p> <p>On the basis of this discussion and findings, the application is held to be sans merits and is dismissed. Much time has already been consumed in various applications, hence no further opportunity shall be granted to Management for cross-examination of Workman on the date fixed.</p> <p>List on _____ for cross examination by Management.</p> <p style="text-align: center;"> Presiding Officer</p>	