



\$~26

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4468/2023**
RAJDEEP GLOBAL INSTITUTE OF MANAGEMENT

.....Petitioner

Through: Ms. Sangita Bhayana, Adv.

Versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Anil Kumar Saxena, Sr. Panel
Counsel with Mr. Rajendra Kr.
Rawat, G.P. for UOI
Mr. Anil Soni, SC for AICTE with
Mr. Devvrat Yadav, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

%

04.11.2024

1. Learned counsel who appears on behalf of the petitioner, on 22.10.2024 after being confronted with the objection raised by the respondents on the ground of lack of territorial jurisdiction, sought time to address this Court.
2. She submits that in the instant case, if the impugned directions are perused, the same would indicate that a major part of cause of action has arisen within the territorial jurisdiction of this Court. She then submits that the decision has been taken by the AICTE at Delhi and, therefore, this Court has ample jurisdiction to decide this petition.
3. She contends that in the instant case, the respondents have raised an objection of lack of territorial jurisdiction at a belated stage when the matter remained pending for almost over a year and earlier the same very petitioner



approached this Court in W.P. (C) 7728/2021, where appropriate directions were issued. She, therefore, submits that in the instant case, the Delhi High Court is the *forum conveniens* for the petitioner and because the respondent's head office is situated here and in the absence of any objection by the respondents in writing, the instant petition is maintainable.

4. I have considered the aforesaid submissions and have also perused the record.

5. The Court in various writ petitions has considered almost similar nature of submissions being raised by the petitioners. In all those writ petitions, the institutions were situated outside the territorial jurisdiction of this Court. Reference can be made to the decisions of this Court that follow:-

<u>Date of Order</u>	<u>Cause Title</u>	<u>Place where material Cause of Action arose</u>	<u>Respondent-Authority</u>
02.09.2024	W.P.(C) 12041/2024 <i>Smt. Manjira Devi Ayurveda Medical College And Hospital v. Uttrakhand University of Ayurveda & Ors.</i>	Uttrakhand	Uttrakhand University of Ayurveda
05.09.2024 Division Bench	LPA 894/2024 <i>Smt. Manjira Devi Ayurveda Medical College And Hospital v. Uttrakhand University of Ayurveda & Ors.</i>	Uttrakhand	Uttrakhand University of Ayurveda
18.09.2024	W.P.(C) 12049/2024 <i>Michael Builders and Developers Pvt. Ltd. v. National Medical Commission and Ors</i>	Tamil Nadu	The Indian Nursing Council
07.10.2024	W.P.(C) 14153/2024 <i>Aryans College of Education v. National Council For Teacher Education and Anr</i>	Punjab	National Council For Teacher Education
08.10.2024	W.P.(C) 14233/2024 <i>Shri Siddhi Vinayak Medical College and Hospital Sambhal, U.P. v. Union</i>	Uttar Pradesh	National Medical Commission



	<i>Of India and Anr</i>		
14.10.2024	W.P.(C) 13570/2024 <i>Shinde Institute of Pharmacy and Research v. Pharmacy Council of India</i>	Maharashtra	Pharmacy council of India
14.10.2024	W.P.(C) 11627/2024 <i>Sun Private Iti v. Directorate General Of Training</i>	Madhya Pradesh	Directorate General Of Training
14.10.2024	W.P.(C) 12424/2024 <i>Sri Guru Nanak Dev Institute Of Pharmacy v. Pharmacy Council Of India</i>	Uttar Pradesh & Haryana	Pharmacy Council Of India
14.10.2024	W.P.(C) 13601/2024 <i>Dr. Yash Jain v. Union Of India & Ors</i>	Bihar	National Medical Commission
14.10.2024	W.P.(C) 13874/2024 <i>Laxmi Private Iti v. Directorate General Of Training</i>	Madhya Pradesh	Directorate General Of Training
15.10.2024	W.P.(C) 9525/2024 <i>St. John College Of Nursing And Paramedical V. Pharmacy Council Of India</i>	Uttar Pradesh	Pharmacy Council Of India
15.10.2024	W.P.(C) 13776/2024 <i>Pkg Medical College & Hospital v. Union Of India</i>	West Bengal	National Medical Commission
21.10.2024	W.P.(C) 9232/2024 <i>Aishwarya College Of It And Masnagement v. All India Council For Technical Education</i>	Rajasthan	All India Council for Technical Education
21.10.2024	W.P.(C) 12008/2024 <i>Smt. Gomti Smarak Vigyan Mahavidaylaya v. National Council For Teacher Education And Anr</i>	Uttar Pradesh	National Council for Teacher Education

6. In the above mentioned writ petitions, this Court has come across various reasons stated by the petitioners as a ground of invoking the Court's jurisdiction. Some of these reasons are enumerated below:-



- (i) The order being passed by the respondent at Delhi
- (ii) The hearing by the first and second Appellate authority was conducted in Delhi
- (iii) The record of the respondent is readily available within the territorial jurisdiction of this Court

7. The petitioners had argued that based on the reasons above, they should not be relegated to any other High Courts and the petitions should be heard before this Court. However, in accordance with the doctrine of *forum non conveniens* and the latin phrase *dominus litis*, which has been elaborately discussed by this Court in the above mentioned decisions, establishes that the Court has a discretionary power to entertain a writ petition when a fraction of cause of action has arisen in its territory but the material cause of action has arisen elsewhere. Therefore, if according to the Court, another Court is a more appropriate forum for the case to be heard, the Court can decline to entertain the writ petition. The factors to consider the material, integral and essential cause of action have also been discussed in greater detail by this Court in the cases referred above.

8. The Court in W.P. (C) 12041/2024, tilted as ***Smt. Manjira Devi Ayurveda Medical College and Hospital v. Uttarakhand University of Ayurveda & Ors.*** has also considered the grievance raised by the College which according to the petitioner in that case essentially arose within the territorial jurisdiction of this Court. The Court in paragraph Nos. 8 to 14 has held as under:-

8. This Court notes that the petitioner-institute i.e. Smt. Manjira Devi Ayurveda Medical College and Hospital is situated in the State of Uttarakhand, and the said institute is affiliated with respondent no. 1 i.e. Uttarakhand University of Ayurveda. The petitioner- institute is also approved and recognized by the State Government of Punjab. The ground



on which the petitioner-institute has approached this Court is that the Head Office of respondent no. 2 i.e. Union of India/Ministry of AYUSH is situated within the territorial jurisdiction of this Court. However, merely because the office of respondent no. 2 or of respondent no. 4 i.e. National Commission for Indian System of Medicine is situated within the territorial jurisdiction of this Court, it cannot be a ground to entertain the instant writ petition.

9. In this regard, it will be useful to refer to the judgment of Hon'ble Apex Court in case of Kusum Ingots & Alloys Ltd. v. Union of India (2004) 6 SCC 254. The relevant observations which are relevant to the facts of the present case are extracted hereunder:

“Forum conveniens

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney, Madanlal Jalan v. Madanlal, Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd., S.S. Jain & Co. v. Union of India and New Horizons Ltd. v. Union of India.]”

(Emphasis supplied)

10. Thus, as per the abovesaid judgment, in case a small part of cause of action arises within the territorial jurisdiction of a High Court, the same by itself may not be considered to be a determinative factor to compel that particular High Court to exercise its jurisdiction. Further, in appropriate cases, the Court may decline to exercise its discretion by invoking the doctrine of forum conveniens.

*11. A similar view was also taken by the Hon'ble Apex Court in the case of **State of Goa v. Summit Online Trade Solutions (P) Ltd. (2023) 7 SCC 791**, wherein it has been held as under:*

“14. While dealing with an objection as to lack of territorial jurisdiction to entertain a writ petition on the ground that the cause of action has not arisen within its jurisdiction, a High Court essentially has to arrive at a conclusion on the basis of the averments made in the petition memo treating the contents as true and correct. That is the fundamental principle. Bearing this in mind,



we have looked into the petition memo of WP (C) No. 38 of 2017 and searched in vain to trace how at least part of the cause of action has been pleaded by the petitioning company, to have arisen within the territorial jurisdiction of the High Court.

15. This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. The constitutional mandate of clause (2) is that the “cause of action”, referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.

16. The expression “cause of action” has not been defined in the Constitution. However, the classic definition of “cause of action” given by Lord Brett in Cooke v. Gill [Cooke v. Gill, (1873) LR 8 CP 107] that “cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court”, has been accepted by this Court in a couple of decisions. It is axiomatic that without a cause, there cannot be any action. However, in the context of a writ petition, what would constitute such “cause of action” is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.

17. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests”

(Emphasis Supplied)

12. A Coordinate Bench of this Court in the case of Chinteshwar Steel Pvt. Ltd. v. Union of India 2012 SCC OnLine Del 5264, has held that in case of pan India Tribunals, or Tribunals/statutory authorities having jurisdiction over several States, the situs of the Tribunal would not necessarily be the



marker for identifying the jurisdictional High Court.

13. This Court also notes, based on judicial precedents, that Courts have the power under Article 226 of the Constitution of India to exercise or decline their discretion to entertain writ petitions when the petitioner has an alternative, more appropriate, and convenient High Court to approach. As mentioned above, it is reiterated that it is a settled position of law that if only a part of the cause of action arises within the territorial jurisdiction of the Court, the Court may decline to entertain the case if it is of the opinion that it is not the forum conveniens.

14. To sum up, the grievance of the petitioner-institute herein, which is situated in Uttarakhand, is essentially against the Uttarakhand Ayurveda University. The interim relief claimed in this petition is also against Uttarakhand Ayurveda University, which reads as follows: “Issue directions to the Uttarakhand Ayurveda University to allow the students of the batch of 2022 to appear for the examinations of the first profession”.

9. The order passed by this Court was challenged in LPA 894/2024 and the Division Bench of this Court *vide* order dated 05.09.2024 declined to entertain the said appeal.

10. The aspects that are needed to be borne in mind, for determining its applicability of doctrine of *forum conveniens* are as follows:-

- i. The location of the parties;
- ii. The convenience of the parties;
- iii. The interest of other relevant stakeholders;
- iv. The place of the decision as well as the situs of the effect felt thereto;
- v. The decision making authority having a pan-India jurisdiction or otherwise;
- vi. The nature of the authority taking the impugned action i.e., statutory, administrative or private;
- vii. The best interests of the general public at large;



- viii. The jurisdiction invoked by the parties is aligned with the principles of judicial consistency, fairness and propriety in the adjudication of disputes;
- ix. The intentions behind invoking a particular jurisdiction viz. the parties approaching with *malafide* intentions or making surreptitious attempts of forum shopping may be identified;
- x. The resourcefulness of parties in approaching the jurisdiction to be considered immaterial etc.

11. Due consideration given to the case at hand would manifest that the petitioner-institution is situated in Bhopal, Madhya Pradesh and is owned by a charitable society which is also registered in Madhya Pradesh. The petitioner had applied for approval of a new course to be started in its institution in the same State. The cause of action to be adjudicated by the petitioner has essentially arisen in the State of Madhya Pradesh, where the institution is situated, and where the petitioner seeks to provide the fresh course applied for. Therefore, merely because the respondent's office is situated in the territorial jurisdiction of this Court, the same cannot be the sole determinative factor to invoke the jurisdiction of this Court.

12. In view of the aforesaid, the Court is not inclined to accept the submissions raised by the petitioner. The petition is accordingly dismissed as the respondent-AICTE has a pan-India jurisdiction.

13. The petitioner is, however, at liberty to approach the jurisdictional High Court with all rights and contentions left open.

PURUSHAINDRA KUMAR KAURAV, J.

NOVEMBER 4, 2024

p'ma