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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 14153/2024, CM APPL. 59255/2024 & CM APPL. 59254/2024**

Date of Decision: **07.10.2024**

IN THE MATTER OF:

ARYANS COLLEGE OF EDUCATION
(ARYANS EDUCATIONAL & CHARITABLE TRUST)
HOUSE NO. 11, STREET NO.5,
NEW FRIENDS ENCLAVE, PATIALA, PUNJAB
THROUGH ITS DEAN (ACADEMICS)
KUSUM SOOD

...PETITIONER

(Through: *Mr.Sanjay Sharawat and Mr.Gaurav Arora, Advocates.*)

VERSUS

1. NATIONAL COUNCIL FOR TEACHER EDUCATION
G-7, SECTOR-10, DWARKA, DELHI – 110075

2. NORTHERN REGIONAL COMMITTEE,
NATIONAL COUNCIL FOR TEACHER EDUCATION
G-7, SECTOR-10, DWARKA, DELHI – 110075
(THROUGH ITS REGIONAL DIRECTOR)

...RESPONDENTS

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner-institution in the instant writ petition seeks to assail

the order dated 22.09.2023, passed by respondent No.2-Northern Regional Committee (hereinafter referred as “NRC”), whereby, the recognition of the petitioner-institution for the B.Ed. course came to be withdrawn. The petitioner-institution also challenges the order dated 01.04.2024, passed by respondent No.1, whereby, the statutory appeal of the petitioner-institution against the NRC order dated 22.09.2023 has been rejected. Besides the aforesaid, the petitioner-institution also prays for subsequent direction, as can be seen from the prayer clause appended in the writ petition. For the sake of clarity, the prayer clause is reproduced as under:-

“a) Issue a writ of certiorari for quashing the withdrawal order dt. 22.09.2023 passed by the respondent no. 2 vide which the recognition of the petitioner for B.Ed. course has been withdrawn and;

b) Issue a writ of certiorari for quashing the order dt. 01.04.2024 passed by the respondent no. 1 vide which statutory appeal filed by the petitioner has been rejected.

c) Consequentially issue a writ of mandamus and direct the Respondent No. 2 to forthwith pass an order of restoration/continuation of recognition of the Petitioner for B.Ed course and reflect the status of the Petitioner as a recognized institution on its official website; and

d) Issue a writ of mandamus and direct the Respondent No.2 to send copy of such restoration/continuation order to the affiliating University of the Petitioner namely " Punjabi University" and permit the Petitioner to take part in the Counseling and to admit students; and

e) Pass any other and further order(s) as may be deemed fit.”

2. The factual matrix of the case would evince that *vide* order dated 09.07.2010, the petitioner-institution which is situated at Village Nepra, Chandigarh-Patiala Highway, Near Banur, Tehsil Rajpura, District Patiala,

Punjab has been granted recognition under Section 14 of the National Council for Teacher Education Act, 1993 (hereinafter referred as “NCTE Act”) to operate B.Ed. course of one year duration with an intake capacity of 100 seats. It also appears that *vide* order dated 22.09.2023, the NCTE through the NRC, withdrew the recognition of the petitioner-institution for various reasons recorded in the said order. The aforesaid order came to be challenged by the petitioner-institution before the Appellate Authority of NCTE, which had been set up under Section 18 of the NCTE Act. Thereafter, the Appellate Authority of NCTE *vide* another impugned order dated 01.04.2024 rejected the appeal of the petitioner-institution.

3. The petitioner-institution, therefore, assails both the aforesaid orders before this Court mainly on the ground that since NRC and the Appellate Authority of NCTE are situated within the territorial jurisdiction of this Court, therefore, this Court should entertain the writ petition under Article 226 of the Constitution of India. Mr. Sanjay Sharawat, learned counsel also places reliance on the decision dated 28.03.2016, passed by this Court in LPA No. 187 of 2016 titled as ***J.B. Institute of Nursing & Research v. Indian Nursing Council***, wherein, the order passed by the Co-ordinate Bench of this Court in W.P.(C) No.1058 of 2016 dated 12.02.2016 came to be set aside. Learned counsel, therefore, submits that in the instant case as well, if the facts and circumstances are considered in the right perspective, it would indicate that the petitioner-institution is mainly aggrieved by the order passed by the Appellate Authority of NCTE and since Appellate Authority is situated within the territorial jurisdiction of this Court, therefore, this Court should consider entertaining the instant writ petition.

He further submits that since the respondents have not raised the objection with respect to the maintainability of the writ petition, therefore, this Court by default has the jurisdiction to entertain the dispute.

4. I have considered the submissions made by learned counsel appearing for the petitioner-institution and have also perused the record.

5. The present case is yet another facet of contentious litigation instituted at the instance of the petitioner-institution, wherein, the boundaries of the territorial jurisdiction of this Court were sought to be made porous so that litigations of such nature can enter into the docket of this Court, transcending the well-established doctrine of *forum conveniens*.

6. In this decision, this Court shall endeavour to discuss, peruse and analyse the doctrine of *forum conveniens* on the anvil of the authoritative dictum laid down by the Supreme Court and various High Courts. The Court also deems it appropriate to analyse the doctrine of *forum conveniens* from the lens of international precedents and the rule of law established across various jurisdictions.

7. Before resorting to the jurisprudence revolving around the doctrine of *forum conveniens*, it is pertinent to analyse the genesis of any contentious litigation, which serves as a bedrock on which the entire castle of any litigation is built i.e., the *cause of action*.

Cause of action – the genesis of any dispute

8. The generic definition of the term cause of action, as provided by Section 20 of the Code of Civil Procedure, 1908, refers to the “*fact which is*

necessary to establish to support a right to obtain a judgment". Going by the basic import of the aforesaid definition, it can be said that the petitioner-institution needs to establish that there exists no deficiency in its college.

9. The 'cause of action' has also been defined in *P. Ramanatha Aiyar* in *Advanced Law Lexicon*, 3rd Edition, Volume 1, as under:-

"'Cause of action' has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. 'Cause of action' has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of the grievance founding the action, not merely the technical cause of action."

10. In Stroud's Judicial Dictionary, a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim. In *Words and Phrases* (4th Edn.), the meaning attributed to the phrase "cause of action" in common legal parlance is the existence of those facts, which give a party a right to judicial interference on his behalf.

11. In Halsbury's Laws of England (4th Edn.), it was defined as:-

"Cause of action has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. Cause of action has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action."

12. The Supreme Court, in the case of *Bloom Dekor Ltd. v. Subhash*

Himatlal Desai¹ observed that the cause of action consists of the bundle of facts which is necessary for the petitioner to prove its case. The Court has held as under:-

“28. By “cause of action” it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit. (Cooke v. Gill [1873 LR 8 CP 107 : 42 LJCP 98]).”

13. The Supreme Court in the case of **Om Prakash Srivastava v. Union of India**², has also ventured into the question as to what constitutes a ‘cause of action’ and has held as under:-

“11. It is settled law that “cause of action” consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise. [See South East Asia Shipping Co. Ltd. v. Nav Bharat Enterprises (P) Ltd. [(1996) 3 SCC 443]].

12. The expression “cause of action” has acquired a judicially settled meaning. In the restricted sense “cause of action” means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression 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. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in

¹ (1994) 6 SCC 322.

² (2006) 6 SCC 207.

“cause of action”. (See Rajasthan High Court Advocates' Assn. v. Union of India [(2001) 2 SCC 294].)”

14. Furthermore, in the case of ***Kusum Ingots & Alloys Ltd. v. Union of India***³, the Supreme Court made a pertinent observation with respect to the doctrine of cause of action, which reads as under:-

“9.---

Before proceeding to discuss the matter further it may be pointed out that the entire bundle of facts pleaded need not constitute a cause of action as what is necessary to be proved before the petitioner can obtain a decree is the material facts. The expression material facts is also known as integral facts.”

15. It was further held in the case of ***Manish Kumar Mishra v. Union of India***⁴ by the Full Bench of the High Court of Judicature at Allahabad that every fact pleaded in the writ petition will not form a part of the bundle of facts in order to answer a determinative question as to whether the cause of action arises within the jurisdiction of the Court or not. The relevant paragraph reads as under:-

*“148. In order to confer jurisdiction on the High Court to entertain a writ petition, the Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts constitute a cause so as to empower the Court to decide a dispute which has, at least in part, arisen within its jurisdiction. **Each and every fact pleaded in the application may not ipso facto lead to the conclusion that those facts give rise to a cause of action within the Court's territorial jurisdiction unless those facts are such which have a nexus or relevance with the lis that is involved in the case. Facts, which have no bearing with the lis or the dispute involved in the case would not give rise to a “cause of action” so as to confer territorial jurisdiction on the Court concerned, and only those facts which give rise to a cause of action within a Court's territorial jurisdiction which have a nexus or relevance with***

³ (2004) 6 SCC 254.

⁴ 2020 SCC OnLine All 535.

the lis that is involved in that case, would be relevant for the purpose of invoking the Court's territorial jurisdiction, in the context of clause (2) of Article 226.”

[Emphasis supplied]

16. This Court in the case of ***Bharat Nidhi Limited v. Securities and Exchange Board of India & Ors.***⁵ has also considered the scope of cause of action and has held as under:-

“The ‘cause of action’ means a bundle of facts, which is necessary for the plaintiff to prove in order to succeed in the proceedings. The cause of action does not completely depend upon the character of the relief prayed for by the plaintiff. It is rather the foundation upon which the plaintiff lays his/her claim before the court to arrive at a conclusion in his/her favour. It depends on the right which the plaintiff has and its infraction.”

17. In the case of ***Rajasthan High Court Advocates’ Association v. Union of India***⁶, the question as to where the cause of action arises was answered by the Supreme Court, which held that the same would have to be left to be determined in each individual case. The relevant paragraph of the said decision reads as under: —

“17. The expression —cause of action‖ has acquired a judicially-settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression 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. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in —cause of action‖. It has to be left to be determined in each individual case as to where the cause of action arises...”

⁵ 2023 SCC OnLine Del 8586.

⁶ (2001) 2 SCC 294.

18. Furthermore, whether the facts averred by the writ petitioner, in a particular case, constitute a part of the cause of action was decided in the case of **Manish Kumar Mishra**. It was held that the same must be determined, on the basis of the test whether such facts constitute a material, essential or integral part of the *lis* between the parties; if it is, it forms a part of the cause of action and if it is not, it does not form a part of the cause of action. In determining the said question, the substance of the matter and not the form thereof has to be considered.

19. It was further held in the case of **Manish Kumar Mishra** that each and every fact pleaded by the parties shall not in itself constitute the cause of action, rather it shall be the facts which have a nexus with the *lis* that is involved in the case. Paragraph no. 148 of the said decision reads as under:-

“148. In order to confer jurisdiction on the High Court to entertain a writ petition, the Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts constitute a cause so as to empower the Court to decide a dispute which has, at least in part, arisen within its jurisdiction. Each and every fact pleaded in the application may not ipso facto lead to the conclusion that those facts give rise to a cause of action within the Court's territorial jurisdiction unless those facts are such which have a nexus or relevance with the lis that is involved in the case. Facts, which have no bearing with the lis or the dispute involved in the case would not give rise to a “cause of action” so as to confer territorial jurisdiction on the Court concerned, and only those facts which give rise to a cause of action within a Court's territorial jurisdiction which have a nexus or relevance with the lis that is involved in that case, would be relevant for the purpose of invoking the Court's territorial jurisdiction, in the context of clause (2) of Article 226.”

20. An upshot of the above discussion clearly unravels the position of law that every factum pleaded in the pleading would not *ipso facto* constitute the

part of cause of action. The ‘cause of action’ means a bundle of facts, which is necessary for the plaintiff to prove in order to succeed in the proceedings. It does not completely depend upon the character of the relief prayed for by the plaintiff. It is rather the foundation upon which the plaintiff lays his/her claim before the Court to arrive at a conclusion in his/her favour. It depends on the right which the plaintiff has and its infraction. In the instant case, the petitioner-institution claims to have a right to impart education and the same is allegedly infringed. The right to impart education and its infraction both has predominantly occurred at the place where the petitioner-institution is located i.e., outside the territorial jurisdiction of this Court.

21. A contention was raised that due to the presence of the offices of respondent nos.1 and 2 within the territorial jurisdiction of this Court, by virtue of Article 226(1) of the Constitution of India, this Court would have jurisdiction to entertain the present petition.

22. Before advertng to the merits of such contention, it is incumbent upon this Court to analyse the scope of Article 226 of the Constitution of India.

Scope and ambit of Article 226 of the Constitution of India

23. Article 226 of the Constitution of India as it stood before the amendment reads as under:-

“226....

(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the

nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of Article 32.”

24. In the case of the ***Election Commission, India v. Saka Venkata Rao***⁷, the Supreme Court had an occasion to construe the original unamended Article 226, wherein, a strict and restrictive construction was accorded to Article 226 of the Constitution of India.

25. Subsequently, the issue once again came up for consideration before the Supreme Court in the case of ***Lt. Col. Khajoor Singh v. Union of India***⁸, whereby, the decision in the case of ***Saka Venkata Rao*** was approved and it was unequivocally settled that functioning or the effects of the action of the Government would not confer the jurisdiction upon the High Court. It was held that the power of the High Court to issue writs was subject to two-fold limitations. *Firstly*, such writs cannot run beyond the territories subject to its jurisdiction and *secondly*, it was settled that the person or authority to whom the writ may be issued must be amenable to the jurisdiction of the High Court, either by residence or location within territories subject to its jurisdiction.

26. While ruling upon the scope of introducing the concept of cause of action as a condition for the exercise of jurisdiction under Article 226, in the case of ***Lt. Col. Khajoor Singh*** it was held as under: —

⁷ 1953 SCR 1144.

⁸ 1961 (2) SCR 828.

“16. Article 226 as it stands does not refer anywhere to the accrual of cause of action and to the jurisdiction of the High Court depending on the place where the cause of action accrues being within its territorial jurisdiction. Proceedings under Article 226 are not suits; they provide for extraordinary remedies by a special procedure and give powers of correction to the High Court over persons and authorities and these special powers have to be exercised within the limits set for them. These two limitations have already been indicated by us above and one of them is that the person or authority concerned must be within the territories over which the High Court exercises jurisdiction. Is it possible then to overlook this constitutional limitation and say that the High Court can issue a writ against a person or authority even though it may not be within its territories simply because the cause of action has arisen within those territories? It seems to us that it would be going in the face of the express provision in Art. 226 and doing away with an express limitation contained therein if the concept of cause of action were to be introduced in it. Nor do we think that it is right to say that because Art. 300 specifically provides for suits by and against the Government of India, the proceedings under Art. 226 are also covered by Art. 300. It seems to us that Art. 300 which is on the same line as S. 176 of the Government of India Act, 1935, dealt with suits as such and proceedings analogous to or consequent upon suits and has no reference to the extraordinary remedies provided by Art. 226 of the Constitution. The concept of cause of action cannot in our opinion be introduced in Art. 226, for by doing so we shall be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to person residing far away from New Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable constitutional amendment in Art. 226.”

27. Thereafter, in the year 1976, the 42nd Constitutional amendment was brought, wherein, Clause 2 of Article 226 of the Constitution of India was inserted and the same reads as under:-

“226.
.....

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”

28. This Court in the case of ***Bharat Nidhi*** had an occasion to extensively analyse the phraseology of Article 226 of the Constitution of India, wherein, the *bonafide* intent behind the aforesaid amendment in the said article was considered exhaustively. In the said decision, after referring to the speech of the mover of the Bill, the then Law Minister and the decision of ***Jayaswals Neco Limited v. Union of India and Others***⁹, the Court held as under:-

“64. A perusal of Clause 2 of Article 226 indicates that the writ jurisdiction can be exercised by the High Court primarily in relation to the territories within which the cause of action, wholly or in part arises. However, the location of such Government or authority or residence of such person, outside the territories of the High Court will not deter the High Court from issuing the appropriate writ.

65. The introduction of Clause (2) in Article 226 of the Constitution of India widened the width of the area for issuance of writs by different High Courts, however, the same cannot be construed to completely dilute the original intent of the Constitution makers which is succinctly encapsulated in Clause (1) of Article 226. Rather, Clause (2) is an enabling provision, which supplements Clause (1) to empower the High Courts to ensure an effective enforcement of fundamental rights or any other legal right. Therefore, the power of judicial review cannot be circumscribed by the location of the authority against whom the writ is issued, however, the same does not mean that the constitutional mandate enshrined under Article 226 (1) can be completely neglected or whittled down.”

29. While analysing the scope and extent of Article 226(2) of the

⁹ 2007 SCC OnLine Del 2094.

Constitution in ***Bharat Nidhi***, the Court reached the following conclusion:-

“67. Thus, the salient aspects which emerge out of the aforesaid discussion can be delineated forthwith as:

(i) Article 226(2) does not take away the right of a High Court to dismiss a case on grounds of forum non-conveniens. The principles of forum non-conveniens and that of Article 226(2) operate in different field, where Article 226(2) (originally Article 226(1A)) was inserted to solve the problem of a litigant needing to go to a High Court where the seat of government authority was present.

(ii) In other words, merely because Article 226(2) allows jurisdiction to be conferred on a High Court in the absence of the seat of a government authority being under its jurisdiction; this does not in itself mean that the presence of a seat shall automatically grant jurisdiction.

(iii) Article 226(2) allows jurisdiction to be conferred if the cause of action, either in part or whole, had arisen in the jurisdiction of a High Court, however, where the purported cause of action is so minuscule so as to make a particular High Court non- convenient, it is then that the concept of forum non-conveniens applies.”

15. The aforenoted conclusions in ***Bharat Nidhi*** can be illustratively explained while taking the example of different Benches of the High Courts across the concerned States, say the States of Uttar Pradesh, Maharashtra, Madhya Pradesh, Tamil Nadu, Karnataka, Rajasthan etc. Generally, the State capital city hosts head offices of various State Public Sector Undertakings, besides the Government Secretariat and regulatory authorities; meaning thereby, all important orders are issued from the State capital city only. In almost all the litigations against such authorities, the validity of those orders is the primary challenge. However, the aforesaid fact in itself does not confer the jurisdiction to the Principal seat of the concerned High Court or its Bench to entertain all such cases. The jurisdiction of the Principal seat and the Benches is determined not solely on the basis of the

location/situs of the authority who passes the order but the place of accrual of integral, essential and material cause of action is also predominantly borne in mind. If the said illustration is to be construed in light of the arguments raised by the petitioner herein, then the situs of the aforesaid authorities in the State capital cities would *ipso facto* grant jurisdiction to such Principal seat or Bench of the concerned High Courts under which the capital city falls, for all the actions taken by any authority in the territorial limits of the State capitals. Such an argument, however, cannot be countenanced in law.

30. After taking a brief detour to the legal position regarding the phraseology of law as couched in the language of Article 226 of the Constitution of India, it is pertinent to now analyse the doctrine of *forum conveniens*.

Contours of the doctrine of forum conveniens

31. The doctrine of *forum conveniens*, as has been defined by P. Ramanatha Aiyar, Advanced Law Lexicon, 3rd Edition is the principle that a case should be heard in a Court where parties, witnesses and evidence are primarily located. In the Black's Law Dictionary (8th ed. 2004), the doctrine of *forum conveniens* has been defined in the following words:-

"The court in which an action is most appropriately brought, considering the best interests and convenience of the parties and witnesses."

32. As an academic exercise, this Court looked into the various jurisdictions in order to understand the application of the doctrine of *forum conveniens*. It is to be noted that the origin of this doctrine can be traced

back to Scotland where the Court applied this doctrine as an extension to the plea of *forum non-competens* as the parties were not residents of Scotland as it has been held in the case of ***Vernor v. Elvies***¹⁰.

33. Thereafter, in American jurisprudence as well, this doctrine finds acceptance, wherein, the trial courts refused to entertain cases on the point that the residents belong to another State in the United States. Reference can be made to the decisions of ***Pierce v. Equitable Life Assurance Society***¹¹, ***Molony v. Dows***¹², ***Ferguson v. Neilson***¹³. Taking a cue from the American and Scottish jurisprudence, the reference can be made to the decision of ***Logan v. Bank of England***¹⁴, where in England as well, the Courts had also started using the doctrine of *forum non-conveniens* where the plaintiff's choice of forum was vexatious and worked as an unnecessary hardship on the defendant.

34. In the case of ***Clements v. Macaulay***¹⁵, it was stated that the general principle relating to jurisdiction, namely when the jurisdiction is competently vested in a particular Court as per law, normally the court has no discretion as to whether it shall exercise its jurisdiction or not, but it is bound to award the justice which a suiter seeks. This is founded on Latin maxim *judex tenetur impertiri judicium suum* which means a Judge must exercise discretion in every case in which he is seized of it. It is also emphasised that the plea of *forum non-conveniens* must not be stretched so

¹⁰ 13 6 Dict. of Dec. 4788 (1610).

¹¹ (1887) 145 Mass. 56, 12 N. E. 858.

¹² (1859) 8 Abb. Pr. 316.

¹³ (1890) 11 N. Y. Supp. 524

¹⁴ [1906] 1 K.B. 141.

¹⁵ 4 Macph. 593.

as to interfere with the aforesaid general principle of jurisprudence. *Forum non conveniens* is applicable where the Court is satisfied that another Court of Law also has jurisdiction over the matter and the case can be tried more suitably for the interest of the parties and for the ends of justice in the other Court. Thus, while exercising the discretion, the Court has to satisfy itself not only with the fact that it is a *forum non-conveniens* but the other forum is more convenient and in the comparative *conveniens* (or the *non conveniens*), the yardstick is to see as to which Court, out of the two, is more suitable for the interest of the parties as well as for the ends of justice. These two-fold requirements are to be kept in mind.

35. It is pertinent to note that the House of Lords in the case of *Tehran v. Secretary of State for the Home Department*¹⁶ explained the doctrine in the following manner:-

“The doctrine of forum non conveniens is a good example of a reason, established by judicial authority, why a court should not exercise a jurisdiction that (in the strict sense) it possesses. Issues of forum non conveniens do not arise unless there are competing courts each of which has jurisdiction (in the strict sense) to deal with the subject matter of the dispute. It seems to me plain that if one of the two competing courts lacks jurisdiction (in the strict sense) a plea of forum on conveniens could never be a bar to the exercise by the other court of its jurisdiction.”

36. Furthermore, the United States Supreme Court, while dealing with the doctrine of *forum non-conveniens* in the case of *Gulf Oil Corporation v. Gilbert*¹⁷ held that:-

¹⁶ [2006] UKHL 47.

¹⁷ 330 U.S. 501.

“The principle of forum non conveniens is simply that a court may resist imposition upon its jurisdiction even where jurisdiction is authorised by the letter of a general venue statute. These statutes are drawn with a necessary generality and usually give a plaintiff a choice of courts, so that he may be quite sure of some place in which to pursue his remedy. But the open door may admit those who seek not simply justice but perhaps justice blended with some harassment. A plaintiff sometimes is under temptation to resort to a strategy of forcing the trial at a most inconvenient place for an adversary, even at some inconvenience to himself.”

37. After taking a brief voyage of foreign jurisprudence, this Court shall now analyse the Indian jurisprudence revolving around the doctrine of *forum conveniens*. The Supreme Court considered the scope of *forum non-conveniens* in the case of ***Kusum Ingots***, wherein, it was held that the Court is not obliged to entertain cases where even a small part of the cause of action arises within its territorial jurisdiction, as the same cannot be construed to be a determinative factor which may compel the Court to decide the case. The doctrine of *forum conveniens* in appropriate cases entitles the Court to exercise its discretionary jurisdiction and refuse to entertain such cases. The relevant paragraph is reproduced for reference herein below:—

“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 Sawhany. AIR 1941 Cal 670, Madanlal Jalan v. Madanlal. AIR 1949 Cal 495, Bharat Coking Coal Limited v. Jharia Talkies & Cold Storage (P) Ltd., 1997 CWN 122, S.S. Jain & Co. v. Union of India. (1994) 1 CHN 445 and New Horizon Ltd. v. Union of India.”

38. Subsequently, in the case of ***Alchemist Ltd. v. State Bank of***

Sikkim¹⁸, it was held as under:-

“37. From the aforesaid discussion and keeping in view the ratio laid down in a catena of decisions by this Court, it is clear that for the purpose of deciding whether facts averred by the appellant-petitioner would or would not constitute a part of cause of action, one has to consider whether such fact constitutes a material, essential, or integral part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the court, the court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a “part of cause of action”, nothing less than that.”

39. The same principle was also upheld in the case of **Sterling Agro Industries Ltd. v. Union of India**¹⁹, wherein, this Court ruled that while exercising jurisdiction under Article 226 of the Constitution of India, the doctrine of *forum conveniens* can be applied. Also, the Court observed that the site of the cause of the action cannot be the sole determinative criteria to confer the jurisdiction of this Court. Further, the Court laid down that the cause of action depends upon the factual matrix of each case and cannot be totally based on the situs of the tribunal/appellate authority/revisional authority while completely ignoring the concept of *forum conveniens*. In paragraph nos.32 and 33 of the said decision, this Court held that:-

“32. The principle of forum conveniens in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the Court would not itself constitute to be the determining factor compelling the Court to entertain the matter. While exercising jurisdiction under Articles 226 and 227 of the Constitution of India, the Court cannot be totally oblivious of the concept of forum conveniens. The Full Bench in New India Assurance Co. Ltd. (supra) has not kept in view the concept of forum conveniens and has expressed the view that if

¹⁸ (2007) 11 SCC 335.

¹⁹ 2011 SCC OnLine Del 1385.

the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.

33. In view of the aforesaid analysis, we are inclined to modify, the findings and conclusions of the Full Bench in New India Assurance Company Limited (supra) and proceed to state our conclusions in seriatim as follows:

(a) The finding recorded by the Full Bench that the sole cause of action emerges at the place or location where the tribunal/appellate authority/revisional authority is situated and the said High Court (i.e., Delhi High Court) cannot decline to entertain the writ petition as that would amount to failure of the duty of the Court cannot be accepted inasmuch as such a finding is totally based on the situs of the tribunal/appellate authority/revisional authority totally ignoring the concept of forum conveniens.

(b) Even if a miniscule part of cause of action arises within the jurisdiction of this court, a writ petition would be maintainable before this Court, however, the cause of action has to be understood as per the ratio laid down in the case of Alchemist Ltd. (supra).

(c) An order of the appellate authority constitutes a part of cause of action to make the writ petition maintainable in the High Court within whose jurisdiction the appellate authority is situated. Yet, the same may not be the singular factor to compel the High Court to decide the matter on merits. The High Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

(d) The conclusion that where the appellate or revisional authority is located constitutes the place of forum conveniens as stated in absolute terms by the Full Bench is not correct as it will vary from case to case and depend upon the lis in question.

(e) The finding that the court may refuse to exercise jurisdiction under Article 226 if only the jurisdiction is invoked in a mala fide manner is too restricted/constricted as the exercise of power under Article 226 being discretionary cannot be limited or restricted to the ground of mala fide alone.

(f) *While entertaining a writ petition, the doctrine of forum conveniens and the nature of cause of action are required to be scrutinized by the High Court depending upon the factual matrix of each case in view of what has been stated in Ambica Industries (supra) and Adani Exports Ltd. (supra).*

(g) *The conclusion of the earlier decision of the Full Bench in New India Assurance Company Limited (supra) “that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens” is not correct.*

(h) *Any decision of this Court contrary to the conclusions enumerated hereinabove stands overruled.”*

40. Reference can be made to the decision of the Calcutta High Court in the case of ***Heiza Boilers (I) Pvt. Ltd. v. Union of India***²⁰, whereby, while summarizing the principle regarding material and essential facts in the bundle of facts constituting the cause of action, the Court held that what is to be seen is whether a particular fact is a material, integral or essential part of the *lis* between the parties. The relevant paragraph reads as under:—

“14. The principles are these; Facts which have no bearing on the lis or the dispute involved in the case do not give rise to a cause of action so as to confer territorial jurisdiction on a Court. What is to be seen is whether a particular fact is of substance and can be said to be material, integral or essential part of the list between the parties. If it is, it forms a part of the cause of action. If it is not, it does not form a part of the cause of action. In determining the question the substance of the mater, and not the form thereof, is to be considered. The answer to the question whether the service of a notice is an integral part of the cause of action within the meaning of Article 226(2) must depend upon the nature of the impugned order or action giving rise to the cause of action, and the test to ascertain this is whether for questioning the order or action it is necessary to plead the fact of service of the notice in the writ petition and

²⁰ 2009 SCC OnLine Cal 2754.

prove it. Only those facts without the proof of which the action must fail are material and essential facts in the bundle of facts constituting the cause of action. Hence a fact without the proof of which a writ petition will not fail is not an integral part of the cause of action, and, accordingly, it cannot be said that a part of the cause of action has arisen at the place where the event concerning the fact has happened.”

41. In the case of *Shristi Udaipur Hotels v. Housing and Urban Development Corp.*²¹ a Coordinate Bench of this Court has also dealt with the question of whether the ‘cause of action’ arises within the jurisdiction of the Court when the registered office of the respondent is situated in Delhi. The Court noted that the most vital or significant part of the cause of action arises outside the territorial jurisdiction of this Court and thus, mere presence of the registered office in Delhi will have no implication to determine the pertinent question of jurisdiction of the Court. The relevant part of the said decision is reproduced herein for reference:—

“30. In the present case, the mere location of the registered office of the respondent/Corporation in Delhi, cannot be a ground to canvass that the cause of action has arisen within the territorial jurisdiction of this Court, unless and until the petitioner has been able to point out that some material decision had been taken at the office of the respondent that would have a bearing on the present petition. A bald submission made to the effect that ordinarily a decision to recall a loan from a client is taken at the head office of the respondent/Corporation would not be of much assistance to the petitioner. As would be apparent from a bare perusal of the writ petition, the petitioner's grievance is directed against the act of the regional office of the respondent/Corporation in issuing the impugned loan recall notice dated 20.01.2014 and admittedly, the said regional office is not located within the territorial jurisdiction of this Court, but is based at Jaipur. Similarly, the Sub-Lease Deed dated 11.1.2008 in respect of the project land was executed by the petitioner with

²¹ 2014 SCC OnLine Del 2892.

the sub-lessor at Udaipur and the project land is also located in Udaipur.

31. To conclude, this Court is of the view that the facts relating to jurisdiction that have been pleaded in the application and for that matter, in the writ petition, can hardly be stated to be either essential or material, much less integral for constituting a part of the cause of action, as envisaged under Article 226(2) of the Constitution of India, for vesting territorial jurisdiction on this Court. On the contrary, as noted above, the most vital parts of the cause of action have arisen in Jaipur and the mere presence of the registered office of the respondent/Corporation in Delhi or the facility extended to the petitioner to address any correspondence to the respondent/Corporation and/or remit moneys due or payable under the Loan Agreement at Delhi, would have to be treated as irrelevant factors, being a miniscule part of the cause of action. By no stretch of imagination can these factors be treated as conclusive for determining the territorial jurisdiction of this Court.

32. In the given facts and circumstances of the case, this court is inclined to accept the submission made by learned counsel for the respondent/Corporation that neither the factors mentioned by the petitioner, nor the circumstances would by themselves confer territorial jurisdiction on this court for maintaining the petition in Delhi. Rather, this Court is of the opinion that it would be inconvenient for it to entertain the present petition and the High Court of Rajasthan would be better equipped to deal with the issues raised in the present petition. Accordingly, this Court declines to exercise the discretionary jurisdiction vested in it under Article 226 of the Constitution of India. Resultantly, the present application is dismissed, while leaving the parties to bear their own costs”

42. The Supreme Court in the case of the *State Of Goa v. Summit Online Trade Solutions (P) Ltd.*²² has also applied the doctrine of *forum non-conveniens* and ruled that despite the fact that a part of the cause of action arose within the territorial jurisdiction of the High Court, the party has to disclose that integral facts pleaded in support of the cause of action

²² (2023) 7 SCC 791.

constitutes a cause which empowers the High Court to decide the dispute and it must have a nexus with the subject-matter of the case. The relevant part of the said decision is culled out as under:—

“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.”

43. Reliance can also be placed upon the decision in the case of *Union of India (UOI) v. Adani Exports Ltd.*²³, wherein, the Supreme Court ruled that:-

“17. It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower to court to decide a dispute which has, at least in-part, arisen within its jurisdiction. It is clear from the above judgment that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the

²³ (2002) 1 SCC 567.

dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned.

44. The Court in the case of ***Bharat Nidhi*** has considered the application of the doctrine of *forum conveniens* and has held as under:-

*“91. On the above conspectus, it is clearly seen that the question whether cause of action has arisen within the territorial jurisdiction of a court, has to be answered based on the facts and circumstances of the case. **The cause of action, thus, does not comprise of all the pleaded facts; rather it has to be determined on the basis of the integral, essential and material facts which have a nexus with the lis.***

*92. It is also a settled proposition of the law that the location where the tribunal/appellate authority/revisional authority is situated would not be the sole consideration to determine the situs of the accrual of cause of action, ignoring the concept of forum conveniens in toto. **Hence, even if a small part of the cause of action is established, and the same is found to be non-integral or non-material to the lis, the court may invoke the doctrine of forum non-conveniens and decline to exercise its writ jurisdiction, if an alternative, more efficacious forum for the same exists.***

93. A perusal of paragraph no. 10 of the decision in the case of State of Goa (supra), would signify that one of the prayers related to a challenge against the notification issued by the State of Sikkim. Also, in the said case, the petitioner company's office was also located in the State of Sikkim. However, the Hon'ble Supreme Court while considering that a slender part of the action has arisen, held that the High Court of Sikkim was not clothed with the requisite jurisdiction to entertain the petition as the major part of the cause of action has arisen in another High Court. It can be safely concluded that neither the notification issued by the concerned government, nor the location of the office were considered to be the material facts to determine the cause of action.

113. Merely because some of the writ petitions were entertained by this court relating to certain violations of norms and regulations of respondent-SEBI by the respondent companies therein and issues arising out of consequential settlement application, that in itself would not determine the integral,

essential and material part of the cause of action as the pendency of the writ petition before this court has no relation with the impugned revocation order which has taken place subsequent to the said writ petition. The law relating to the doctrine of forum conveniens, as discussed above, already makes it explicitly clear that the jurisdiction has to be determined on the facts and circumstances of each case.

114. With respect to the averment that this court is the most convenient forum for the petitioners, it would be inappropriate and myopic to assume that while determining the jurisdiction, only the convenience of the aggrieved party approaching the court has to be looked into. In fact, with the advent of technology in contemporary times, the courts have transcended the geographical barriers and are now accessible from remote corners of the country. Therefore, the convenience of the parties cannot be the sole criterion for the determination of jurisdiction considering the broader perspective of dynamism of technology and increased access to justice. The determination of cause of action and territorial jurisdiction has to be in line with the constitutional scheme envisaged under Article 226 of the Constitution of India.”

45. It is to be noted that the decision rendered by this Court in the case of ***Bharat Nidhi*** was carried in LPA 47/2024, wherein, the Division Bench of this Court in its final decision dated 15.01.2024 affirmed the view taken in ***Bharat Nidhi*** and held as under:-

“21. The High Court while exercising its jurisdiction under Article 226 of the Constitution of India to entertain a writ petition, in addition to examining its territorial jurisdiction also examines if the said Court is the forum conveniens to the parties. The issue of forum conveniens is seen not only from the perspective of the writ petitioner but it is to be seen from the convenience of all the parties before the Court. In the facts of this case, as is evident from the record that the forum conveniens for the both the parties is Mumbai. The Appellants since the year 2020 have been appearing in Mumbai before SEBI in the SCN proceedings. In W.P.(C) 15556/2023 (as well as the other writs) the writ petitioner has sought a direction for summoning the records of SEBI for examining the legality and

validity of the Impugned Revocation Order. In these facts, therefore, the objection of SEBI that Mumbai is the forum conveniens for the parties has merit. The obligation of the Court to examine the convenience of all the parties has been expressly noted by the Full Bench of this Court in Sterling Agro Industries Ltd. (supra)...”

46. In the case of ***Pune Buildtech (P) Ltd. v. Bank of India***²⁴, it was contended that since the loan agreement was signed in Delhi, the respondent bank has its head office in Delhi, therefore, this Court can exercise the territorial jurisdiction. This Court, while applying the doctrine of *forum conveniens* took a view that the substance of a matter is significant in determining the material, essential or integral part of the cause of action and the Constitutional Courts are saddled with a duty to prevent the abuse of jurisdiction by the parties. In the said case, the petitioners therein had approached the Court primarily on the ground that certain agreements with respect to the loan transaction in question were allegedly executed in Delhi. It was, however, observed that the essential, material and integral facts i.e., place of declaration of fraud, initiation of complaint, registered offices of the parties etc. were all present outside the territorial jurisdiction of this Court. The relevant paragraphs of the said decision read as under:-

“56. Considering the discussion hereinabove, it is crystallised that in order to confer jurisdiction to the constitutional courts under Article 226 of the Constitution, a material, essential or integral part of the cause of action must arise within their jurisdiction. To determine a material, essential or integral part of the cause of action, it is the substance of the matter that becomes relevant. Also, the objection to the jurisdiction of this court can be raised at any stage of proceedings, as has been held by the Hon'ble Supreme Court in the case of Jagmittar Sain Bhagat v. Health Services, Haryana.

²⁴ 2023:DHC:9156.

57. It is to be noted that the germane issue in both the petitions is the decision of the petitioners' accounts being declared as "fraud". It is seen that the impugned action is taken from the respondent-BOI's Mumbai branch. Also, the communication of the said decision to the RBI regional office in Bengaluru also occurred outside the jurisdiction of this court. Furthermore, all the consequent actions under the provisions of the SARFAESI Act were also taken from the Mumbai branch of the respondent-BOI.

62. It is pertinent to mention that as per the legislative intent and constitutional scheme enshrined under the provisions of Article 226 of the Constitution of India, it is crystallised that the cardinal duty imposed on the constitutional courts is to prevent the abuse of their jurisdiction by the parties and relegate back the parties to the forum where a material, essential or integral part of cause of action has arisen."

[Emphasis supplied]

47. In another case of **Ardra Joseph v. Union of India**²⁵, the petitioner therein belonged to the State of Kerala and the principal grievance was against the State Medical Council, Kerala. The petitioner in the said case was essentially seeking directions against the State Medical Council, Kerala, while drawing strength from the policy circulars issued by certain respondents situated in Delhi. This Court while dismissing the petition held that since offices of some of the official respondents having pan-India jurisdiction are situated in Delhi, this fact alone would not warrant this Court to entertain the writ petition as the material, essential and integral part of cause of action does not arise within the territorial jurisdiction of this Court. The relevant observations of this Court in the said case read as under:-

"12. If the facts of the present case are perused, the major grievance of the petitioner lies against respondent no.3 i.e.,

²⁵ W.P.(C) 14187/2023.

State Medical Council which is located in Kerala and therefore, the substantial cause of action would not arise within the jurisdiction of this Court.

13. It is seen that some of the arrayed official respondents have pan-India jurisdiction. The reason that the policies and circulars are issued from Delhi cannot be the sole ground to entertain the petition by this Court. Neither the petitioner is incapacitated to approach the jurisdictional High Court nor the concerned High Court lacks jurisdiction to issue appropriate writ to the arrayed respondents.

14. In view of the aforesaid, this court is not inclined to entertain the instant writ petition as this Court would be a forum non-conveniens in the present case.”

48. Similarly in the case of ***Regional Provident Fund Commissioner v. M/S BSC-C and CJV***²⁶, it was contended that since the office of the Central Government Industrial Tribunal is situated in Delhi, therefore, this Court would have territorial jurisdiction. The Court *vide* judgement dated 03.10.2023 held that the mere fact that the appellate authority is situated in Delhi would not *ipso facto* give rise to the territorial jurisdiction of this Court.

49. In W.P. (C) 6490/2024 titled as ***Navendu Aggarwal v. Government of India & Ors.*** again the issue of territorial jurisdiction was raised and this Court has held that since the petitioner therein belonged to the State of Uttar Pradesh and just because the office of the University Grants Commission is in Delhi, the Court would not have territorial jurisdiction as the material, integral and essential part of the cause of action does not arise within the territorial jurisdiction of this Court.

²⁶ W.P.(C) 12888/2023.

50. In *Ramnath Singh Sikarwar v. Election Commission of India*²⁷, the petitioner sought for the video footage of the elections conducted in the Fatehpur Lok Sabha Constituency in the State of Uttar Pradesh. The entire premise of the petitioner's argument regarding the territorial jurisdiction of this Court rested on the fulcrum that since the respondent-Election Commission of India (ECI) has its head office in Delhi, therefore, this Court would have the territorial jurisdiction of this Court. The petitioner, therein, contended that since the ECI itself directed for the supply of video footage and when the same was not duly adhered to, therefore, the cause had arisen within the jurisdiction of this Court.

51. The Court, while rejecting the above contention, has held that the issue of *forum conveniens* cannot be looked at from the perspective of the petitioners only, rather the convenience of all the parties needs to be looked into. The pertinent observations of this Court in the said case read as under:-

"20. It is thus seen that with regards to the arguments raised by the petitioners that since a part of cause of action arises within the jurisdictional limits of this Court and the forum conveniens has to be seen from the petitioners' perspective, this Court has categorically rejected the aforesaid arguments and has held that the issue of forum conveniens is not to be observed only from the perspective of the petitioner but it depends on the convenience of all the parties before the Court.

21. As already noted hereinabove, the office of RO where the record is maintained and available to be furnished also situates outside the jurisdiction of this Court. Evidently, none of the facts put forth by the petitioners to establish jurisdiction upon this Court constitute essential, integral and material facts out of the bundle of facts in the present lis.

²⁷ W.P.(C) 8891/2024.

22. *In view of the aforesaid, even this argument raised by the petitioners is bereft of merit and the same is, therefore, rejected.*

23. *Insofar as the reliance placed by the petitioners on the decisions of the Coordinate Bench of this Court in W.P.(C) 6532/2024, W.P.(C) 8710/2024 and W.P.(C) 5037/2024 is concerned, it is succinctly observed that in the said cases, neither the issue with respect to the territorial jurisdiction of this Court has been raised by the respondent therein nor the Court has dealt with the aforesaid aspect. Since those decisions do not deal with the issues involved in the instant writ petitions, therefore, they do have not any binding effect. The same cannot be treated to be precedent to rescue the case of the petitioners herein."*

52. Reference can be made to the decision of this Court in the case of ***H.S. Rai v. UoI & Anr.***²⁸, wherein, the issue of territorial jurisdiction was raised. In the said case, the petitioner therein belonged to the State of Jharkhand and assailed the order of the PDIL, Noida. This Court in the said decision as well while applying the doctrine of *forum conveniens* has held that since the material, essential and integral part of cause of action did not arise within the territorial jurisdiction of this Court, the petition was not maintainable. The relevant paragraphs of the said decision read as under:-

"27. Under Article 226 of the Constitution of India, the power to issue writ is with respect to any person, authority or any Government which falls within the territory of a High Court. The jurisdiction of the High Court also extends to matters where the cause of action arises, whether wholly or in part. Hence, it is clear that the power to exercise writ jurisdiction has its own limitations. These limitations would also apply to the case at hand as it would to any other matter before this Court under Article 226.

28. The first situation under which this Court can exercise its jurisdiction is when the person or authority to which the writ is to be issued, is falling within the territory of this Court. The petitioner herein is seeking issuance of writ against an

²⁸ W.P.(C) 700/2005.

authority, that is, the PDIL, which does not have any office, much less its registered office, in Delhi. The order of penalty which has been assailed before this Court was passed in Jharkhand after enquiry proceedings and the report thereto was made in Sindri, Jharkhand. Hence, the respondent no. 2 and 3, as representatives of the PDIL, are not amenable to the jurisdiction of this Court. Therefore, the instant matter does not satisfy the condition under Article 226 (1) of the Constitution of India.

29. The second condition under Article 226 (2) of the Constitution extends the writ jurisdiction of this Court to matters where cause of action has arisen within the territory of this Court. The petitioner was posted at Sindri, Jharkhand at the relevant time which the charges leveled against the petitioner pertain to. The enquiry proceedings against the petitioner were initiated at Jharkhand, the entire enquiry was conducted at Jharkhand and even the report made and the punishment imposed upon the petitioner was also at Jharkhand. All of the necessary cause of action arose within the territory of Jharkhand and not Delhi. The second alternative condition for exercise of writ jurisdiction under Article 226 also does not arise in favour of the petitioner and with this Court.

30. Therefore, the case of the petitioner does not lie in either requirement of writ jurisdiction under Article 226 of the Constitution of India. The petitioner does not have any locus to approach this Court invoking its writ jurisdiction when neither the respondent is amenable to its jurisdiction nor has any cause of action arisen within its territory.”

53. In LPA no. 729/2023 titled as ***Riddhima Singh through her Father Shailendra Singh v. CBSE***, while affirming the stand that merely situs of CBSE office being in Delhi would not confer jurisdiction upon this Court, the Division Bench of this Court has emphatically noted that the doctrine of *forum conveniens* is invoked to determine the most appropriate forum for adjudication of a dispute and this exercise is undertaken not only for the convenience of the parties but also in the interest of justice. The relevant paragraphs of the said decision read as under:-

“12. The principle emerging from Shristi Udaipur (supra) is squarely applicable to the facts of the present case. In essence, the basis of the Appellant’s claim for compensation is the loss of an academic year due a delay in examinations for Grade VIII. As the responsibility for conducting the examinations fell on the Respondent School, it is plain that the most vital part of the cause of action arose in Uttar Pradesh, where the Respondent School is located. Moreover, it must also be noted that the Appellant is a resident of Uttar Pradesh. Therefore, on a holistic examination of these circumstances, as the Appellant has failed to produce any material establishing that the grievance caused to her is directly attributable to the actions of the CBSE, we cannot but conclude that this Court is not the appropriate forum for adjudication of this matter.

*13. At this stage, it is pertinent to address Clause 18.3.2 of the CBSE Affiliation Bye-Laws (the “Clause”) which has been relied upon by the Appellant. The clause reads as under:
“18.3 Jurisdiction to file suits 18.3.2 The legal jurisdiction for the suits to be filed against the Board shall be the Union Territory of Delhi only.”*

14. The contention furthered by the Appellant relies on a strict interpretation of the Clause which would in effect, defeat the doctrine of forum conveniens and is therefore not acceptable to this Court. It must be noted that the doctrine of forum conveniens is invoked to determine the most appropriate forum for adjudication of a dispute and this exercise is undertaken not only for the convenience of the parties but also in the interest of justice. Therefore, this Clause cannot be read in a matter that would permit all cases filed against the CBSE, regardless of the existence of a more appropriate forum, to be adjudicated in the Union Territory of Delhi; the existence of such a clause cannot exempt Courts from invoking the doctrine of forum conveniens especially in cases like the present where no direct actions of the CBSE have been impugned by the Appellant. Thus, the Clause has to be interpreted purposively to include within its ambit only those cases where the cause of action is attributable to the CBSE. This position is also supported by the stand of the Learned Counsel for the CBSE before the Ld. Single Judge to the effect that this Court does not have the territorial jurisdiction to entertain this matter.

15. In light of the aforesaid, this Court finds no reason to interfere with the Impugned Judgement. Accordingly, the

present LPA is dismissed. It is needless to state that this Court has not expressed any opinion on the merits of the subject matter.”

54. At this juncture, reference can be made to the decision of this Court in LPA no. 801/2012 titled as ***Chinteshwar Steel Pvt. Ltd. v. Union of India***, wherein, this Court held that in cases where the original authority is situated in another State and the Appellate Authority is situated in another State, undoubtedly writ petition is maintainable in both the High Courts as a part of the cause of action has arisen in both the Courts. The petitioner would have the liberty to choose where he would like to file his writ petition. But even in such an eventuality, the High Court before whom the said writ petition is filed would have the discretion to refuse to entertain it on the ground of *forum conveniens*. The relevant observations of this Court in the said case read as under:-

“8. Keeping in view the aforesaid judgment as well as the judgment cited by learned senior counsel for the appellant, this Court is of the view that when original authority is situated in one High Court and appellate authority is situated in the jurisdiction of another High Court, undoubtedly writ petition is maintainable in both the High Courts as a part of cause of action has arisen in both the courts. The petitioner would have the liberty to chose where he would like to file his writ petition. But even in such an eventuality, the High Court before whom the said writ petition is filed would have the discretion to refuse to entertain it on the ground of forum conveniens. Needless to say, the discretion to refuse to entertain the writ petition would have to be exercised on sound judicial principles.

9. Appellant's submission that the decision in Vishnu Security Services and Jan Chetna (supra) are contrary and do not accept the ratio propounded in Sterling Agro Industries Ltd. (supra), is illfounded and cannot be accepted. We do not find any conflict between the said judgments and the ratio in Sterling Agro Industries Ltd. (supra). Even if there is any conflict, the law laid down by a larger Bench is binding on us, as it is for any Bench

of lesser or co-equal strength. The Supreme Court in Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673 has held that the law laid down in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.

10. In fact, the two decisions in Vishnu Security Services and Jan Chetna (supra) elucidate when and in what circumstances judicial discretion should not be exercised on the ground of forum conveniens. In Vishnu Security Services (supra), the Division Bench observed that though the writ petition may be maintainable in two High Courts, but when the High Court finds that it is inconvenient to entertain the writ petition as other High Court is better equipped to deal with the case, doctrine of forum conveniens would be attracted. Thereafter, reference was made to English authorities wherein it has been held that in judging the comparative convenience or non-convenience of the forum, the test to be applied is which Court out of the two is more suitable in the interest of the parties as well as ends of justice. Reference was also made to a U.S. decision wherein it has been observed that courts have open doors to those who seek justice, but when justice is blended with some harassment, it needs to be checked. Undoubtedly, the petitioner is dominus litis, but when the choice is motivated by temptation/strategy to force the petition at an inconvenient place, the Court has the power to step in. We are also in agreement with the view of learned Single Judge in the impugned order that the Division Bench in Vishnu Security Services (supra) overruled the judgment of learned Single Judge only on the ground that no reason had been given by the learned Single Judge in that case to come to the conclusion that this Court was not the convenient forum. Similarly, in Jan Chetna (supra), the Division Bench observed that though the issue raised was purely legal relating to an object in another State, yet as the issue raised had no local flavour at all, the said doctrine need not be invoked. Consequently, in our opinion the judgments of Vishnu Security Services (supra) and Jan Chetna (supra) have neither deviated nor could have deviated from the judgment of five Judges of this Court in Sterling Agro Industries Ltd. (supra)."

55. In the case of **Dr. Neha Chandra v. Union of India**²⁹, whereby, the

²⁹ W.P.(C) 13613/2024.

petitioner therein was posted as a Medical Officer in the State of Uttar Pradesh, and was declined to take admission in the PG diploma course in the Balrampur Hospital, UP by the National Board of Examination in Medical Sciences (NBEMS), Delhi. In the said case as well, the petitioners therein, argued that since the Office of NBEMS is situated in Delhi, therefore, this Court would have the territorial jurisdiction. The Court *vide* order dated 30.09.2024 held that solely because a fraction of the cause of action has arisen within the territorial jurisdiction of a particular High Court, the same would not be a sufficient ground to persuade the concerned High Court to entertain a writ petition. The doctrine of *forum conveniens* can be invoked by the concerned Court taking into consideration the various facts and circumstances involved.

56. In another case of ***Manjira Devi Ayurveda Medical College & Hospital v. Uttrakhand University of Ayurveda***³⁰, the petitioner-Hospital sought to invoke the jurisdiction of this Court on the ground that the Head Office of respondent no.2, therein, was situated within the territorial jurisdiction of this Court. Rejecting the aforesaid contention, the Court, in paragraph nos.12 to 15 has held as under:-

“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

³⁰ 2024 SCC OnLine Del 6146.

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”.

15. In view of the aforesaid, the present petition is dismissed alongwith pending application if any, solely on the ground of lack of territorial jurisdiction. The petitioner would be at liberty to approach the appropriate Court of jurisdiction for redressal of his grievance, in accordance with law.”

57. The aforesaid decision passed in the case of **Manjira Devi** came to be challenged in a Letters Patent Appeal before the Division Bench of this Court in the case of **Manjira Devi Ayurveda Medical College & Hospital v. Uttrakhand University of Ayurveda**³¹. The Court, vide its judgment dated 05.09.2024 has affirmed the position taken by learned Single Judge of this Court and held, in paragraph no. 14 as under:-

“14. Keeping in view the fact that the cause of action has arisen within the territorial jurisdiction of the Courts of Uttarakhand and the convenient forum to hear and decide the present writ petition would be the Uttarakhand High Court, this Court finds no merit in the instant appeal and the same is dismissed without any order as to cost. This Court, however, reiterates the liberty granted by the learned Single Judge to the appellant to approach the appropriate Court of competent jurisdiction for redressal of its grievance in accordance with law.”

³¹ 2024 SCC OnLine Del 6303.

58. Furthermore, a Division Bench of this Court in the case of ***Sachin Hindurao Waze v. Union of India***³², has held that two essential elements must be considered by the Court when determining jurisdiction to decide a writ petition under Article 226 of the Constitution of India. *Firstly*, whether any part of the cause of action arises within its territorial jurisdiction; and *secondly*, whether the said Court serves as the *forum conveniens* for adjudicating the matter, ensuring convenience and fairness for all parties involved. The relevant portion of the said decision reads as under:-

“12. On a broad holistic assessment of decisions cited by the petitioner would show that there are practically two elements which have to be considered by any court while accepting jurisdiction to decide a writ petition under Article 226 of the Indian Constitution - firstly, if any part of the cause of action arises within its territorial jurisdiction; and secondly if the said court is the forum conveniens. Only a mere shred or an iota of a cause of action potentially clothing a particular High Court with jurisdiction [per Article 226(2) of the Constitution of India] to adjudicate a writ petition, ought not to encourage a court to accept such jurisdiction completely divorced and dehors an assessment of forum conveniens. This has been categorically articulated in decisions of this Court. A Special Bench comprising 5 judges of this Court [Chief Justice Dipak Misra, Vikramajit Sen, J. A.K. Sikri, J. Sanjiv Khanna, J. and Manmohan, J.] in Sterling Agro (supra) after traversing the law relating to territorial jurisdiction in context of Article 226 of the Constitution of India emphasized that the High Court must not only advert to the existence of a cause of action but also remind themselves about the doctrine of forum conveniens also. In this regard the following paragraphs of the judgment of the Special Bench are instructive which are reproduced as under for easy reference:

“30. From the aforesaid pronouncements, the concept of forum conveniens gains signification. In Black's Law Dictionary, forum conveniens has been defined as follows: “The court in which an action is most appropriately brought, considering the best interests and

³² 2022 SCC OnLine Del 3287.

convenience of the parties and witnesses.”

31. The concept of forum conveniens fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the lis, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the Apex Court has clearly stated in the cases of *Kusum Ingots (supra)*, *Mosaraf Hossain Khan (supra)* and *Ambica Industries (supra)* about the applicability of the doctrine of forum conveniens while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

32. The principle of forum conveniens in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the Court would not itself constitute to be the determining factor compelling the Court to entertain the matter. While exercising jurisdiction under Articles 226 and 227 of the Constitution of India, the Court cannot be totally oblivious of the concept of forum conveniens. The Full Bench in *New India Assurance Co. Ltd. (supra)* has not kept in view the concept of forum conveniens and has expressed the view that if the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.

(emphasis added)”

59. At this stage, further reference can be made to the decision of this Court in the case of ***White Medical College & Hospital v. Union of India***³³. In the said decision, the petitioner therein was a medical college intending to admit 150 MBBS students for the academic year 2024-25 and the college filed a writ petition seeking quashing of the letter issued by the respondent authorities. The petitioner-college therein was situated in Pathankot, which

³³ 2024 SCC OnLine Del 4712.

falls within the territorial jurisdiction of the High Court of Punjab and Haryana at Chandigarh.

60. The Court, in paragraph no.7 of the said decision has held that merely because the office of the respondent is situated within the territorial jurisdiction of this Court cannot be a reason to entertain the instant writ petition and while placing reliance on various other decisions, the Court has relegated the petitioner-college therein to the jurisdictional High Court.

Paragraph no.7 of the said decision reads as under:-

“7. It is noted that the petitioner-institute is situated in the State of Punjab and the medical college is affiliated with Baba Farid University of Health Science and is under the administrative control of the Director, Medical Education and Research, Punjab, SAS Nagar, Mohali, Punjab. The petitioner-institute is also approved and recognized by the State Government of Punjab. The ground on which the petitioner-institute has approached this High Court is that the Head Office of National Medical Commission i.e., respondent no. 2 is situated within the territorial jurisdiction of this Court. However, merely because the office of respondent no. 2 is situated within the territorial jurisdiction of this Court, it cannot be a ground to entertain the instant writ petition.”

61. The Division Bench of this Court in LPA no. 744/2024 titled as **Vemparala Srikant & Anr. v. General Secretary, India Bulls Centrum & Anr.** in its decision dated 05.08.2024, after considering the authoritative pronouncement of the Supreme Court in **Universal Sompo General Insurance Co. Ltd. v. Suresh Chand Jain**³⁴, held that all the foundational facts necessary to constitute a cause of action arising within the local limits of a High Court would confer upon such High Court the necessary jurisdiction to exercise its powers under Articles 226 or 227 of the

³⁴ 2023 SCC OnLine SC 877

Constitution of India. Furthermore, the Court observed that if the contention of the respondents is accepted then the consumer who is agitating for his rights in far off places like Assam, Manipur or any other distant part of the country would have to necessarily travel to Delhi for such redressal since the Appellate Authority is situated in Delhi. The relevant observations of this Court in ***Vemparala Srikant*** are reproduced as under:-

“6. In our considered opinion, the words “concerned High Court or jurisdictional High Court” would imply a High Court, within whose local limits of the territorial jurisdiction, the original cause of action has arisen. We are also of the opinion that all the foundational facts necessary to constitute a cause of action arising within the local limits of a High Court would confer upon such High Court the necessary jurisdiction to exercise its powers under Articles 226 or 227 of the Constitution of India.

8. In the present case, it is not disputed that all the foundational facts giving rise to the cause of action to the appellant to approach the Consumer Fora arose within the State of Telangana. It is undisputed that the appellant had approached the District Consumer Forum in Hyderabad and then the SCDRC in the State of Telangana. In that view of the matter, coupled with the aforesaid observations, it is apparent that it could only be the High Court of State of Telangana which would be the “concerned High Court or the jurisdictional High Court”.

9. Besides, in case this Court were to agree with the contentions of the learned counsel for the appellant, the resultant situation would be absurd. In that, if one were to consider the situation of an ordinary consumer, it would be, as a fall out of such interpretation, that a consumer who is agitating for his rights in far of places like Assam, Manipur or any other distant part of the country would have to necessarily travel to Delhi for such redressal. This interpretation cannot be countenanced, particularly in view of the doctrine of “forum conveniens”

62. Similarly, in the batch of writ petitions titled as ***Dr. Supreeti***

Chahal v. Union of India³⁵, decided on 23.08.2024, the petitioner-students therein approached this Court seeking recognition of their MDS course on the ground that the office of the Dental Council of India was situated within the territorial jurisdiction of this Court. The Court, *vide* its decision dated 23.08.2024, declined to entertain the aforesaid batch of writ petitions, holding that the college in question was situated within the State of Haryana and therefore, the appropriate jurisdiction did not lie with this Court.

63. In the said case, the petitioners contended that the grievance was neither against the college nor against any authorities situated within the State of Haryana. Rejecting the aforesaid submissions, the Court, in paragraphs nos. 18 to 20, held as follows:-

“18. 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.

19. 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.

20. Considering the aforesaid facts and circumstances, this Court is of the view that the reasons for which Dental Council of India has yet not recognized the Degree issued by respondent no. 3 college, situated in Haryana, is due to factum of several

³⁵ 2024 SCC OnLine Del 5883

legal proceedings qua the said College pending in competent Courts of Haryana, and therefore, the present petition is dismissed alongwith pending applications solely on the ground of territorial jurisdiction. The petitioners would be at liberty to approach the appropriate Court of jurisdiction for redressal of their grievance, in accordance with law.”

64. The batch of writ petitions in ***Supreeti Chahal*** was decided despite the fact that another writ petition was already pending at the instance of the college itself, in the case of ***PDM Dental College***. The Court, notwithstanding the pendency of the said writ petition by the college, passed an order relegating the petitioner students therein to the jurisdictional High Court.

65. Eventually, the petition filed by the college itself was dismissed by this Court *vide* order dated on 04.10.2024, on the same ground of territorial jurisdiction.

66. Therefore, the salient aspects which emerge from the line of precedents discussed above can be delineated as under:-

a. The litigant initiating a legal proceeding in the capacity of *dominus litis* is entitled to approach the jurisdiction of his choice if the cause of action arises in two different jurisdictions, however, the same shall remain subject to judicial scrutiny by the Court. The Court shall find out in each case whether the jurisdiction of the Court is rightly attracted by the alleged cause of action.

b. While determining jurisdiction to hear a writ petition under Article 226 of the Constitution of India, the Court must consider two key factors i.e., whether any part of the cause of action falls within its

territorial jurisdiction and whether the Court serves as a suitable forum, ensuring convenience and fairness for all the parties involved in the case.

c. The mere situs of any authority, original or appellate, would not be a sole determinative factor in conferring jurisdiction upon a High Court.

d. The Court has to adjudicate the objection raised on the territorial jurisdiction bearing in mind the overarching principle of comparative convenience i.e., the Court must not only be satisfied that it is a non-convenient forum, rather it must also be reckoned that the other forum is more convenient.

e. The doctrine of *forum conveniens* is applied to identify the most suitable forum for resolving a dispute, taking into account not only the convenience of the parties but also ensuring that the interests of justice are served. The question as to which would be the determinative or non-determinative factors to be considered in arriving at a conclusion about the *forum conveniens* or *non-conveniens*, will depend upon the facts of each case. However, a standalone factor would not weigh in determining the same, rather a cumulative result of the bundle of facts having nexus to the *lis* deserves to be appreciated. The following illustrative aspects, though not exhaustive, may be borne in mind while determining the applicability of the principle of *forum conveniens* or *non-conveniens*:-

- 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.

67. Considering the case in hand, the petitioner-institution is situated in the State of Punjab which falls outside the territorial jurisdiction of this Court. The entire case of the petitioner-institution rests on the premise that since the NRC and the Appellate Authority of NCTE are situated within the territorial jurisdiction of this Court, therefore, this Court ought to have exercised the jurisdiction to entertain this petition. However, as noted in the above-discussed decisions, the only fact that the Appellate Authority has passed the order, which is situated within the territorial jurisdiction of this Court, alone should not be the reason to entertain the instant writ petition.

The doctrine of *forum conveniens* has to be considered in the facts of each case.

68. Article 226 of the Constitution of India would necessarily involve an exercise to be conducted by the High Court to ascertain that the fact, as pleaded, constitutes a material, essential and integral part of the cause of action.

69. In the instant case, undoubtedly, on the basis of the order being passed by the Appellate Authority of NCTE, a fraction of the cause of action does arise in the territorial jurisdiction of this Court, but the same cannot be a sole determining factor to confer jurisdiction upon this Court. Furthermore, it is also pertinent to point out that the concerned Appellate Authority of NCTE exercises pan-India jurisdiction and in the case of appellate authorities/tribunals of such nature, the mere situs of authority would not necessarily be the marker for identifying the jurisdictional High Court, as has been clearly explained by this Court in the case of ***Chinteshwar Steel***.

70. With respect to the argument raised by the learned counsel for the petitioner that even the first impugned order was passed by the NRC, which is also situated within the territorial jurisdiction of this Court, it is needless to state that the concerned NRC deals with the institutions which have been set up within six States and one Union Territory, namely Himachal Pradesh, Delhi, Punjab, Uttar Pradesh, Haryana, Uttarakhand and Chandigarh. It is thus, seen that if the petitioner's argument is accepted, then any decision of NRC with respect to any institution located within the territorial precincts of aforementioned States shall be assailable before this Court. The above

argument falls flat in light of the *bonafide* intent of Article 226 of the Constitution of India as explicated above. If such an argument is accepted, the principle of *forum conveniens* will lose its relevance, particularly in the scenario wherein most of the head offices of authorities are situated within the territorial boundaries of the NCT of Delhi.

71. Furthermore, as already stated by the Division Bench of this Court in ***Ridhima Singh*** that the exercise of correcting the jurisdictional error is undertaken not only for the convenience of the parties but also in the interest of justice, the Court, while adjudicating upon jurisdiction, cannot sit in silos without realising the magnitude of public interest involved in the cases like the present one. In such cases where the future of students and upcoming professionals would be affected, the scales of justice are balanced when the Courts recognize the intricate relationship between individual rights and the collective good, besides the fact that ends of justice would demand striking a balance between the individual interest of the litigants and the public at large. Afterall, the end goal of justice is not merely the resolution of disputes between private litigants but also ensuring that societal needs i.e., access to quality education, the availability of qualified professionals and the ability of stakeholders to raise grievances in the present case, are met. The Courts are, therefore, reasonably expected to act as stewards of public welfare, ensuring that jurisdictional decisions reflect a balance between convenience, justice and the broader interests of society.

72. Assumingly, if all the orders passed by the authorities which have their head offices in Delhi would attract jurisdiction of this Court, as has been quixotically argued by the petitioner-institution to some extent in the

case at hand, the same would amount to a concentration of jurisdiction on one High Court. Undeniably, such a view cannot be countenanced by any prudent stretch of imagination and must be eschewed. The said practice would overshadow the judicial propriety which must be upheld at all times. Any adjudication for the aforesaid reason by this Court is bound to create judicial inconsistency as the jurisdictional High Court would also be exercising its power relating to the same controversy, if any other similarly situated institution approaches the said High Court. The detrimental effect of such a regime can be gauged through an illustration, for example, in the present case, the concerned NRC exercises jurisdiction over institutes located within the territorial precincts of the aforementioned States. If there are more than 500 institutions imparting education across the aforementioned States and supposedly, the NRC passed the withdrawal orders against their recognition. Thereafter, they preferred an appeal before the Appellate Authority of NCTE which is situated in Delhi. Consequently, some institutes may have challenged the same before the jurisdictional High Courts where the concerned institute is situated and while others may prefer to assail the same before this Court. The adjudication of disputes of such nature by both the High Courts at the same time would ultimately lead to judicial inconsistency.

73. It is also noteworthy that this Court is coming across numerous cases being filed from across the length and breadth of the country and clogging the docket of the Court merely on the ground that the impugned action has been taken by an authority having the situs in Delhi. In all such cases, an argument is made that since the concerned authorities are located in Delhi,

the same would constitute essential, integral and material facts to confer jurisdiction. However, accepting such an argument would lead to jurisdictional overreach by this Court, thereby, contradicting and diluting the purport of the constitutional scheme outlined in Article 226(2) of the Constitution of India. Therefore, the need has arisen to effectively ascertain the territorial jurisdiction of this Court in light of the *bonafide* intent of Article 226 of the Constitution of India as envisaged by the draftsmen.

74. Further, Delhi being the national capital, is home to a major chunk of central regulatory bodies, central agencies, central Public Sector Undertakings etc., with their head offices/registered offices/regional offices located within the peripheral limits of the State and generally, the final decisions are either directly or indirectly taken by these authorities through their offices in Delhi. Notwithstanding the fact that some of the litigants may be resourceful in approaching this Court to challenge the action taken by these authorities merely because of their situs in Delhi, their resourcefulness shall not determine the course of justice.

75. Undoubtedly, the other High Courts of the country are also not incapacitated to issue writs against the authorities located in Delhi, particularly in light of the authority explicitly granted as per Article 226(2) of the Constitution of India. It is observed that in some cases, the entertainability of disputes by different High Courts in the absence of there being any uniform approach adopted by the parties to agitate their grievance leads to an inconsistency in the adjudication of disputes, which must be endeavoured to be avoided. It is significant to curb such an approach in the context of a broader objective to eliminate any form of abuse of

jurisdiction at the hands of litigating parties. In fact, this Court has come across several cases where the piousness of the writ jurisdiction is surreptitiously attempted to be compromised by the parties by making it susceptible to misuse by either non-disclosure of already pending proceedings before another High Court or through myriad other ways.

76. Conversely, if the argument that for the purpose of avoiding confusion and inconsistency, only this Court must exercise jurisdiction over all the authorities located in the territorial jurisdiction of this Court, the same would also fail to muster support from the constitutional scheme enshrined in Article 226 of the Constitution of India, which does not intend any such restrictive interpretation.

77. Therefore, one of the factors that also merits consideration is which Court would be better suited to deal with the prayer and be more apposite without facing any jurisdictional obstacle. A further scrutiny should also be made about the manner in which the prayer is couched so as to ascertain whether the same has been done in a clandestine manner to exclude the jurisdiction of other Court(s) or otherwise.

78. However, having noted the aforesaid, the Court also reprimands the inconsistent stand taken by the NCTE in raising the objection regarding lack of territorial jurisdiction as it seemingly adopts different stands in similar cases. Such a practice is not only highly depreciable in light of the NCTE being State which is expected to act as a model litigant but at times, it also hampers the swift and efficient administration of justice.

79. A perusal of the facts of the case clearly establishes that the institution

is imparting education within the territorial jurisdiction of the State of Punjab. The inspection would have also been carried out in the State of Punjab only. Moreover, the petitioner-institution is affiliated to the Punjabi University which is also located outside the territorial jurisdiction of this Court. The counselling and admission process of the petitioner-institution will also take place in the State of Punjab. The effects of impugned orders were also felt in the State of Punjab. Furthermore, even if this Court entertains the present petition and sets aside the impugned withdrawal orders, the ripples of such effect will also be felt in the State of Punjab, wherein, the petitioner-institution is essentially located.

80. If the chain of events in the present dispute is perused, the same would exhibit that the relevant facts that are necessary to prove the case have arisen at the situs of the petitioner-College only and all those facts have merely been considered at Delhi, which has resultantly culminated into the impugned orders.

81. Thus, it is manifestly evident that just because the NRC and the Appellate Authority of NCTE are situated within the territorial jurisdiction of this Court, this Court would not have better jurisdiction to entertain the petition as the material, essential and integral part of the cause of action lies outside the State of Delhi i.e., beyond the territorial jurisdiction of this Court. Therefore, the dictum laid down by the Supreme Court in ***Kusum Ingots*** that even if a slender part of the 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 merits, applies in full force in the present case.

82. So far as the submission that the respondent had not raised the said objection is concerned, it is the Constitutional Court which will have to determine the jurisdictional aspect as to whether the same can be invoked before the particular High Court. The jurisdiction being a question of law may not be left to the sole discretion of the parties and the same may not be presumed to be arising in the absence of any objection raised by the respondent. At the stage of preliminary hearing, what the High Court is required to consider is whether on the basis of the averments contained in the writ petition, the petitioner is entitled to seek the relief prayed for and such relief can be granted by the Court in the exercise of its jurisdiction under Article 226 of the Constitution of India. If after conducting this exercise, the Court is of the opinion that no such *prima facie* case is made out, the writ petition can be dismissed that too even without issuing notice to the person or persons against whom the relief is sought. This aforementioned exposition of law lends credence to the decision of the Supreme Court in the case of ***Union of India v. S.P. Anand***³⁶, wherein, it has been held as under:-

“8. We do not find any merit in this contention. At the stage of preliminary hearing of a writ petition filed under Article 226 of the Constitution, the High Court is required to consider whether on the basis of the averments contained in the writ petition, the petitioner therein is entitled to seek the relief prayed for and such relief can be granted by the Court in exercise of its jurisdiction under Article 226 of the Constitution. If the Court is of the opinion that a prima facie case is made out for granting the relief sought in the writ petition, rule nisi is issued calling upon the person or persons against whom the relief is sought to show cause why such relief should not be granted. But if the Court finds that no such prima facie case is made out, the writ petition has to be dismissed without issuing notice to the person or persons against whom the relief is sought. The object of placing a writ petition before the Court for preliminary hearing

³⁶ (1998) 6 SCC 466.

is to ensure that a writ petition which is frivolous in nature or in which no relief can be granted by the Court in exercise of its powers under Article 226 of the Constitution is dismissed at the threshold.”

83. At this juncture, the Court also expresses a note of caution that if writ Courts start entertaining such petitions without ascertaining whether the material, integral and essential part of the cause of action arises within the territorial jurisdiction of this Court, the other pressing issues eventually will be subsided to the backburner. Furthermore, the concerned jurisdictional High Court is a forum convenient for deciding the present dispute as the material, integral, and essential part of the cause of action arose within the territorial jurisdiction of the concerned jurisdictional High Court. Moreover, entertaining such writ petitions results in a domino effect and propels other litigants to file similar cases by frequently knocking on the doors of the Constitutional Courts under Article 226 of the Constitution of India. Consequently, these writ petitions, if being entertained, will consume not only judicial time but also resources, which can effectively be utilised in cases where parties have been awaiting their fate since long time. In a judicial system with mounting pendency, it is necessary for the Courts to ensure that judicial time is used judiciously. Judicial time, in principle and in fact, is the public's time and the principles discussed above are only meant to ensure that it goes to the deserving causes so that the constitutional promise of guaranteed protection of rights is fulfilled in a time-bound manner.

84. Therefore, bearing in mind the exposition of law, as settled by the judicial precedents explicated above, the Court declines to entertain the

instant writ petition. The petitioner-institution, however, shall be at liberty to approach the jurisdictional High Court.

85. The petition stands disposed of alongwith the pending application(s).

86. All rights and contentions of the parties are left open.

PURUSHAINDRA KUMAR KAURAV, J

OCTOBER 7, 2024

DPA