



\$~197

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 16252/2024**

JS YADAV

.....Petitioner

Through: Mr. Sanjay Dubey and Mr. Abhigyan,
Advocates.

versus

**REGISTRAR OF COMPANIES,
MINISTRY OF CORPORATE AFFAIRS & ORS.Respondents**

Through: Mr. Farman Ali, SPC with Ms. Usha
Jamnal and Ms. Harshita Chaturvedi, Advocates
for Respondent No.1/ROC.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

ORDER
25.11.2024

%

C.M. APPL. 68416/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 16252/2024

3. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking a direction to Respondent No.1 to take immediate and appropriate legal action against Respondents No.2 and 3 for non-payment of salary amounting to Rs.11,78,64,023.8/- (rounded off to Rs. 11.79 Crores) along with interest.
4. From a plain reading of the writ petition, it is evident that the main



relief sought by the Petitioner is with respect to non-payment of salary against Hotel Lalit, which is a private entity. In ***K.K. Saxena v. International Commission on Irrigation & Drainage, (2015) 4 SCC 670***, the Supreme Court held that writ petition will not lie to enforce only private law rights. Consequently, even if a body is performing a public duty and is amenable to exercise a writ jurisdiction, all its decisions would not be subject to judicial review. Relevant paragraphs of the judgment are as follows:

“43. What follows from a minute and careful reading of the aforesaid judgments of this Court is that if a person or authority is “State” within the meaning of Article 12 of the Constitution, admittedly a writ petition under Article 226 would lie against such a person or body. However, we may add that even in such cases writ would not lie to enforce private law rights. There are a catena of judgments on this aspect and it is not necessary to refer to those judgments as that is the basic principle of judicial review of an action under the administrative law. The reason is obvious. A private law is that part of a legal system which is a part of common law that involves relationships between individuals, such as law of contract or torts. Therefore, even if writ petition would be maintainable against an authority, which is “State” under Article 12 of the Constitution, before issuing any writ, particularly writ of mandamus, the Court has to satisfy that action of such an authority, which is challenged, is in the domain of public law as distinguished from private law.

x x x x x x x x x

52. It is trite that contract of personal service cannot be enforced. There are three exceptions to this rule, namely:

- (i) when the employee is a public servant working under the Union of India or State;*
- (ii) when such an employee is employed by an authority/body which is a State within the meaning of Article 12 of the Constitution of India; and*
- (ii) when such an employee is “workmen” within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 and raises a dispute regarding his termination by invoking the machinery under the said Act.*

In the first two cases, the employment ceases to have private law character and “status” to such an employment is attached. In the third category of cases, it is the Industrial Disputes Act which confers jurisdiction on the



Labour Court/Industrial Tribunal to grant reinstatement in case termination is found to be illegal.”

5. In view of the aforesaid, this writ petition is dismissed as not maintainable with liberty to the Petitioner to take recourse to appropriate remedies in law.

JYOTI SINGH, J

NOVEMBER 25, 2024

B.S. Rohella