IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-
The Hon'ble Justice Madhuresh Prasad
And
The Hon'ble Justice Prasenjit Biswas

F.M.A. 1161 of 2024
(ASSIGNED)

Harapriya Puri
Vs.
Union of India & Ors.

For the Appellant	: Mr. Ujjal Ray. Adv., Mr. Prabhat Kr. Srivastava, Adv., Ms. Ankita Singh, Adv., Mr. Om Srivastava, Adv.
For the Respondent Nos 2 to 5	: Mr. Shiv Shankar Banerjee, Adv., Ms. Madhurima Halder, Adv., Mr. Abhishek Chakraborty, Adv.
Judgment on	: December 11, 2025.

Madhuresh Prasad, J.:

1. The present appeal arises out of an order dated 10th June, 2024 passed in WPA No. 8096 of 2023 whereby and whereunder the writ petition filed by the present appellant was dismissed with cost Rs.10,000/-

2. The writ petition was filed seeking issuance of direction upon the respondent to disburse death benefits of the writ petitioner's husband, claim quantified at Rs.94,62,972/-. The writ petitioner's husband was an employee of the Institute

for Steel Development and Growth ("INSDAG" for short). The claim, however, was raised to be due as per service rules of the Steel Authority of India (Employees Family Benefit Scheme).

3. The learned Single Judge dismissed the writ petition on the ground that the respondent no.2 (INSDAG) was not amenable to the writ jurisdiction of this court under Article 226 of the Constitution of India.

4. The learned Advocate for the appellant submitted that the respondent no.2 is amenable to the writ jurisdiction of this court since it is funded and controlled by the Ministry of Steel, Government of India. In the present appeal additional evidence was brought on record by way of an application, to which the respondents have chosen not to file any reply. The learned Advocate for the appellant has referred to the material placed on record by way of additional evidence, including an e-mail dated 1st September, 2022, wherein the respondent no.2 has intimated his colleagues in the organization regarding coming into force of the Human Resources Manual for Institute for Steel Development and Growth. The Manual is stated to contain the service conditions, employees' compensation and the CDA rules which was to come into effect from 01.09.2022. This communication states "*SAIL/CMO rules will no longer apply to the institute".*

5. It was thus, submitted that prior to the e-mail dated 1st September, 2022 the said (SAIL/CMO) rules and service conditions were applicable to the writ petitioner's husband. The learned Advocate has also drawn attention of the Court towards a letter dated 29th May, 2023 from the under secretary to the Government of India to the Director General of the respondent no.2, to submit that the same manifests the Ministry's control over respondent no.2. These two documents according to

the Advocate for the appellant was not considered by the Delhi High Court in W.P(C) 5617 of 2012, in the matter of ***Captain Suresh Nath Jha v. Institute for Steel Development and Growth and Ors***., reported in **2015 SCC Online Del 13166**. Therefore, reliance placed by the learned Single Judge on decision of the Delhi High Court in the case of **Captain Suresh Nath Jha** (*supra*) cannot be sustained. From the two documents placed on record by way of additional evidence the appellants have shown all pervasive control of the Ministry of Steel, Government of India over the respondent no.2. Thus seen, even if respondent no.2 is not performing any sovereign/government/public function the service matter of its employees would be amenable to the writ jurisdiction under Article 226.

6. It is also submitted that the Delhi High Court decision in the case of **Captain Suresh Nath Jha** (*supra*) was rendered considering an issue whether INSDAG is "State" within the meaning of Article 12 of the Constitution of India.

7. The learned Advocate has also laid emphasis on the communication dated 21st April, 2021 from the respondent no.2 to the present petitioner, wherein the gratuity has been paid to the petitioner as per SAIL circular, thereby submitting that the petitioner's claims are covered by SAIL circulars issued by a Public Sector undertaking under the ministry of Steel, Government of India, and therefore, the respondent no.2 cannot escape applicability of writ jurisdiction insofar as service claims of the writ petitioner's deceased husband is concerned.

8. In support of his submission, he has relied upon paragraph 75.2-75.4 of the Apex Court decision in the case of ***St. Mary's Education Society & Anr. v. Rajendra Prasad Bhargava & Ors.,*** reported in **(2023) 4 SCC 498.**

9. The learned Advocate representing the respondent no.2 submitted that the documents relied upon by the appellant are of no avail, for in any manner establishing a fact regarding respondent no.2 being financially or functionally controlled by the Ministry of Steel, Government of India. Insofar as the communication dated 21st April, 2021 is concerned. It is submitted that the respondent no.2 for the sake of dealing with several issues regarding its employees have from time to time followed the procedure/ provisions in service rules of any of its working group members, which include TATA Steel, Jindal Steel, AM/NS, RINL and SAIL. The provisions/ procedure contained in rules framed by any of it's working group members have been followed by the respondent, from time to time, rather than framing it's own rules, for the sake of convenience. Under such circumstance, there is no basis to contend that such rule of any working member is applicable to the employees of the INSDAG, or that the employees of INSDAG are governed by the statutory provisions.

10. The learned Advocate has taken us through the overview document regarding respondent no.2, downloaded from it's website. Relying thereupon it is stated that the character of respondent no.2 is evident, that it is a non-profit member based organization, registered as a society under the Societies Registrations Act of West Bengal, 1961. The founding members are the various Private Steel Companies, as also Steel Authority of India Limited. Funding of the institute is primarily by way of membership contribution, including membership fee. The SAIL also gives grand-in-aid.

11. The learned Advocate thereafter has referred to decision of the Single Judge Bench as well as Division Bench of the Delhi High Court to submit that the Delhi High Court has held respondent no.2, not amenable to writ jurisdiction after a

threadbare consideration of the composition of respondent no.2, its funding and its control. The Delhi High Court found that the respondent no.2 is a registered non-profit society jointly promoted by the Government and Private manufacturers of steel products, having different category of members. The object of the organization is to develop and propagate proper and effective technology for use of steel, increase of its consumption in various sector including the construction sector. The source of funds has also been examined and it was found that the funding is primarily from subscription from its members. Though the Division Bench found substantial contribution by the Government into the Corpus of the respondent no.2, it recorded a finding that funding was also derived from interest on the corpus and other funds; as also from services rendered, consultancy provided and publications etc.

12. Insofar as control of respondent no.2 it was found that general management and control of the society vests in an executive council consisting of elected/nominated members which include members which are running Steel plants, Steel mills, manufacturing products using steel and those engaged in Steel processes as fabricators, developers, builders, architects, designers etc. Upon going through the article of association the Delhi High Court recorded a finding that there is no provision therein from which it can be gathered that the Government either through SAIL or any other entity exercises dominant control over the affairs of respondent no.2.

13. The functions of respondent no.2 are also not having any public character. Such findings of the Delhi High Court, in our opinion based on a holistic consideration of the issue cannot be overcome by the petitioner by placing reliance on the documents brought in appeal by way of additional evidence. We are in

agreement with submissions advanced by the learned Advocate for respondent no.2. Upon going through decision/s of the Delhi High Court, we have no hesitation in recording that findings have been recorded, based on a thorough consideration of the composition of respondent no.2, its funding and its control.

14. The few documents relied upon by the learned Counsel for the appellant, does not improve the case of the writ petitioner/appellant in any manner so as to enable them to seek issuance of mandamus directions against respondent no.2 under Article 226 of the Constitution of India.

15. An e-mail dated 1st September, 2022 has been relied upon by the petitioner's Counsel. According to him the e-mail establishes a fact by natural corollary regarding applicability of SAIL/CMO Rules prior to the date of the e-mail. We are not impressed by such submission. This e-mail does not establish applicability of the SAIL/CMO Rules at any time prior to issuance of the e-mail. Applicability of the SAIL/CMO Rules cannot be inferred or presumed based on the e-mail dated 1st September, 2022. If at all the SAIL/CMO Rules, at any point of time were applicable to the respondent no.2 the same would have been so notified. There is no such material brought on record by the petitioner.

16. As noticed above from submission of the learned Advocate representing respondent no.2 instead of framing its own rules, INSDAG preferred to rely on provisions contained in the service rules of any of its working group members including TATA Steel, Jindal Steel etc. for the sake of convenience. Under the circumstances there is no scope to assume that SAIL/CMO Rules were ever applicable to the services of petitioner's husband. The learned Counsel for the petitioner has not produced any conscious decision, rule, order of SAIL applying

its rules to govern the service conditions of the employees of INSDAG for any purpose whatsoever. No such rules having any statutory flavour have been brought on record. The e-mail dated 1st September, 2022, relied upon by the petitioner therefore, is of no avail so as to establish that the service conditions or entitlements in respect of services of the petitioner's husband was in any way regulated by any statutory provision, or by an employer who had the status of 'State' within the expansive definition under Article 12 or that action complained of by the writ petitioner had any element of public law.

17. The other document relied upon being the letter dated 29th May, 2023 from the under secretary to the Government of India, to the director General of respondent no.2, also does not enure to the petitioner's benefit. The same does not in any way establish a predominant and all pervasive control over the administration and affairs of respondent no.2 by the Government of India. The communication dated 29th May, 2023 is a communication following up some actionable points arising from a meeting of respondent no.2 with officials of the Ministry of Steel. The letter manifests that based on mutual discussion in the meeting, INSDAG was required to take certain action which have been enumerated therein. The letter can in no way establish a predominant or all pervasive control of the Government of India or Steel Authority of India over the affairs of respondent no.2.

18. Having given the issue our anxious consideration we find that the appellant has failed to make out a case in terms of decision of the Apex Court in the case of ***St. Mary's Education Society*** (*supra*), to lay the premise for holding respondent no.2 to be amenable to the writ jurisdiction. In fact, paragraph 75.3 of the judgment in the case of ***St. Mary's Education Society*** (*supra),* fortifies the

conclusion of the learned Single Judge that actions of respondent no.2 taken within the confines of an ordinary contract of service having no statutory force cannot be made amenable to challenge under Article 226 of the Constitution of India. Paragraph 75.2 to 75.4 reads:

> *"75.2. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.*
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> *75.3. It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a constitutional court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.*
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> *75.4. Even if it be perceived that imparting education by private unaided school is a public duty within the expanded expression of the term, an employee of a non-teaching staff engaged by the school for the purpose of its*

administration or internal management is only an agency created by it. It is immaterial whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and non-teaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of non-teaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered with by the Court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty."

19. The order of the Hon'ble Single Judge in our opinion, thus requires no interference insofar as its conclusions regarding non maintainability of the writ petition for issuance of mandamus against respondent no.2.

20. We however, interfere with the order of the Hon'ble Single Judge, to the extent, costs (Rs.10,000/-), have been awarded and set aside the order of the Hon'ble Single Judge only insofar as cost Rs.10,000/- (Ten thousand) was imposed.

21. We are of the opinion that the petitioner (widow) should not be saddle with such costs.

22. The appeal is dismissed, accordingly.

23. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)