

11.03.2025
Court No.23
DL/Item No.-4
[Milan, A.R. (Ct.)]

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

WPA 28775 of 2024

**Sujata Banerjee
versus
The State of West Bengal & Ors.**

Mr. Akshay Singh,
Ms. Ipsita Ghosh

....for the Petitioner

Mr. Biswabrata Basu Mallick, Ld. A.G.P.,
Mr. Sayan Ganguly

....for the State

Ms. Tanvi Luhariwala,
Mr. Atanu Agarwal,
Ms. Simran More

....for the Respondent Nos. 3 to 6

The petitioner is an employee of K 12 Techno Services Private Limited being the respondent no.3 in this writ petition. The appointment letter dated 17th June, 2023 issued to the petitioner, is on a plain reading, nothing but a contract between the employer and the employee without any statutory protection. The designation of the petitioner as assigned under the said appointment letter, is “Zonal Head – Sales”. The petitioner’s service has been clearly held to be terminable from the side of the employer by issuance of a 30 days’ notice. In any event, the employer reserved its right to terminate the petitioner’s service at any point of time.

The petitioner says that the respondent no.3 is operating schools all over India and, as such, discharging public duty. The wrongful termination of the petitioner's service is, therefore, an issue amenable to the writ jurisdiction under Article 226 of the Constitution of India.

Admittedly, the respondent no.3 being the employer is a company within the meaning of Companies Act, 2013. The petitioner's designation is also Zonal Head – Sales and not as a teacher. The prayers in the writ petition also clearly show that writ in the nature of mandamus has been sought for commanding the respondent no.3 to reinstate the petitioner with immediate effect, after holding that the termination of the petitioner's service was illegal and wrongful.

The respondents have objected to the maintainability of the writ petition on the ground that a master-servant relationship in a private company under the Companies Act, 2013 is not an issue amenable to the writ jurisdiction.

The writ petitioner, in order to circumvent this objection, submits that by operating schools pan India, the respondent no.3 is discharging public duty and, as such, the said respondent no.3 is amenable to writ jurisdiction. The petitioner, in support of her contention, has relied upon a judgment reported in

1989 (2) SCC 691 [*Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust & Ors. Vs. V. R. Rudani & Ors.*]. The petitioner, relying upon the said judgment, says that the respondent no.3 is discharging public function in the form of imparting and propagating education. It has, therefor, assumed a public character while discharging such public function and, as such, is to be treated as an authority under Article 12 of the Constitution of India.

The termination of the petitioner's service, therefor, can be assailed by filing a writ under Article 226 of the Constitution of India. The petitioner further refers to a judgment reported in **2025 SCC OnLine SC 177 [*S. Shobha vs. Muthoot Finance Limited*].** By relying upon the said judgment, it is submitted that the respondent no.3 is a legal entity in discharging public duty or positive obligation of public nature and, as such, is amenable to the writ jurisdiction when it relates to the issue of termination of the petitioner's service.

The respondents, on the other hand, dispute that the respondent no.3 is operating educational institution to impart education either under the control of the concerned Government or otherwise. There is as such no public duty involved, as a consequence whereof, the respondent no.3 can be treated as an authority under Article 12 of the Constitution of India.

The broad classification made in *S. Shobha* (supra) for a writ to be maintained against a Private Limited Company is not satisfied since the record does not reveal that the petitioner was working in an agency which had a public character or is performing public duty.

The respondents, on the other hand, by relying upon paragraphs 9 and 10 of *S. Shobha* (supra), submits that the ratio laid down in the said judgment in fact aids their submission. The Hon'ble Supreme Court, after laying down the broad principles in case of *S. Shobha* (supra), had ultimately dismissed the writ petition filed against a private finance company.

The respondents also rely upon the judgment reported in **2023 (4) SCC 498 [*St. Mary's Education Society & Anr. Vs. Rajendra Prasad Bhargava & Ors.*]**. Relying upon paragraph 75.2 of the said judgment, the respondent nos.3 to 6 submit that assuming without admitting, for the sake of argument, if the respondent no.3 is considered to be an educational institution and is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. Individual wrongs or breach of mutual contracts without having any public elements as its integral part cannot be rectified through the writ petition under Article 226 of the Constitution of India.

The relationship between the petitioner and the respondent no.3 is that of an employer and employee, wherein the petitioner was appointed as Zonal Head – Sales. It is, therefore, crystal clear that the termination of petitioner's service being the act complained of had a nexus with discharge of respondent no.3 is not discharging any public duty and the writ petition, therefore, is not maintainable against the respondents. There is also no scope of interference with regard to the termination of the petitioner's service.

The State respondents support the case of the respondent nos.3 to 6 and say that the respondent no.3 is not discharging any public duty either under their control or otherwise. The writ petition is, therefore, dismissed as not maintainable.

The petitioner will be, however, free to pursue her claim in an appropriate forum by filing appropriate proceedings in accordance with law.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)