R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30th DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 36218 OF 2024 (L-RES)

C/W

WRIT PETITION NO. 24209 OF 2025 (L-RES)

WRIT PETITION NO. 24369 OF 2025 (L-RES)

IN WP No. 36218/2024

BETWEEN:

1. COUNCIL OF SCIENTIFIC AND INDUSTRIAL
   RESEARCH (CSIR)
   ANUSANDHAN BHAWAN
   2 RAFI AHMED KIDWAI MARG
   NEW DELHI-110001
   REP. BY DIRECTOR GENERAL.

2. CSIR-NATIONAL AEROSPACE LABORATORIES
   KODIHALLI CAMPUS
   BENGALURU-560017
   REP. BY ITS CONTROLLER
   OF ADMINISTRATION.

Digitally signed by DHANALAKSHMI MURTHY
Location: HIGH COURT OF KARNATAKA

...PETITIONERS

(BY SRI. VIKRAM HUILGOL, SENIOR ADVOCATE FOR
SRI. ANOOP HARANAHALLI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   DEPARTMENT OF LABOUR
   REP. BY ITS DEPUTY LABOUR COMMISSIONER
   REGION II, KARMIKA BHAVAN
   NEAR DAIRY CIRCLE
   BENGALURU-560029.

2. DEPUTY SPECIAL OFFICER (DO6)
DEPARTMENT OF LABOUR
KARNATAKA GOVERNMENT SECRETARIAT
VIKASA SOUDHA, BENGALURU-560001.

3. UNION OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
REP. BY IS DEPUTY CENTRAL LABOUR
COMMISSIONER (CENTRAL)
SHRAM SADAN, 3RD MAIN
3RD CROSS, II PHASE
YESWANTHPUR, BENGALURU-560022.

4. WORKMEN OF NATIONAL
AEROSPACE LABORATORIES
REP. BY KARNATAKA GENERAL LABOUR UNION ®
REP. BY ITS GENERAL SECRETARY
HAVING REGISTERED OFFICE
AT NO.16/7, MUNI KADIRAPPA LAYOUT
GRAPHITE INDIA ROAD
HOODY, BENGALURU-560048
ALSO AT : NO.19, 1ST FLOOR
BHARAT BHAVAN, NO.35
INFANTRY ROAD, BENGALURU-560001.

…RESPONDENTS

(BY SRI.M RAJAKUMAR, AGA FOR R1 & R2:
SRI. K. ARVIND KAMATH, ASG FOR R3:
SMT. MAITREYI KRISHNAN, ADVOCATE FOR R4:
SRI. MURALIDHAR, AMICUS CURIAE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO QUASH THE ORDER DATED: 02.03.2024 BEARING NO. LD-IDM/115/2024 /LD.DO.6.LS PASSED BY RESPONDENT NO.2 AT ANNEXURE-A AND ETC.

IN WP NO. 24209/2025

BETWEEN:

1. COUNCIL OF SCIENTIFIC AND
INDUSTRIAL RESEARCH (CSIR)
ANUSANDHAN BHAWAN
2 RAFI AHMED KIDWAI MARG
NEW DELHI-110001
REP. BY DIRECTOR GENERAL.

2. CSIR-NATIONAL AEROSPACE LABORATORIES
KODIHALLI CAMPUS
BENGALURU-560017
REP. BY ITS CONTROLLER
OF ADMINISTRATION
[REGISTERED UNDER SEC.7 OF THE
CONTRACT LABOUR (REGULATION AND
ABOLITION) ACT, 1970].

…PETITIONERS

(BY SRI. VIKRAM HUILGOL, SENIOR ADVOCATE FOR
SRI. ANOOP HARANAHALLI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF LABOUR
REP. BY ITS DEPUTY LABOUR COMMISSIONER
REGION II, KARMIKA BHAVAN
NEAR DAIRY CIRCLE
BENGALURU-560029.

2. DEPUTY SPECIAL OFFICER (DO6)
DEPARTMENT OF LABOUR
KARNATAKA GOVERNMENT SECRETARIAT
VIKASA SOUDHA, BENGALURU-560001.

3. UNION OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
REP. BY ITS DEPUTY CENTRAL LABOUR

COMMISSIONER (CENTRAL)
SHRAM SADAN, 3RD MAIN
3RD CROSS, II PHASE, YESWANTHPUR
BENGALURU-560022.

4. ENGINEERING AND GENERAL WORKERS UNION
GHATE BHAVAN, VYALIKAVAL
GAYATRI DEVI PARK EXTENSION
BENGALURU-560003
REP. BY ITS GENERAL SECRETARY
[REGISTERED UNDER TRADE UNIONS ACT, 1926]

...RESPONDENTS

(BY SRI.M RAJAKUMAR, AGA FOR R1 & R2:
SRI. K. ARVIND KAMATH, ASG, FOR R3:
SRI. V. R. DATAR, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO QUASH THE ORDER DATED: 07.10.2024 BEARING NO. LD-IDM/546/2024/LD.DO.6.LS PASSED BY RESPONDENT NO.2 AT ANNEXURE-A AND ETC.

IN WP NO. 24369/2025

BETWEEN:

1. COUNCIL OF SCIENTIFIC AND
INDUSTRIAL RESEARCH (CSIR)
ANUSANDHAN BHAWAN
2 RAFI AHMED KIDWAI MARG
NEW DELHI-110001
REP. BY DIRECTOR GENERAL.

2. CSIR-NATIONAL AEROSPACE LABORATORIES
KODIHALLI CAMPUS
BENGALURU-560017
REP. BY ITS CONTROLLER
OF ADMINISTRATION
[REGISTERED UNDER SEC.7 OF THE
CONTRACT LABOUR (REGULATION AND
ABOLITION) ACT, 1970].

…PETITIONERS

(BY SRI. VIKRAM HUILGOL, SENIOR ADVOCATE FOR
SRI. ANOOP HARANAHALLI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   DEPARTMENT OF LABOUR
   REP. BY ITS DEPUTY LABOUR COMMISSIONER
   REGION II, KARMIKA BHAVAN
   NEAR DAIRY CIRCLE
   BENGALURU-560029.

2. DEPUTY SPECIAL OFFICER (DO6)
   DEPARTMENT OF LABOUR
   KARNATAKA GOVERNMENT SECRETARIAT
   VIKASA SOUDHA, BENGALURU-560001.

3. UNION OF INDIA
   MINISTRY OF LABOUR AND EMPLOYMENT
   REP. BY IS DEPUTY CENTRAL LABOUR
   COMMISSIONER (CENTRAL)
   SHRAM SADAN, 3RD MAIN
   3RD CROSS, II PHASE, YESWANTHPUR
   BENGALURU-560022.

4. WORKMEN OF NATIONAL
   AEROSPACE LABORATORIES
   REP. BY KARNATAKA GENERAL LABOUR UNION ®
   REP. BY ITS GENERAL SECRETARY
   HAVING REGISTERED OFFICE
   AT NO.16/7, MUNI KADIRAPPA LAYOUT
   GRAPHITE INDIA ROAD
   HOODY, BENGALURU-560048
   ALSO AT : NO.19, 1ST FLOOR
   BHARAT BHAVAN, NO.35
   INFANTRY ROAD, BENGALURU-560001.
   [REGISTERED UNDER TRADE UNIONS ACT, 1926].

...RESPONDENTS

(BY SRI.M RAJAKUMAR, AGA FOR R1 & R2:
SRI. K. ARVIND KAMATH, ASG FOR R3:
SMT. MAITREYI KRISHNAN, ADVOCATE FOR R4:)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO QUASH THE ORDER DATED 02.03.2024 BEARING NO. LD-IDM/116/2024/LD DO.6.LS PASSED BY RESPONDENT NO.2 AT ANNEXURE-A AND ETC.

THESE WRIT PETITIONS, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.10.2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, THE COURT, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

CAV ORDER

These writ petitions are filed under Articles 226 and 227 of the Constitution of India, challenging the orders dated 02.03.2024 and 07.10.2024, respectively, passed by the second respondent under Section 10(1)(c) of the Industrial Disputes Act, 1947 (for short, the 'I.D. Act'), vide Annexures-A.

2. The brief facts of the case are that petitioner No.2 is a constituent laboratory of petitioner No.1, which is an autonomous body under the administrative control of the Ministry of Science and Technology, Government of India. Petitioner No.1 is registered under the Societies

Registration Act, 1860. Respondent No.4 – Labour Union raised industrial disputes on 13.09.2023, 15.09.2023 and 06.11.2023, respectively, before respondent Nos.1 and 2, seeking reinstatement of the workers represented by the Union and recognition of their status as permanent workmen. Accordingly, the second respondent issued notices dated 13.09.2023, 10.11.2023 and 30.09.2023 to the petitioners, calling upon them to appear on 15.09.2023, 20.11.2023 and 09.10.2023, respectively, as per Annexures-E1. Pursuant to the said notices, the petitioners appeared and filed statement of objections raising a preliminary objection regarding the maintainability of the dispute before the State Government. Thereafter, by the impugned orders, the second respondent referred the dispute to the Industrial Tribunal-cum-Labour Court, Bengaluru, vide respective Annexures-A. Being aggrieved by the same, the petitioners are before this Court.

3. Sri Vikram Huilgol, learned Senior Counsel appearing on behalf of Sri Anoop Haranahalli, learned

counsel for the petitioners, raised the following contentions:

(i) Firstly, the impugned orders at Annexures-A, passed by the second respondent under Section 10(1) of the I.D. Act, are without jurisdiction, as the Central Government is the 'appropriate Government'. Since petitioner No.1 is an autonomous body controlled by the Central Government, the orders passed by the State Government are contrary to Section 10 of the I.D. Act.

(ii) Secondly, he would submit that the definition of 'appropriate Government' under Section 2(a)(i) of the I.D. Act was amended with effect from 15.09.2010. Pursuant to the said amendment, in respect of an autonomous body owned or controlled by the Central Government, the Central Government is the 'appropriate Government'.

(iii) Thirdly, under the unamended definition, prior to 15.09.2010, the Central Government was the 'appropriate Government' only in respect of an industry carried on by or under the authority of the Central Government.

However, under the amended definition, it is no longer necessary for the petitioners to establish that the establishment functions by or under the authority of the Central Government.

(iv) Fourthly, the object of the amendment to Section 2(a)(i) of the I.D. Act was to enlarge the scope of matters falling within the sphere of Central Government. The intention of the Legislature was to broaden the definition of 'appropriate Government' under the unamended provision, as entities not carried on by or under the authority of the Central Government fell within the residuary sub-clause (ii). Therefore, in view of the amendment, in respect of an autonomous body owned or controlled by the Central Government, the Central Government is the 'appropriate Government'.

(v) Fifthly, with regard to the Division Bench judgment of this Court in ***Management of National Aerospace Laboratories v. Engineering & General Workers Union and Another***, reported in **ILR 2015**

KAR 349, relied upon by the respondents, learned Senior Counsel contended that, although the judgment was delivered after the amendment, the issue before the Division Bench arose out of an award dated 30.12.2005, which was governed by the unamended provision. The Division Bench had considered whether petitioner No.2 was functioning under the authority of the Central Government. There was no occasion for the Division Bench to consider the expression 'owned or controlled by the Central Government' introduced by the amendment. Therefore, the said judgment is distinguishable and is not applicable to the present case.

(vi) Lastly, with regard to the petitioners' establishment, learned Senior Counsel relied upon the Constitution Bench judgment of the Apex Court in ***Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and Others*****,** reported in **(2002) 5 SCC 111.** He contended that the Apex Court, by a majority opinion, held that the Council of Scientific and Industrial Research (CSIR) is under the control of the

Government of India and is 'State' within the meaning of Article 12 of the Constitution of India. Therefore, he contended that the second respondent is not the competent authority to exercise the power under Section 10 of the I.D. Act in respect of the petitioners' establishment.

Accordingly, he sought for allowing the writ petitions.

4. Per contra, Sri Arvind Kamath, learned A.S.G. for the Central Government submits that in view of the amendment to Section 2(a)(i) of the I.D. Act, the Central Government is the 'appropriate Government' to refer the dispute related to the petitioner – Establishment under Section 10 of the I.D. Act. He further submitted that in case of ***Pradeep Kumar Biswas*** **(supra),** the Apex Court has held that the CSIR is under the control of the Central Government.

Hence, he sought for dismissal of the writ petitions.

5. Sri V.R.Datar, learned counsel appearing for the respondents in one of the writ petitions, raised the following contentions:

(i) Firstly, the amendment to the definition of 'appropriate Government' under the I.D. Act must be considered in the context of industrial disputes. The judgment of the Apex Court in ***Pradeep Kumar Biswas* (supra)** was rendered in the context of Article 12 of the Constitution of India. Therefore, the said judgment is not applicable to the case on hand.

(ii) Secondly, the very same issue concerning the petitioners' establishment was considered by a Division Bench of this Court in ***Management of National Aerospace Laboratories* (supra),** wherein it was held that the establishment was neither functioning under the authority of the Central Government nor was under its control. Therefore, the contention of the petitioners that the State Government is not the competent authority is unsustainable.

(iii) Thirdly, whether the petitioners' establishment is under the control of the Central Government is a question of fact that must be determined after the parties adduce evidence. This Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot adjudicate such factual aspects. Therefore, the parties may be relegated to the Labour Court to raise all their contentions for adjudication.

(iv) Fourthly, neither the respondent-workmen nor the petitioners' establishment are under the control of the Central Government. CSIR is an autonomous body registered under the Societies Registration Act and has independent powers to appoint its employees and take decisions concerning them. The Central Government has no authority or control over the petitioners' establishment. Therefore, the Division Bench of this Court, on an earlier occasion, rightly rejected the contentions raised by the petitioners' establishment. In support of his contentions, he relied upon the judgments of the Apex Court in ***Tata Memorial Hospital Workers Union v. Tata Memorial***

Centre and Another**,** reported in **AIR 2010 SC 2943,** and ***Balwant Rai Saluja and Another v. Air India Ltd. and Others***, reported in **(2014) 9 SCC 407.**

Accordingly, he sought for dismissal of the writ petitions.

6. Sri Muralidhar, the learned counsel appearing as an amicus curiae, raised the following contentions:

(i) Firstly, the writ petitions filed by the petitioners are not maintainable, as all the contentions raised by them can be urged before the Labour Court. In matters relating to industrial disputes, there cannot be a piecemeal adjudication of the issues. In support of his contentions, he relied upon the judgment of the Apex Court in ***D.P. Maheshwari v. Delhi Administration and Others*****,** reported in **(1983) 4 SCC 293**.

(ii) Secondly, the question concerning the meaning and applicability of the expression 'appropriate Government' involves a mixed question of fact and law.

Neither the State Government nor this Court, in the present proceedings, can conclusively decide the issue without the parties adducing evidence. Therefore, the parties must be permitted to raise and establish their respective contentions before the Labour Court.

Accordingly, he sought for dismissal of the writ petitions.

7. Ms. Maitreyi Krishnan, learned counsel appearing for the respondents in some of the writ petitions, raised the following contentions:

(i) Firstly, the judgment of the Apex Court in ***Pradeep Kumar Biswas*** **(supra)** was rendered in the context of Article 12 of the Constitution of India. The expression 'appropriate Government' under the I.D. Act must be interpreted in the context of industrial disputes. According to her, the issue involves disputed questions of fact and law, which must be agitated before the Labour Court. She further contended that, in identical matters, the Labour Court had considered the issue and held that

the State Government was the appropriate authority. In support of her contentions, she relied upon the judgments of the Apex Court in ***Secunderabad Club v. Commissioner of Income Tax,*** reported in **2023 SCC OnLine SC 1004,** and ***Commissioner of Income Tax v. Venkateswara Hatcheries (P) Ltd.,*** reported in **(1999) 3 SCC 632.**

(ii) Secondly, under Section 33 of the I.D. Act, during the pendency of conciliation proceedings before a conciliation officer or board, or any proceedings before a Labour Court, Tribunal or National Tribunal in respect of an industrial dispute, the conditions of service of the workmen are subject to the restrictions prescribed under the said provision, which has been violated by the petitioners. In support of her contention, she relied upon the judgments of the Apex Court in ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. v. Ram Gopal Sharma and Others***, reported in **AIR 2002 SC 643,** and **The *Management of SKF Bearings India Ltd. v. S.M. Ravi Kumar and Others*,** reported in **2006 Lab. I.C. 1002.**

Accordingly, she sought for dismissal of the writ petitions.

8. Heard learned counsel for the parties and perused the writ petition papers.

9. The point that arises for consideration in this writ petition is,

> *Whether, under Section 2(a)(i) as amended in 2010, the Central Government is the 'appropriate Government' in relation to the petitioner's Establishment?*

10. The fourth respondent - Union raised industrial disputes with respondent Nos. 1 and 2. The second respondent, after hearing both the parties under Section 10 has opined that there is an industrial dispute existing between the parties. Hence, referred the dispute to Labour Court by the impugned orders at Annexures-A. Section 10(1) of the I.D. Act confers the power on 'appropriate Government' to refer the dispute to the court or tribunal.

It is relevant to extract Section 10(1)(a) to (d). The same is extracted below:

> ***"10. Reference of dispute to Boards, Courts or Tribunals.-***
>
> *(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing-*
>
> *(a)refer the dispute to a Board for promoting a settlement thereof; or*
>
> *(b)refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or*
>
> *(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or*
>
> *(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:*
>
> *Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):*

Provided further that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced:

Provided also that where the dispute in relation to which the Central Government is the appropriate Government, it shall be competent for the Government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Government."

11. From the above provision it is very clear that where the 'appropriate Government' is of the opinion that, if any industrial dispute exists or is apprehended, it may, by order in writing, refer the dispute or any other matter to the Labour Court for adjudication. The 'appropriate Government' as defined under Section 2(a)(i) of the I.D. Act has been extracted below:

Definition before 2010 Amendment	Definition after 2010 amendment
(a)"Appropriate Government"	a) "Appropriate Government"

means-	means-
(i) In relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a Railway Company (or concerning any such controlled industry as may be specified in this behalf by the Central Government) or in relation to an industrial dispute concerning (a Dock Labour Board established under Section 5-A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or [the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)], or the Employees' State Insurance Corporation established under Section 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under Section 3-A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under Sections 5-A and 5-B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), or the Life Insurance Corporation of India established under Section 3 of the Life Insurance	(i) In relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a Railway Company (or concerning any such controlled industry as may be specified in this behalf by the Central Government) or in relation to an industrial dispute concerning a Dock Labour Board established under Section 5-A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or [the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)], or the Employees' State Insurance Corporation established under Section 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under Section 3-A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under Sections 5-A and 5-B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), or the Life Insurance Corporation of India established under Section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or [the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established

Corporation Act, 1956 (31 of 1956), or [the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established under Section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under Section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under Section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under Section 3 or a Board of Management established for two or more contiguous States under Section 16 of the Food Corporations Act, 1964 (37 of 1964), or [the Airports Authority of India constituted under Section 3 of the Airports Authority of India Act, 1994 (55 of 1994)], or a Regional Rural Bank established under Section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India [the National Housing Bank established under Section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or (an air	under Section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under Section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under Section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under Section 3 or a Board of Management established for two or more contiguous States under Section 16 of the Food Corporations Act, 1964 (37 of 1964), or [the Airports Authority of India constituted under Section 3 of the Airports Authority of India Act, 1994 (55 of 1994)], or a Regional Rural Bank established under Section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India [the National Housing Bank established under Section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or (an air transport service, or a banking or an insurance company), (a mine, an oilfield), (a Cantonment Board), or a (major port, any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies

transport service, or a banking or an insurance Company), (a mine, an oilfield), (a Cantonment Board), or a (major port, the Central Government), and (ii) in relation to any other industrial dispute, the State Government.	set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government), and [(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government: Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment;]

The legislative change and its purpose

12. The question regarding the appropriate Government requires consideration in the light of the Industrial Disputes (Amendment) Act, 2010, which came into force on 15.09.2010. The provision for consideration is Section 2(a)(i) of the I.D. Act, which defines the appropriate Government in relation to the industrial disputes specified therein.

13. Before the amendment, apart from the industries and establishments specifically enumerated in the provision, the Central Government was the appropriate Government where the industrial dispute concerned an industry carried on by or under its authority.

14. Parliament subsequently enlarged the definition by expressly including, among other categories, autonomous bodies owned or controlled by the Central Government. Corresponding provision was made for autonomous bodies owned or controlled by a State Government. The amendment also addressed disputes between contractors and contract labour through the proviso to Section 2(a).

15. The legislative materials indicate the purpose of this change. The Ministry, in its explanatory note to the Parliamentary Standing Committee on Labour, stated that the definition of 'appropriate Government' was sought to be amplified and that the Central Government would be the appropriate Government for the specified Central

undertakings and autonomous bodies owned or controlled by it. The Standing Committee recorded that the proposed amplification was intended to eliminate ambiguity in identifying the appropriate Government.

16. The words introduced by Parliament must be given their ordinary and effective operation. The provision continues to cover an industry carried on by or under the authority of the Central Government; however, it separately identifies an autonomous body owned or controlled by that Government as well. If every autonomous body falling within the latter description were also required to establish that its industry was carried on under the authority of the Central Government, the additional description would be deprived of its independent significance.

17. The words employed are **'owned or controlled'**. Ownership and control are expressed as alternatives. Therefore, where an autonomous body is shown to be controlled by the Central Government within the meaning

of the amended provision, it is unnecessary to establish in addition that every asset of the body is owned by that Government. Equally, the existence of a governing body and the power to take decisions in the ordinary course do not, by themselves, exclude governmental control. The character and extent of that control must be assessed from the applicable institutional framework and the material on record.

18. Therefore, the present case has to be considered in the light of the amendment to Section 2(a)(i) of the I.D. Act. The Division Bench decision of this Court in ***Management of National Aerospace Laboratories* (supra),** concerned a reference made on 24.04.2001. It considered the jurisdictional objection under the provision applicable to that reference. The question arising under the separate category inserted in 2010 was therefore not before it. The decision must be respected for what it decided; however, its application to the present references must be considered in light of the subsequent statutory change.

19. The Division Bench of this Court also considered the judgment of the Apex Court in ***Steel Authority of India Ltd. and Others v. National Union Waterfront Workers*****,** reported in **(2001) 7 SCC 1.** The said judgment was also rendered prior to the amendment to Section 2(a)(i) of the I.D. Act. As on the date of delivery of the judgment i.e., on 30.08.2001, the definition of the term 'appropriate Government' was not yet amended. The expression 'autonomous bodies owned or controlled by the Central Government' came to be inserted only by the amendment effected from 15.09.2010. Therefore, the said judgments are distinguishable and not applicable to the facts of the present case.

20. In the present case, the institutional position of CSIR must be considered in the light of the majority judgment in ***Pradeep Kumar Biswas*** **(supra).** The Supreme Court examined CSIR's constitution, governing structure, financial arrangements and the powers of the Government of India, and found pervasive governmental control over CSIR. The ultimate question before the

Supreme Court was whether CSIR was 'State' under Article 12; nevertheless, its findings concerning the nature of control over this very institution are relevant to the statutory inquiry now undertaken in view of the 2010 amendment. The relevant paragraphs of the said judgment are extracted below:

> *"**40.** The picture that ultimately emerges is that the tests formulated in Ajay Hasia are not a rigid set of principles so that if a body falls within any one of them it must, ex hypothesi, be considered to be a State within the meaning of Article 12. The question in each case would be — whether in the light of the cumulative facts as established, the body is financially, functionally and administratively dominated by or under the control of the Government. Such control must be particular to the body in question and must be pervasive. If this is found then the body is a State within Article 12. On the other hand, when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body a State.*
>
> ***41.** Coming now to the facts relating to CSIR, we have no doubt that it is well within the range of Article 12, a conclusion which is sustainable when*

judged according to the tests judicially evolved for the purpose.

The formation of CSIR

42. *On 27-4-1940, the Board of Scientific and Industrial Research and on 1-2-1941, the Industrial Research Utilisation Committee were set up by the Department of Commerce, Government of India with the broad objective of promoting industrial growth in this country. On 14-11-1941, a Resolution was passed by the Legislative Assembly and accepted by the Government of India to the following effect:*

> *"This Assembly recommends to the Governor-General-in-Council that a fund called the Industrial Research Fund be constituted, for the purpose of fostering industrial development in this country and that provision be made in the budget for an annual grant of rupees ten lakhs to the fund for a period of five years."*

43. *For the purpose of coordinating and exercising administrative control over the working of the two research bodies already set up by the Department of Commerce, and to oversee the proper utilisation of the Industrial Research Fund, by a further Resolution dated 26-9-1942, the Government of India decided to set up a Council of Industrial Research on a permanent footing which*

would be a registered society under the Registration of Societies Act, 1860. Pursuant to the Resolution, on 12-3-1942 CSIR was duly registered. Bye-laws and rules were framed by the Governing Body of the Society in 1942 which have been subsequently revised and amended. Unquestionably this shows that CSIR was "created" by the Government to carry on in an organized manner what was being done earlier by the Department of Commerce of the Central Government. In fact the two research bodies which were part of the Department of Commerce have since been subsumed in CSIR.

Objects and functions

44. *The 26-9-1942 Resolution had provided that the functions of CSIR would be:*

> *(a) to implement and give effect to the following resolution moved by the Hon'ble Dewan Bahadur Sir A.R. Mudaliar and passed by the Legislative Assembly on 14-11-1941 and accepted by the Government of India; … (quoted earlier in this judgment)*
>
> *(b) the promotion, guidance and coordination of scientific and industrial research in India including the institution and the financing of specific researches;*

(c) the establishment or development and assistance to special institutions or department of existing institutions for scientific study of problems affecting particular industries and trade;

(d) the establishment and award of research studentships and fellowships;

(e) the utilisation of the results of the researches conducted under the auspices of the Council towards the development of industries in the country and the payment of a share of royalties arising out of the development of the results of researches to those who are considered as having contributed towards the pursuit of such researches;

(f) the establishment, maintenance and management of laboratories, workshops, institutes, and organisation to further scientific and industrial research and utilise and exploit for purposes of experiment or otherwise any discovery or invention likely to be of use to Indian industries;

(g) the collection and dissemination or information in regard not only to research but to industrial matters generally;

(h) publication of scientific papers and a journal of industrial research and development; and

(i) any other activities to promote generally the objects of the resolution mentioned in (a) above.

45. *These objects which have been incorporated in the memorandum of association of CSIR manifestly demonstrate that CSIR was set up in the national interest to further the economic welfare of the society by fostering planned industrial development in the country. That such a function is fundamental to the governance of the country has already been held by a Constitution Bench of this Court as far back as in 1967 in Rajasthan SEB v. Mohan Lal where it was said : (AIR p. 1863, para 6)*

> *"The State, as defined in Article 12, is thus comprehended to include bodies created for the purpose of promoting the educational and economic interests of the people."*

46. *We are in respectful agreement with this statement of the law. The observations to the contrary in Chander Mohan Khanna v. NCERT relied on by the learned Attorney-General in this context, do not represent the correct legal position.*

47. *Incidentally, CSIR was and continues to be a non-profit-making organization and according to clause 4 of CSIR's memorandum of association, all its income and property, however derived shall be applied only "towards the promotion of those objects subject nevertheless in respect of the expenditure to such limitations as the Government of India may from time to time impose".*

Management and control

48. *When the Government of India resolved to set up CSIR on 26-2-1942, it also decided that the Governing Body would consist of the following members:*

> *(1) The Honourable Member of the Council of His Excellency the Governor-General in charge of the portfolio of Commerce (ex officio).*
>
> *(2) A representative of the Commerce Department of the Government of India, appointed by the Government of India.*
>
> *(3) A representative of the Finance Department of the Government of India, appointed by the Government of India.*

(4) Two members of the Board of Scientific and Industrial Research elected by the said Board.

(5) Two members of the Industrial Research Utilisation Committee elected by the said Committee.

(6) The Director of Scientific and Industrial Research.

(7) One or more members to be nominated by the Government of India to represent interests not otherwise represented.

49. *The present Rules and Regulations, 1999 of CSIR provide that:*

"(a) The Prime Minister of India shall be the ex officio President of the Society.

(b) The Minister in charge of the ministry or department, dealing with the Council of Scientific and Industrial Research shall be the ex officio Vice-President of the Society:

Provided that during any period when the Prime Minister is also such Minister, any person nominated in this behalf by the Prime Minister shall be the Vice-President.

(c) Minister in charge of Finance and Industry (ex officio).

(d) The members of the Governing Body.

(e) Chairman, Advisory Board.

(f) Any other person or persons appointed by the President, CSIR."

The Governing Body of the Society is constituted by the:

(a) Director General;

(b) Member Finance;

(c) Directors of two national laboratories;

(d) Two eminent Scientists/Technologists, one of whom shall be from academia;

(e) Heads of two scientific departments/agencies of the Government of India.

50. *The dominant role played by the Government of India in the Governing Body of CSIR is evident. The Director General who is ex officio Secretary of the Society is appointed by the Government of India [Rule 2(iii)]. The submission*

of the learned Attorney-General that the Governing Body consisted of members, the majority of whom were non-governmental members is, having regard to the facts on record, unacceptable. Furthermore, the members of the Governing Body who are not there ex officio are nominated by the President and their membership can also be terminated by him and the Prime Minister is the ex officio President of CSIR. It was then said that although the Prime Minister was ex officio President of the Society but the power being exercised by the Prime Minister is as President of the Society. This is also the reasoning in Sabhajit Tewary. With respect, the reasoning was and the submission is erroneous. An ex officio appointment means that the appointment is by virtue of the office; without any other warrant or appointment than that resulting from the holding of a particular office. Powers may be exercised by an officer, in this case the Prime Minister, which are not specifically conferred upon him, but are necessarily implied in his office (as Prime Minister), these are ex officio.

51. *The control of the Government in CSIR is ubiquitous. The Governing Body is required to administer, direct and control the affairs and funds of the Society and shall, under Rule 43, have authority "to exercise all the powers of the Society subject nevertheless in respect of expenditure to*

such limitations as the Government of India may from time to time impose". The aspect of financial control by the Government is not limited to this and is considered separately. The Governing Body also has the power to frame, amend or repeal the bye-laws of CSIR but only with the sanction of the Government of India. Bye-law 44 of the 1942 Bye-laws had provided "any alteration in the bye-laws shall require the prior approval of the Governor-General-in-Council".

52. *Rule 41 of the present Rules provides that:*

> *"The President may review/amend/vary any of the decisions of the Governing Body and pass such orders as considered necessary to be communicated to the Chairman of the Governing Body within a month of the decision of the Governing Body and such order shall be binding on the Governing Body. The Chairman may also refer any question which in his opinion is of sufficient importance to justify such a reference for decision of the President, which shall be binding on the Governing Body."*
>
> *(emphasis added)*

53. *Given the fact that the President of CSIR is the Prime Minister, under this Rule the subjugation*

of the Governing Body to the will of the Central Government is complete.

54. *As far as the employees of CSIR are concerned the Central Civil Services (Classification, Control and Appeal) Rules and the Central Civil Services (Conduct) Rules, for the time being in force, are from the outset applicable to them subject to the modification that references to the "President" and "government servant" in the Conduct Rules would be construed as "President of the Society" and "officer and establishments in the service of the Society" respectively (Bye-law 12). The scales of pay applicable to all the employees of CSIR are those prescribed by the Government of India for similar personnel, save in the case of specialists (Bye-law 14) and in regard to all matters concerning service conditions of employees of CSIR, the Fundamental and Supplementary Rules framed by the Government of India and such other rules and orders issued by the Government of India from time to time are also, under Bye-law 15 applicable to the employees of CSIR. Apart from this, the rules/orders issued by the Government of India regarding reservation of posts for SC/ST apply in regard to appointments to posts to be made in CSIR (Bye-law 19). CSIR cannot lay down or change the terms and conditions of service of its employees and any alteration in the bye-laws can*

be carried out only with the approval of the Government of India (Bye-law 20).

Financial aid

55. *The initial capital of CSIR was Rs 10 lakhs, made available pursuant to the Resolution of the Legislative Assembly on 14-11-1941. Paragraph 5 of the 26-9-1942 Resolution of the Government of India pursuant to which CSIR was formed reads:*

> *"The Government of India have decided that a fund, viz., the Industrial Research Fund, should be constituted by grants from the Central revenues to which additions are to be made from time to time as moneys flow in from other sources. These 'other sources' will comprise grants, if any, by Provincial Governments, by industrialists for special or general purposes, contributions from universities or local bodies, donations or benefactions, royalties, etc., received from the development of the results of industrial research, and miscellaneous receipts. The Council of Scientific and Industrial Research will exercise full powers in regard to the expenditure to be met out of the Industrial Research Fund subject to its observing the bye-laws framed by the Governing Body of the Council, from time to time, with the approval of the Governor-General-in-Council, and to its*

annual budget being approved by the Governor-General-in-Council."

56. *As already noted, the initial capital of Rs 10 lakhs was made available by the Central Government. According to the statement handed up to the Court on behalf of CSIR the present financial position of CSIR is that at least 70% of the funds of CSIR are available from grants made by the Government of India. For example, out of the total funds available to CSIR for the years 1998-99, 1999-2000, 2000-01 of Rs 1023.68 crores, Rs 1136.69 crores and Rs 1219.04 crores respectively, the Government of India has contributed Rs 713.32 crores, Rs 798.74 crores and Rs 877.88 crores. A major portion of the balance of the funds available is generated from charges for rendering research and development works by CSIR for projects such as the Rajiv Gandhi Drinking Water Mission, Technology Mission on oilseeds and pulses and maize or grant-in-aid projects from other government departments. Funds are also received by CSIR from sale proceeds of its products, publications, royalties etc. Funds are also received from investments but under Bye-law 6 of CSIR, funds of the Society may be invested only in such manner as prescribed by the Government of India. Some contributions are made by the State Governments and to a small extent by "individuals,*

institutions and other agencies". The non-governmental contributions are a pittance compared to the massive governmental input.

57. *As far as expenditure is concerned, under Bye-law 1 as it stands at present, the budget estimates of the Society are to be prepared by the Governing Body "keeping in view the instructions issued by the Government of India from time to time in this regard". Apart from an internal audit, the accounts of CSIR are required to be audited by the Comptroller and Auditor-General and placed before the table of both Houses of Parliament (Rule 69).*

58. *In the event of dissolution, unlike other registered societies which are governed by Section 14 of the Societies Registration Act, 1860, the members of CSIR have no say in the distribution of its assets and under clause 5 of the memorandum of association of CSIR, on the winding up or dissolution of CSIR any property remaining after payment of all debts shall have to be dealt with "in such manner as the Government of India may determine". CSIR is therefore both historically and in its present operation subject to the financial control of the Government of India. The assets and funds of CSIR though nominally owned by the*

Society are in the ultimate analysis owned by the Government.

59. *From whichever perspective the facts are considered, there can be no doubt that the conclusion reached in Sabhajit Tewary was erroneous. If the decision of Sabhajit Tewary had sought to lay down as a legal principle that a society registered under the Societies Act or a company incorporated under the Companies Act is, by that reason alone, excluded from the concept of State under Article 12, it is a principle which has long since been discredited. "Judges have made worthy, if shamefaced, efforts, while giving lip service to the rule, to riddle it with exceptions and by distinctions reduce it to a shadow."*

60. *In the assessment of the facts, the Court had assumed certain principles, and sought precedential support from decisions which were irrelevant and had "followed a groove chased amidst a context which has long since crumbled". Had the facts been closely scrutinised in the proper perspective, it could have led and can only lead to the conclusion that CSIR is a State within the meaning of Article 12.*

61. *Should Sabhajit Tewary still stand as an authority even on the facts merely because it has stood for 25 years? We think not. Parallels may be*

drawn even on the facts leading to an untenable interpretation of Article 12 and a consequential denial of the benefits of fundamental rights to individuals who would otherwise be entitled to them and

> *"[t]here is nothing in our Constitution which prevents us from departing from a previous decision if we are convinced of its error and its baneful effect on the general interests of the public". (AIR p. 672, para 15)*

Since on a re-examination of the question we have come to the conclusion that the decision was plainly erroneous, it is our duty to say so and not perpetuate our mistake.

62. *Besides a new fact relating to CSIR has come to light since the decision in Sabhajit Tewary which unequivocally vindicates the conclusion reached by us and fortifies us in delivering the coup de grâce to the already attenuated decision in Sabhajit Tewary. On 31-10-1986, in exercise of the powers conferred by sub-section (2) of Section 14 of the Administrative Tribunals Act, 1985, the Central Government specified 17-11-1986 as the date on and from which the provisions of sub-section (3) of Section 14 of the 1985 Act would apply to CSIR "being the Society owned and controlled by Government".*

63. *The learned Attorney-General contended that the notification was not conclusive of the fact that CSIR was a State within the meaning of Article 12 and that even if an entity is not a State within the meaning of Article 12, it is open to the Government to issue a notification for the purpose of ensuring the benefits of the provisions of the Act to its employees.*

64. *We cannot accept this. Reading Article 323-A of the Constitution and Section 14 of the 1985 Act it is clear that no notification under Section 14(2) of the Administrative Tribunals Act could have been issued by the Central Government unless the employees of CSIR were either appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government. Once such a notification has been issued in respect of CSIR, the consequence will be that an application would lie at the instance of the appellants at least before the Administrative Tribunal. No new jurisdiction was created in the Administrative Tribunal. The notification which was issued by the Central Government merely served to shift the service disputes of the employees of CSIR from the constitutional jurisdiction of the High Court*

under Article 226 to the Administrative Tribunals on the factual basis that CSIR was amenable to the writ jurisdiction as a State or other authority under Article 12 of the Constitution.

65. *Therefore, the notification issued in 1986 by the Central Government under Article 14(2) of the Administrative Tribunals Act, 1985 serves in removing any residual doubt as to the nature of CSIR and decisively concludes the issues before us against it."*

21. From the judgment of the Apex Court it is very clear that CSIR is under the control of the Central Government. Therefore, nothing is left for the Labour Court to decide upon pertaining to that issue. In view of the above, the 'appropriate Government' for CSIR is the Central Government.

22. Therefore, the order of reference passed by the State Government in the present case is not an order passed by an 'appropriate Government' as required under Section 10(1)(i) of the I.D. Act.

23. Insofar as the objection regarding maintainability of the writ petition is concerned, Section 10 of the I.D. Act authorizes the 'appropriate Government' to refer an industrial dispute for adjudication. The issue in this case, as to whether the authority making the reference was competent under Section 2(a), goes to the root of its power to make the reference.

24. In ***National Engineering Industries Ltd. v. State of Rajasthan*****,** reported in **(2000) 1 SCC 371,** the Apex Court recognised that a jurisdictional challenge to a reference under Section 10 can be examined by the High Court under Article 226. It further explained that the Industrial Tribunal derives its jurisdiction from the reference and cannot examine the validity of the reference itself. Similarly, this Court in the case of ***Institute of Hotel Management Catering Technology and Nutrition v. Workmen of Institute of Hotel Management Class IV Employees Association***, reported in **2000 SCC OnLine Kar 733,** has held that, a writ petition under Article 226, challenging the

jurisdiction/power of the State Government to refer the dispute to an industrial tribunal, is maintainable as a labour court cannot decide the question of competency of State Government in making reference where an establishment is under the control of the Central Government.

25. Further, in ***Radha Krishan Industries v. State of Himachal Pradesh,*** reported in **(2021) 6 SCC 771,** at paragraph 27, the Apex Court reiterated that the availability of an alternative remedy does not exclude writ jurisdiction where the order or proceedings are wholly without jurisdiction.

26. In the present case, the petitioners have questioned the State Government's competence to make the impugned references, contending that the Central Government is the appropriate Government under the amended Section 2(a)(i) of the I.D. Act.

27. Accordingly, the writ petitions are maintainable for examining the competence of the authority making the impugned references.

28. In view of the above, the following order is passed:

(i) The writ petitions are allowed.

(ii) The orders dated 02.03.2024 and 07.10.2024 passed by the second respondent vide Annexures-A in all the petitions are set aside.

29. Since the writ petitions are allowed, the contention of the respondent raised in respect of Section 33 of the I.D. Act would not arise for consideration. However, liberty is reserved to the respondent to raise the same before the appropriate forum.

In view of disposal of the writ petitions, all pending IAs. stand disposed of.

The fee of the amicus curiae is fixed at Rs.8,000/-.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

Cm/-