



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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LPA-982-2021 (O&M)
Decided on: 17.03.2026

ASHWANI KUMAR

..Appellant

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. Navmohit Singh, Advocate
for the appellant.

Mr. Aman Mittal, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present appeal, the challenge is to the impugned order dated 02.08.2021 passed by the learned Single Judge, by which, the civil writ petition No.9591-2021 filed by the appellant against Meham Co-operative Sugar Mills Ltd. qua the promotion of the private respondent No.6-Ramesh Chander as the Chief Engineer, has been dismissed on the ground of maintainability.

2. Learned counsel for the appellant argues that Meham Co-operative Sugar Mills Ltd. has to be treated as an authority within the meaning of Article 12 of the Constitution of India and is therefore, amenable



to the writ jurisdiction of this Court, as the same is being managed by an HCS Officer.

3. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

4. It may be noticed that while dismissing the writ petition on the ground of maintainability, reliance has been placed on the judgment of the Hon'ble Supreme Court of India in ***S.S. Rana vs. Registrar, Co-operative Societies and another, 2006 (4) SCJ 543***. This fact has not been disputed by the learned counsel for the appellant. Learned counsel for the appellant has not been able to show that the said judgment is not applicable to the facts and circumstances of the present case.

5. Even, as per the judgment of Hon'ble Supreme Court of India in ***General Manager, The Kisan Sahkari Chini Mills Limited Sultanpur, U.P. vs. Satrughan Nishad and others***, decided on 08.10.2003, wherein, the Hon'ble Supreme Court of India has held that even where the financial investment of the Government in a Cooperative Society is more than 50%, still the same cannot be treated as a financial control of the Government so as to treat the Cooperative Society as public authority to be amenable to the writ jurisdiction. Relevant paragraph of the judgment is as under:-

“8.From the decisions referred to above, it would be clear that the form in which the body is constituted, namely, whether it is a society or co-operative society or a company, is not decisive. The real status of the body with respect to the control of government would have to be looked into. The various tests, as indicated above, would have to be applied and considered cumulatively. There can be no hard and fast formula and in



different facts/situations, different factors may be found to be overwhelming and indicating that the body is an authority under Article 12 of the Constitution. In this context, Bye Laws of the Mill would have to be seen. In the instant case, in one of the writ applications filed before the High Court, it was asserted that the Government of Uttar Pradesh held 50% shares in the Mill which fact was denied in the counter affidavit filed on behalf of the State and it was averred that majority of the shares were held by cane growers. Of course, it was not said that the Government of Uttar Pradesh did not hold any share. Before this Court, it was stated on behalf of the contesting respondents in the counter affidavit that the Government of Uttar Pradesh held 50% shares in the Mill which was not denied on behalf of the Mill. Therefore, even if it is taken to be admitted due to non traverse, the share of the State Government would be only 50% and not entire. Thus, the first test laid down is not fulfilled by the Mill. It has been stated on behalf of the contesting respondents that the Mill used to receive some financial assistance from the Government. According to the Mill, the Government had advanced some loans to the Mill. It has nowhere been stated that the State used to meet any expenditure of the Mill much less almost the entire one, but, as a matter of fact, it operates on the basis of self generated finances. There is nothing to show that the Mill enjoys monopoly status in the matter of production of sugar. A perusal of Bye-Laws of the Mill would show that its membership is open to cane growers, other societies, Gram Sabha, State Government, etc. and under Bye-Law 52, a committee of management consisting of 15 members is constituted, out of whom, 5 members are required to be elected by the representatives of individual members, 3 out of cooperative society and other institutions and 2 representatives of financial institutions besides 5 members who are required to be nominated by the State Government which shall be inclusive of the Chairman and Administrator. Thus, the ratio of the nominees of State Government in the committee is only 1/3rd and the management of the committee is dominated by 2/3rd non-government members. Under the Bye-Laws, the State Government can neither issue any direction to the Mill nor determine its policy as it is an autonomous body. The State has no control at all in the functioning of the Mill much less deep



and pervasive one. The role of the Federation, which is the apex body and whose exofficio Chairman-cum-Managing Director is Secretary, Department of Sugar Industry and Cane, Government of Uttar Pradesh, is only advisory and to guide its members. The letter sent by Managing Director of the Federation on 22nd November, 1999 was merely by way of an advice and was in the nature of a suggestion to the Mill in view of its deteriorating financial condition. From the said letter, which is in the advisory capacity, it cannot be inferred that the State had any deep and pervasive control over the Mill. Thus, we find none of the indicia exists in the case of Mill, as such the same being neither instrumentality nor agency of government cannot be said to be an authority and, therefore, it is not State within the meaning of Article 12 of the Constitution.

*9. Learned counsel appearing on behalf of the contesting respondents submitted that even if the Mill is not an authority within the meaning of Article 12 of the Constitution, writ application can be entertained as mandamus can be issued under Article 226 of the Constitution against any person or authority which would include any private person or body. Learned counsel appearing on behalf of the appellant, on the other hand, submitted that mandamus can be issued against private person or body only if infraction alleged is in performance of public duty. Reference in this connection may be made to the decisions of this Court in *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Samarak Trust and others v. V.R.Rudani and others* (1989) 2 SCC 691 in which this Court examined the various aspects and distinction between an authority and a person and after analysis of the decisions referred in that regard came to the conclusion that it is only in the circumstances when the authority or the person performs a public function or discharges a public duty that Article 226 of the Constitution can be invoked. In the cases of *K.Krishnamacharyulu and others v. Sri Venkateswara Hindu College of Engineering and another* (1997) 3 SCC 571 and *VST Industries Ltd. v.VST Industries Workers' Union and another*, (2001) 1 SCC 298, the same principle has been reiterated. Further, in the case of *VST Industries Ltd. (supra)*, it was observed that manufacture and sale of cigarettes by a private person will not involve any public function. This being the*



position in that case, this Court held that the High Court had no jurisdiction to entertain an application under Article 226 of the Constitution. In the present case, the Mill is engaged in the manufacture and sale of sugar which, on the same analogy, would not involve any public function. Thus, we have no difficulty in holding that jurisdiction of the High Court under Article 226 of the Constitution could not have been invoked.”

6. Learned counsel for the appellant has also not been able to dispute the said principle of law laid down in **General Manager, The Kisan Sahkari Chini Mills (supra)**.

7. Keeping in view the facts and circumstances of this case, the order passed by the learned Single Judge holding that the writ petitions qua the challenge to the promotion made by a Co-operative Society is not amenable to the writ jurisdiction, require no interference by this Court.

8. Accordingly, the present appeal is dismissed.

9. Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

17.03.2026

Priyanka Thakur

Whether speaking/reasoned: ~~Yes~~/No
Whether Reportable: ~~Yes~~/No