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

+ W.P.(C) 3031/2025, CM APPL. 14337/2025 & CM APPL. 13148/2026

N.S. GAKHAR

.....Petitioner

Through: Appearance not given.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms. Radhika Bishwajit Dubey, CGSC with Ms. Gurleen Kaur Waraich, Mr. Kritarth Upadhyay, Mr. Amulya Dev Mishra Advocates for UoI.

Ms. Divya Kapur, Sr. adv along with Mr. Nakul Gandhi, Mr. Gurdeep Singh, Ms Pratistha Dahiya Ms.Siddhi Sahoo, Mr. Raghav Kumar and Ms. Naibedya Amrit Dash, Advs. for R-2.

Mr. Vivek Gurnani, Panel Counsel for ED; Mr. Kanishk Maurya advs. for ED.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **12.03.2026**

1. The petition is for setting aside the office order dated 07.10.2024 issued on the letterhead of respondent no. 2-Central Secretariat Club (Club), whereby, the petitioner has been removed as a member of the Executive Committee of the Club.

2. The Club is a society registered under the Societies Registration Act,



1860. The Club appears to be self-funded and its Constitution nowhere suggests that it is funded by the Government.

3. When the question as to how the present dispute is amenable to the writ jurisdiction under Article 226, learned counsel for the petitioner submits that the Club had been accorded recognition by the Union of India and therefore, qualifies as 'State'. However, it appears that the said recognition no longer persists. Even otherwise, considering that the grievance sought to be redressed is with respect to the petitioner's membership in the Executive Committee of the Club, the dispute does not pertain to any 'public' duty or function.

4. Reference may be made to the decision of the Supreme Court, in **S. Shobha v. Muthoot Finance Ltd.**,¹ wherein it has been held that writ jurisdiction can be invoked only in cases involving public duties or functions. The relevant portion of the said judgment is extracted below, for reference:

"8. A body, public or private, should not be categorized as "amenable" or "not amenable" to writ jurisdiction. The most important and vital consideration should be the "function" test as regards the maintainability of a writ application. If a public duty or public function is involved, any body, public or private, concerned or connection with that duty or function, and limited to that, would be subject to judicial scrutiny under the extraordinary writ jurisdiction of Article 226 of the Constitution of India.

9. We may sum up thus:

(1) For issuing writ against a legal entity, it would have to be an instrumentality or agency of a State or should have been entrusted with such functions as are Governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence Governmental.

(2) A writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State Government; (ii) Authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a

¹ 2025 INSC 117



company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.

(3) Although a non-banking finance company like the Muthoot Finance Ltd. with which we are concerned is duty bound to follow and abide by the guidelines provided by the Reserve Bank of India for smooth conduct of its affairs in carrying on its business, yet those are of regulatory measures to keep a check and provide guideline and not a participatory dominance or control over the affairs of the company.

(4) A private company carrying on banking business as a Scheduled bank cannot be termed as a company carrying on any public function or public duty.

(5) Normally, mandamus is issued to a public body or authority to compel it to perform some public duty cast upon it by some statute or statutory rule. In exceptional cases a writ of mandamus or a writ in the nature of mandamus may issue to a private body, but only where a public duty is cast upon such private body by a statute or statutory rule and only to compel such body to perform its public duty.

(6) Merely because a statute or a rule having the force of a statute requires a company or some other body to do a particular thing, it does not possess the attribute of a statutory body.

(7) If a private body is discharging a public function and the denial of any rights is in connection with the public duty imposed on such body, the public law remedy can be enforced. The duty cast on the public body may be either statutory or otherwise and the source of such power is immaterial but, nevertheless, there must be the public law element in such action.

(8) According to Halsbury's Laws of England, 3rd Ed. Vol.30, p.682, "a public authority is a body not necessarily a county council, municipal corporation or other local authority which has public statutory duties to perform, and which perform the duties and carries out its transactions for the benefit of the public and not for private profit". There cannot be any general definition of public authority or public action. The facts of each case decide the point."

(Emphasis supplied)

5. Further, this Court in the case of **Sumir Dhir & Anr. v. Union of India & Ors.** in order dated 29.07.202 in W.P.(C) 4671/2024. has held that before entertaining a writ petition the action of the respondent-authority must be examined on the anvil as to whether the same is the domain of



public law as distinguished from private law.

6. In view of the aforesaid, the instant petition stands dismissed.
7. The petitioner, however, shall be at liberty to take appropriate recourse in accordance with law.
8. All rights and contentions are left open.

PURUSHAINdra KUMAR KAURAV, J

MARCH 12, 2026/P