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

\+ W.P.(C) 12801/2025, CM APPL. 52239/2025, CM APPL. 54538/2025, CM APPL. 54720/2025, CM APPL. 55005/2025, CM APPL. 5782/2026, CM APPL. 5783/2026, CM APPL. 5852/2026 & CM APPL. 5853/2026

JAGVIR SINGH .....Petitioner

Through: Mr.Vaibhav Trivedi, Adv.

versus

INCOME TAX EMPLOYEES FEDERATION & ORS. .....Respondents

Through: Ms. Neha Rastogi, Sr. Panel Counsel with Mr. Animesh Rastogi, Mr. Rajat Dubey, Mr. Shashank Pandey, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

<u>O R D E R</u>

% 29.01.2026

1. The petitioner is aggrieved by the order dated 22.07.2024 whereby, his primary membership in Income Tax Employees Federation Delhi Circle New Delhi ['**federation**'] has been suspended.

2. At the outset, respondents nos. 1 and 2, in their respective counter affidavits, have objected to the maintainability of this petition. It is highlighted that respondents nos. 1 and 2, against which the relief is sought, are not instrumentalities of the State under Article 12 of the Constitution of India. Further, it is pointed out that the petitioner has an alternate and efficacious remedy in the form of internal fora of the federation. Further, it is also pointed out that the federation is a society registered under the

Societies Registration Act, 1860. The rules governing the dispute in question, would be the bye-laws of the federation and the same would have to be adjudicated by way of its internal mechanism.

3. The impugned order dated 22.07.2024 indicates that a show cause notice was issued to the petitioner on 07.11.2023 regarding certain actions and conduct, allegedly, inconsistent with the rules and principles of the federation. The reply filed by the petitioner, has been found to be not satisfactory by the federation, and his primary membership has been suspended for a period of five years. The petitioner has also been directed to desist from posting any communication or message in any electronic or social media concerning the functioning of the federation.

4. In ***Himanshu Saini v. Income Tax Employees Federation and Ors***.[1], wherein relief was sought *qua* elections of this very federation, this Court has observed that it is a society registered under the Societies Registration Act, 1860 and does not discharge duties of public character.

5. The petitioner's case is that the federation is a stakeholder in the Union of India. He places reliance on letter dated 04.08.2021 issued by the Government of India, Ministry of Finance, seeking comments on amendments to recruitment rules for the posts in the Income Tax Department. Reliance is also placed on notice dated 23.10.2024 issued by the Principal Chief Commissioner of Income Tax, Delhi which is addressed to the federation, amongst other stakeholders.

6. There is no gainsaying that the federation is a stakeholder in the Income Tax Department, considering that it is a society which represents Income Tax employees. Therefore, it would be natural for the Department to

seek inputs from the federation in matters concerning the employees. However, the federation does not discharge public duties. Its duties and obligations are towards its members-the employees.

7. The Supreme Court, in ***S. Shobha v. Muthoot Finance Ltd.***[2] has 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 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*

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[1] W.P (C) 5386/2023

[2] 2025 INSC 117

duty.
<u>(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.</u>
(6) Merely because a statue 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)

8. Under these circumstances, the Court does not find it appropriate to entertain the instant petition and accordingly, the petition stands dismissed. Liberty is granted to the petitioner to take appropriate recourse in accordance with the extant rules.

9. Since the petitioner was suspended from the federation prior to its dissolution and respondent no. 2-*Ad hoc* Committee is in charge of the same at present, if the petitioner so desires, he may also file an application for revocation of the said suspension before respondent no. 2.

PURUSHAINDRA KUMAR KAURAV, J

JANUARY 29, 2026/P/AMG