

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 10690/2008

Atal Khandelwal S/o Shri R.C. Khandelwal, Plot No. 234,
Muktanand Nagar, Gopalpura Bypass, Tonk Road, Jaipur -302017
-----Petitioner

Versus

1.

Institute Of Health Management Research Through Its Secretary, 1, Prabhu Dayal Marg, Near Airport, Sanganer, Jaipur.
2.

Institute Of Health Management Research And Research Through Its Governing Board Member, Dr. Ashok Agarwal, 1, Prabhu Dayal Marg, Near Airport, Sanganer, Jaipur
3.

Shri S.D. Gupta Director, Institute Of Health Management Research, 1, Prabhu Dayal Marg, Near Airport, Sanganer, Jaipur.

-----Respondents

For Petitioner(s)

:

Mr. Ishaan Khandelwal, Adv.

For Respondent(s)

:

Mr. Rachit Sharma, Adv.

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Judgment

1. Date of conclusion of arguments

13/02/2026
2. Date on which the judgment was reserved

13/02/2026
3. Whether the full judgment or only the operative part is pronounced

Full Judgment
4. Date of pronouncement

17/02/2026

Reportable

1.

The petitioner has approached this Court, assailing the order dated 19.07.2008, whereby his services have been terminated and prayed for reinstatement of his services with all consequential benefits.

2. A preliminary objection has been raised as to the maintainability of the present writ petition. The said issue, being foundational, must be considered at the threshold.

3. Learned counsel for the petitioner submits that respondent No.1-Indian Institute of Health Management Research, is an institution working in the field of public health management and policy support and therefore, discharges public function. It is contended that once an institution is shown to be performing a public function, it would qualify as 'other authority' within the realm of Article 12 and would be amenable to writ jurisdiction.

4. It is further submitted that where such an institution, while discharging public functions, violates fundamental or other legal rights, a writ petition under Article 226 would be maintainable. The scope of writ jurisdiction under Article 226 is much wider than it is under Article 32, as the High Court is empowered to issue writs to 'any person or authority' and that too not only for the enforcement of fundamental rights but also for 'any other purpose'. In support of his argument, learned counsel has placed reliance on the following judgments passed by the Hon'ble Apex Court:-

A. Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust & Ors. v. V.R. Rudani & Ors., (1989) 2 SCC 691.

B. Janet Jeyapaul v. SRM University & Ors., (2015) 16 SCC 530.

C. Zee Telefilms Ltd. & Anr. v. Union of India & Ors., (2005) 4 SCC 649.

D. Federal Bank Ltd. v. Sagar Thomas & Ors., (2003) 10 SCC 733.

5. Per Contra, it is contended by learned counsel for the respondents that the present writ petition is not maintainable as the respondent No.1 is a society registered under the Societies Registration Act and is not a statutory body and that mere discharge of public functions would not render it 'State' within the meaning of Article 12. It is contended that the Hon'ble Apex Court in the case of **Thalappalam Service Coop. Bank Ltd. v. State of Kerala, (2013) 16 SCC 82**, held that a society registered under the Societies Act does not '*ipso facto*' fall within the ambit of Article 12 in the absence of statutory creation or effective governmental control. It is also urged that the petitioner is free to raise his grievance in an appropriate forum as provided by law. Therefore, the present writ petition is not maintainable and is liable for dismissal.

6. This Court has considered the rival submissions and perused the material available on record.

7. The Hon'ble Apex Court in the case **Army Welfare Education Society v. Sunil Kumar Sharma & Ors., 2024 INSC 501**, upon considering the similar facts, framed the following issues and observed as under:-

"6. The following two questions of law fall for our consideration:-

a. *Whether the appellant Army Welfare Education Society is a "State" within Article 12 of the Constitution of India so as to make a writ petition under Article 226 of the Constitution maintainable against it? In other words, whether a service dispute in the private realm involving a private educational institution and its employees can be adjudicated upon in a writ petition filed under Article 226 of the Constitution?*

b. Even if it is assumed that the appellant Army Welfare Education Society is a body performing public duty amenable to writ jurisdiction, whether all its decisions are subject to judicial review or only those decisions which have public law element therein can be judicially reviewed under the writ jurisdiction?

42. In view of the aforesaid, nothing more is required to be discussed in the present appeals. We are of the view that the High Court committed an egregious error in entertaining the writ petition filed by the respondents herein holding that the appellant society is a "State" within Article 12 of the Constitution. Undoubtedly, the school run by the Appellant Society imparts education. Imparting education involves public duty and therefore public law element could also be said to be involved. However, the relationship between the respondents herein and the appellant society is that of an employee and a private employer arising out of a private contract. If there is a breach of a covenant of a private contract, the same does not touch any public law element. The school cannot be said to be discharging any public duty in connection with the employment of the respondents."

8. Similarly, the Hon'ble Apex Court in the case of **St. Mary's Education Society & Anr. v. Rajendra Prasad Bhargava & Ors., (2023) 4 SCC 498**, held as under:-

"75.3. It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a constitutional court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution..."

(Emphasis Supplied)

9. Applying the aforesaid dictum to the facts of the present case, this Court finds that the petitioner has challenged the order of termination arising out of a service relationship between the petitioner and the respondent. The lis is essentially contractual and private in nature, without any demonstrable public law element. Therefore, in light of the aforementioned judgments passed by the Hon'ble Apex Court, the present writ petition is not maintainable.

10. Accordingly, the instant writ petition is dismissed in limine on the ground of maintainability.

11. All pending application(s), if any, also stand disposed of. There shall be no order as to cost.

(PRAVEER BHATNAGAR),J