**In the High Court at Calcutta**

**Civil Appellate Jurisdiction**

**Appellate Side**

**Present:**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya**

**And**

**The Hon'ble Mr. Justice Sandip Kumar De**

FMA No. 390 of 2025

With

CAN 1 of 2025

Association for Protection of Democratic Rights and another

Vs.

State of West Bengal and others

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| For the appellants.: | Mr. Kaushik Gupta, Sr. Adv.,<br>Ms. Jhuma Sen,Adv,<br>Ms. Asmita De, Adv. |
| For the State-respondents.: | Mr. Raj Mohan Chattoraj, Adv. |
| For the respondent nos. 3, 4 and 5.: | Mr. S. R. Saha, Adv,<br>Mr. Suman Kumar Mukherjee, Adv,<br>Miss. Rishita Saha,Adv,<br>Ms. Smriti Maulik,Adv,<br>Mr. Sagar Kanojiya, Adv. |
| Last heard on: | 23.09.2026 |
| Judgement on: | 06.10.2026 |

**Sandip Kumar De, J.:**

1. The instant intra-court appeal arises out of the judgment and order dated January 10,2025 passed by a learned single Judge of this court in WPA 587 of 2025 whereby the learned single Judge has been pleased to dismiss the writ petition as not maintainable against the Publishers and Booksellers Guild('the Guild' for short).The learned single Judge held, inter alia, that the Guild is a private body and is not performing a public duty or work by conducting the International Kolkata Book Fair('the Book Fair' for short).
2. Appellant No.1 is an organisation engaged in social activities and has been participating in the book fair for a long time. In the 48th edition of the book fair, the guild has refused to allot stall in favour of the appellant and such refusal gave rise to the writ petition wherein the order impugned in the instant appeal has been passed.
3. The question before us is whether the Guild is amenable to writ Jurisdiction under Article 226 of the Constitution of India insofar as conducting the book fair by the Guild is concerned as according to the appellants/writ petitioners, such conducting of book fair is a 'public function' and amenable to doctrine of 'public duty' following the consistent judicial pronouncements of the Top Court as well as the other High Courts settling the law.

4. The learned senior counsel for the appellants extensively argued the appeal. He submitted that the scope and ambit of Article 226 of the Constitution of India is wider than that of Article 32 of the Constitution of India and takes 'any person or authority' performing public function in its sweep. He referred to the decision of the Hon'ble Supreme Court in the case of ***Board of Control for Cricket in India Vs. Cricket Association of Bihar (2015)3 SCC 251*** and relied on paragraphs 22 to 35 of the report. He submitted that the Hon'ble Supreme Court authoritatively settled that an entity discharging a public function or exercising a *de facto* monopoly over an activity of widespread public consequence is amenable to writ jurisdiction even if it is not 'State'. The corporate form or private character of the entity is irrelevant; the nature of the function performed is the decisive factor.

5. The learned senior counsel for the appellants next relied on the decision of the Hon'ble Supreme Court in the case of ***Janet Jeyapaul Vs. SRM University (2015)16 SCC 530*** and relying on paragraphs 28 to 34 of the said report, he submitted that when a private body discharges functions akin to state or public functions like spreading education and dissemination of knowledge, it is amenable to writ jurisdiction.

6. He then referred to the judgments reported in the cases of ***KK Saxena Vs. International Commission on Irrigation and Drainage (2015)4 SCC***

***670*** and ***Binny Limited Vs. Sadasivan (2005)6 SCC 657*** (Paragraph 11) and submitted that judicial review under Article 226 of the Constitution of India is attracted whenever a private entity performs a function for collective public benefit or where its action possesses a substantial public law element.

7. The learned senior counsel for the appellants then cited the decision of the Hon'ble Supreme Court in the case of ***Mohini Jain vs. State of Karnataka (1992)3 SCC 666*** and relying on paragraph 17 of the said report the learned senior counsel for the appellants submitted that every citizen has a right to education under the Constitution. He further submitted that Right to Education is an integral facet of human dignity.

8. The learned senior counsel then relied on paragraphs 15 to 20 of the decision of ***Andi Mukti Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust Vs. V R Rudani (1989)2 SCC 691*** and submitted that Mandamus is a broad remedial weapon that can be issued to any person or authority performing a public duty irrespective of whether that duty is created by the statute or arises from common public obligations.

9. He then referred to a decision of this court in the case of ***Swarnendu Banerjee Vs. Union of India 2022 SCC OnLine Cal 3914*** and submitted that entities performing functions affecting broad public interest cannot act arbitrarily or discriminatorily and are bound by constitutional standards of

fairness. He then referred to the Constitution Bench decision of the Hon'ble Supreme Court in the case of ***Pradeep Kumar Biswas Vs. Indian Institute of Chemical Biology (2002)5 SCC 111*** and relying on paragraph 45 and 46 of the report, he submitted that 'State' under Article 12 of the constitution of India extends to bodies created to promote the people's educational and economic interests making clear that the finding of whether a body is State has a direct bearing on the amenability to writ jurisdiction under Article 226 of Constitution of India.

10. Referring to Clauses 3.2, 3.3 and 3.6 the Memorandum of Association of the Guild, the learned senior counsel for the appellants pointed out that the said clauses record the objects of the Guild which is a society registered under the West Bengal Societies Registration Act,1961 and include mutual benefits with other organisations concerned in creation, production and distribution of books; to encourage the spread of literacy and education in India and throughout the world and to conduct research and institute documentation centre for disseminating information pertinent to the book industry. He then referred to the Preface or introduction of the Directory of the Book Fair for 2023 and 2024 and pointed out that the same records that the objective of the book fair organised by the Guild is not merely to market books; it aims to provide an opportunity for the general public to browse

freely, enabling educational institutions and individuals to acquire the books they need. He submitted that the said introduction/preface relates to the library policy of the State.

11. He then submitted that the Guild gets state aid and support to a great extent in as much as the Guild conducts the book fair at a prime public land at Salt Lake and gets the aid of state infrastructure, police deployment, municipal services, transport facilities, fire safety etc. and direct association of State Information and cultural affairs department. In such a situation, Guild exercises a *de facto* monopoly and thus, comes under purview of Article 226 of the Constitution of India.

12. The learned senior counsel for the appellants submitted that imparting education and dissemination of knowledge is not confined to formal four-walled classroom instruction. He submitted that the Hon'ble Supreme Court has held that the right to education is implicit in the fundamental right to life under Article 21 and in this connection, he relied on the decisions of the Hon'ble Supreme Court in the case of ***Unni Krishnan JP Vs. State of AP (1993)1 SCC 645****(Paragraphs 166 and 168)* ***a***nd ***Modern School Vs. Union of India (2004)5 SCC 583****(Paragraph 15)*. He further submitted that the Hon'ble Supreme Court has held that education *per se*, is an activity which is public and charitable in nature and an essential state function which

citizens and voluntary bodies are permitted to perform. The book fair serves as the primary socio-economic vehicle for non-formal education, literacy proliferation and democratic enlightenment in the society at large and this fulfils the constitutional duty under Article 51A(h) of the Constitution of India.

13. The learned senior counsel for the appellants then submitted that the appellant No.1 is an unregistered association founded in 1972 dedicated to civil liberties, human rights research and educational publishing. As such, the appellant No.1 is not having municipal trade licences. He further submitted that during hearing, state has argued that Guild is a private non-profit society whereas the guild submitted that the book fair has an 'element of profit'. In this context, he placed reliance on paragraphs 74 to 75.2 of the case reported in ***St.Mary's Education Society Vs. Rajendra Prasad Bhargava (2023)4 SCC 498 and Binny Limited***[1] *(supra)* and argued that the presence of commercial revenue does not exempt a body from the ambit of writ jurisdiction where the activity is conducted for collective public benefit on state land. The guild cannot exploit state property('Boimela Prangan') and public patronage and claim complete immunity from public law fairness at the same time.

[1] ***Binny Limited Vs. Sadasivan, (2005) 6 SCC 657***

14. The learned senior counsel for the appellants then argued that the question of maintainability of the writ petition under Article 226 of the Constitution of India is a threshold jurisdictional question concerning whether the guild discharges a public function. Once the amenability of public function is established on the anvil of the law laid down in ***BCCI (Supra)*** [2] and ***Janet Jeyapaul (Supra)*** [3] , the question whether exclusion of the appellant in violation of Articles 14 and 19(1)(a) of the Constitution constitutes merits. The learned single judge erred by dismissing the writ petition *in limine* on the anvil of Article 12 of the Constitution without examining the public character of book fair.

15. The learned senior counsel for the appellants next submitted that in the case of ***Kalachuvadu Publishers Pvt. Ltd. Vs. The Director, Directorate of Public Libraries*** delivered in ***WP (MD) no. 6346 of 2024***, a learned Single Judge of Madras High Court entertained a writ petition under Article 226 of the Constitution of India against a private publishers' association organizing book fair. The said learned Single Judge of Madras High Court was pleased to hold that the organizers of large scale book fair are under a public duty to facilitate wide public access to literature and cannot distribute stalls

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[2] ***BCCI vs Cricket Assn of Bihar , (2015) 3 SCC 251***
[3] ***Janet Jeyapaul Vs. SRM University , (2015) 16 SCC 530***

arbitrarily or impose discriminatory fees. Therefore, such principles squarely apply to the book fair in Kolkata and as such, the appellants are entitled to reliefs claimed in the writ petition.

16. The learned senior counsel concluded his submission with a prayer for setting aside the impugned order passed by the learned Single Judge, recognition of the maintainability of the writ petition under Article 226 of the Constitution of India against Guild and appropriate directions for allotment of stalls in book fair in accordance with public law principles.

17. The learned counsel for the State commenced his submissions with the definition of the terms 'context', 'duty', 'nexus', 'obligation', and 'public duty' and submitted that those definitions would be relevant in deciding the issue involved in the present case. He relied on the Prem and Saharay's Judicial Dictionary of words and phrases (2nd Edition: Thomson Reuters: 2016) to demonstrate the definition of 'context'. It reads as follows:

> *"context-When we speak of the context it is not meant merely that different words or clauses in the same sentence must be compared with each other or successive sentences be read together. But in a wider sense, one section of a statute may stand, as context to another, whether it immediately precedes or follows it is more widely separated from it, provided it bears upon the same general subject matter.*".

He placed reliance on Oxford Dictionary of English (Oxford University Press) to demonstrate the definition of 'context', 'duty', 'nexus' and 'obligation' which read as under:

"*Context- the circumstances that from the setting for an event, statement, or idea, and in terms of which it can be fully understood: the proposals need to be considered in the context of new European directives. The parts of something written or spoken that immediately precede and follow a word or passage and clarify its meaning;*

*Duty-a moral or legal obligation; a responsibility: it's my duty to uphold the law done from a sense of moral obligation rather than for pleasure; a fifteen -minute duty visit. A task or action that one is required to perform as part of one's job;*

*Nexus- a connection or series of connections linking two or more things, a connected group or series: a nexus of ideas.*

*Obligation- an act or course of action to which a person is morally or legally bound; a duty or commitment: the condition of being morally or legally bound to do something:-*".

He then relied on Stroud's judicial dictionary of words and phrases(London Sweet and Maxwell Ltd.:1974) to demonstrate the definition of 'public duty' and 'obligation' which reads as follows:

"*public duty - a body which had a private gain for one of its substantial objects, though executing statutory powers;*

*Obligation- obligation is a work of his own nature of a large extent; but it is commonly taken in the common law, for a bond containing a penalty, with condition for payment of money or to do or suffer some act or things*".

He then relied on Wharton's Law Lexicon (Universal Law Publishers Co. Pvt. Ltd.) to demonstrate the definition of 'obligation' which reads as follows:

"*Obligation- an act which binds a person to some performance; also a bond containing a penalty, with a condition annexed for paying of money at a certain time, or for the performance of a covenant, etc*".

He then relied on Words and Phrases Legally Defined (London Butterworths:1969) to demonstrate the definition of 'obligation' which reads as follows:-

"*The ordinary form of bond now in use is one accompanied by a condition in the nature of a defeasance, the performance of the condition generally being secured by a penalty. This form of bond is called a double or conditional bond, and consists of two parts: first, the obligation, and secondly, the condition. The condition, which may be contained in the same or another instrument, or may be endorsed on the back, specifies the real agreement between the parties*."

18. The learned counsel for the State proceeded with his submission by pointing out that the appellant No.1 applied for a book stall at the 48$^{th}$ edition of the book fair organized by Guild and the Guild denied allotment of stalls which

gave rise to the writ petition before the learned Single Judge. The learned Single Judge was pleased to dismiss the writ petition principally on the principles enumerated in the judgement delivered in ***Ajay Hasia and vs. Khalid Mujib Sehravardi (1981)1 SCC 722*** holding that the Guild is a private body and is not performing any public duty or public work. Challenging the same, the present appeal has been filed by the appellants. The learned counsel for the State then argued that the appellants have failed to demonstrate any right or entitlement as to the reliefs prayed in the writ petition and thus, this Court cannot exercise jurisdiction of Article 226 of the Constitution of India without deciding the right or entitlement of the appellants. The appellants pleaded nothing as to the particular rights violated, if under the public laws, which would cast any public duty on Guild to be performed in relation to the appellants. He relied on a decision of the Hon'ble Supreme Court in the case of ***State of Orissa vs. Madan Gopal Rungta 1951 SCC 1024****(paragraph 5)* and submitted that the propositions have been laid down by the Hon'ble Supreme Court as to exercise of jurisdiction under Article 226 of the Constitution of India by the High Courts. He then relied on the decision of ***Ajay Hasia (supra)***[4] and emphasizing on paragraphs 9,11,12,13,15 and 16 of the report, he submitted

[4] ***Ajay Hasia vs. Khalid Mujip Sehravardi, (1981) 1 SCC 722***

that it is clear from the said decision that parameters have already been set to decide 'authorities' which would be considered as 'State' or not. The said paragraphs do not support the case of the appellants.

19. The learned counsel for the State then relied on paragraphs 11,12,15 and 20 of the judgement of the Hon'ble Supreme Court in the case of ***Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsavv Sma rak Trust and Ors. vs.V.R Rudani and ors reported*** in ***(1989)2 SCC 691*** and submitted that the duty must be judged in the light of positive obligation owed by the person or authority to the affected party. It must be public duty, an obligation, binding upon the respondent and also upon the party affected to abide by the results/effects of such obligation or public duty. He submitted that no such obligation arising from public duty exists as there is no public law involved with the activities of Guild in conducting the book fair. Participation and allotment of book stalls in book fair organized by a private society falls within the private law domain of contractual issues and cannot be expanded to or stretched that far to bring them under the sphere of public duty. He further submitted that the Guild acts voluntarily and the Guild is not obliged to perform any public duty. Participation in the earlier edition of the book fair guaranteed no privity of contract between the Guild and appellants.

20. Relying on paragraph 40 of ***Pradeep Kumar Biswas (supra)***[5] he submitted that the said decision deals with 'deep and pervasive control' of State in terms of administrative, financial and functional aspects of a party being private/ statutory or other bodies in order to bring them under the purview of 'State' as per Article 12 of the Constitution and such test does not apply in case of Guild at all. He then relied on a decision of the Hon'ble Supreme Court in the case of ***Federal Bank vs. Sagar Thomas (2003)10 SCC 733*** and relying on paragraphs 27,31,32 and 33 of the said report, he submitted that the appellant is not trying to enforce any statutory or public duty having public law element of the Guild in the field of education to which it may have a right. Thus, Guild cannot be held to be performing any public duty. He then relied on a decision of the Hon'ble Supreme Court in the case of ***Zee Telefilms vs. Union of India (2005)4 SCC 649*** and relying on paragraphs 171 and 172 of the said report he submitted that the guidelines have been laid down from which it clearly appear that Guild is falling outside the purview of public function and public duty. Learned counsel for the State also relied on the decision of ***Binny (supra)*** [6] and relying on paragraphs 10,14,19,30,31 and 32 of the said report, he submitted that there has to exist a public law element in order to enforce contracts otherwise,

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[5] ***Pradeep Kumar Biswas vs. IICB and Ors., (2002) 5 SCC 111***
[6] ***Binny Ltd vs. Sadasivam, (2005) 6SCC 657***

writ petitions under Article 226 of the Constitution of India cannot be used to enforce the same.

21. Learned counsel for the State then relied on a decision of the Hon'ble Supreme Court in the case of ***K.K Saxena vs. ICRD (2015)4 SCC 670*** and relied on paragraph 39 of the said report. He submitted that from the said decision it is clear that Guild falls outside the public function or public duty. The next judgement relied on by the learned counsel for the State is a judgement passed by the Hon'ble Supreme Court in the case of ***Ramakrishna Mission Vs. Kago Kunya (2019)16 SCC 303*** and relying on paragraphs 23 to 30 of the said report, the learned counsel for the State submitted that Guild only performs a voluntary duty. In the field of its voluntary functions, may be statutory in nature, in any manner but not any public law element as to education is there in its functions or duty. There is no clarification on the part of appellant with regard to any public duty to which the appellant is entitled from Guild for holding the book fair.

22. The learned counsel for the State also relied on the case of ***St. Mary's (supra)***[7] and submitted that the appellant did not clarify its *locus standi* as a recipient of any public duty from the Guild. The appellant also did not demonstrate that any obligation existed toward the appellant from the end

[7] ***St. Mary's Education Society Vs. Rajendra Prasad Bhargava, (2023) 4 SCC 498***

of Guild to allow participation in the book fair which was purely a matter of private contract bereft of any public law element.

23. The learned counsel for the State next relied on a decision of the Hon'ble Supreme Court in the case of ***Kishore Madhukar Pinglikar vs. ARAI (2023) 20 SCC 719*** and relying on paragraphs 4,19,20,22 and 23 of the report, he submitted that test of 'other authorities' under Article 12 of the Constitution based on ***Pradeep Kumar Biswas (supra)***[8] has been considered in the said report and on the basis of the same, the Guild is not falling within the purview of other authorities. He then relied on a decision of the Hon'ble Supreme Court in the case of ***S.Sobha vs. Muthoot Finance 2025 SCC OnLine SC 177*** and relying on paragraphs 7,8 and 9 of the said report, the learned counsel for the State submitted that no participatory effect of state is there even remotely in the actions or management of the Guild. Thus, Guild does not fall within the purview of public functions test. He then relied on another decision of the Hon'ble Supreme Court in the case of ***Ravi Khokar vs. Union of India (2026) SCC OnLine SC 372*** and relying on paragraph 17 of the said report, he submitted that for the purpose of classification as a public body, performance of core government functions, obligations towards a defined public class must exist. The appellants did not

[8] ***Pradeep Kumar Biswas Vs. IICB and Ors. , (2002) 5 SCC 111***

belong to a defined public class. The Guild performs no function or duty which is indispensable. The Guild is also not in any manner a government functionary.

24. The next decision relied by the learned counsel for the State is of the Hon'ble Supreme Court in the case of ***Ram Chandra Choudhury vs. RoopNagar Dugdh Utpadak Sahakari Samiti Limited and Ors., 2026 SCC OnLine SC 583*** and relying on paragraph 49 of the said report, the learned counsel for the State submitted that Guild being a private body is performing absolutely voluntary functions and inviting to participate in the book fair subject to fulfilment of conditions. Such fulfilment of conditions, which the appellants could not satisfy, was not even any contractual obligation, far less of any public duty or obligation, in the facts and circumstances of the case.

25. The learned counsel for the State next relied on a recent decision of the Hon'ble Supreme Court in the case of ***Siyaram Education Society vs. Chhaya (2026)INSC 871*** and relying on paragraphs 17,18,23 and 27 of the said report, he submitted that the said decision set a contour of the premise when a private body can be held to be performing a public duty and/or public function. It is apparent from the said paragraphs that a primary test of nexus and context is required and the Guild cannot be said to have any

primary nexus with imparting education as a public duty coming out of any public law element.

26. The learned counsel for the State submitted that the judgement in ***Unni Krishnan (supra)***[9] relied on by the appellant dealt with the capitation fees charged by the private institutions supplementing State functions in the field of education. The ratio of the said case is not applicable either on facts or law as the Guild is not supplementing in any State function as to imparting education. He further submitted that Guild does not come under any public law element in the field of education. The Guild voluntarily organizes book fair with primary objective to promote business interest of its members which may have an extended or cascading effect of supporting education of public in general for it may not seek obligation/right of public participation in the book fair to get educated by buying books or reading them. He then submitted that the judgement in the case of ***Pradeep Kumar Biswas (supra)***[10] relied by the appellant is also not applicable in the present case. He further submitted that the judgement relied on by the appellant in the ***BCCI (supra)***[11] is also not applicable in the present case. The Guild has no monopoly power as to publishing industry. No public law element of

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[9] ***Unni Krishnan Vs. State of AP (1993)1 SCC 645***
[10] ***Pradeep Kumar Biswas Vs. IICB and Ors., (2002) 5SCC 111.***
[11] ***BCCI vs Cricket Assn of Bihar, (2015) 3 SCC 251***

even regulatory nature as to publish including any vested power to perform any public duty or monopoly is there with the Guild. State has neither delegated nor allowed any pervasive power to the Guild in any field. Book fair is held by many other entities all over the State and throughout the country other than the Guild. No regulatory power of rule of the Guild is applicable in these cases. Guild is only a facilitator for its members and participants but has no binding public obligation in such conspectus of the matter.

27. He next submitted that the judgement relied on by the appellant in the case of ***Janet Jeyapaul (supra)***[12] is a case of remand to the Division Bench of the High Court and fact situation involved in the said case is not applicable in the case at hand. He then submitted that the judgement relied on by the appellant in ***Marwari Balika Vidyalaya (supra)***[13] is also not applicable in the instant case as the said decision deals with educational institutions following public law guidelines and statutes in education as well receiving aid from government with regard to dearness allowance. There is no such public law element in the functions of the Guild under any statute or otherwise even by implication, esp., in the field of education and no such duty has been delegated by the State either directly or indirectly upon Guild.

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[12] ***Janet Jeyapaul Vs. SRM University, (2015) 16 SCC 530***
[13] ***Marwari Balika Vidyalaya vs. Asha Srivastava, (2020) 14 SCC 449***

28. The learned counsel for the State next submitted that the judgment relied on by the appellant in the case of ***St. Mary's (supra)***[14] is not applicable in the present case. He submitted that the actions of the Guild towards the appellant have no nexus with any public duty whatsoever. The Guild has no obligation in education towards the appellant. Doctrine of Context and Nexus forms the basis of application of any legal proposition and in such conspectus, the Guild has no obligation to perform any public duty in education towards the appellant and the participation in the book fair held by a private party cannot be by far included in the realm of public duty. There is no monopoly of the Guild in the holding of book fair all over the State or country. He further submitted that if someone claims a right in connection with a public duty, there has to be a mandatory compliance of such public duty benefits by the recipients. There is no such element existing in the present case. There is no State policy or national education policy which the Guild is bound to follow and implement while conducting the book fair.

29. With regard to the decision relied on by the appellant in ***Kalachuvadu (supra)***[15] the learned counsel for the State submitted that facts of the said case are completely different from the case at hand. He

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[14] ***St. Mary's Education Society Vs. Rajendra Prasad Bhargava ,(2023) 4 SCC 498***
[15] ***Kalachuvadu Publications vs. Dir. Of Public Libraries, WP(MD) 6346 of 2024***

further submitted the said decision of ***Kalachuvadu (supra)*** [16] is *per incurium* in view of the decision Hon'ble Supreme Court relied in the case of ***Pradeep Kumar Biswas (supra)***[17] and ***Ramakrishna Mission (supra)***[18]. He further submitted that it is not known whether the body conducting Chennai Book Fair was under any statutory duty or function in respect of conducting the said book fair.

30. The learned counsel for the State concluded his submissions with a prayer to dismiss the appeal thereby holding that the Guild is not amenable to writ jurisdiction under Article 226 of the Constitution of India.

31. Learned counsel for the Guild placed a copy of Memorandum of Association, Rules and Regulations of the Guild and submitted that the Guild is a society which promotes professional standards amongst its members. The learned counsel for the Guild completely adopted the submissions advanced on behalf of the State. The learned counsel for the Guild further submitted that there is an element of profit in conducting the book fair by Guild. He further submitted that the Guild organizes the book fair and acts as a platform and/or bridge to bring the booksellers and the readers under one umbrella. In other words, the Guild acts as a facilitator for

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[16] ***Kalachuvadu Publications vs. Dir. Of Public Libraries , WP(MD) 6346 of 2024***
[17] ***Pradeep Kumar Biswas vs. IICB ,(2002) 5 SCC 111***
[18] ***Ramakrishna Mission vs. Kago Kunya, (2019) 16 SCC 303***

selling books published by various publishing houses who participate in the book fair after getting qualified as per norms set by the Guild as a private body. He further submitted that Guild is managed and controlled as per rules and memorandum or articles of association and there is no control of the Government over the same. The State has no control over the activities and functions of the Guild. There is no policy of the government applicable to the Guild. Thus, there is no control of state over the Guild and as such, Guild is not a 'State' with the purview of Article 12 of the Constitution of India. Since the conducting of book fair by the Guild is not a public function, the writ petition under Article 226 of the Constitution is not maintainable against the Guild. As such, the present appeal is liable to be dismissed.

32. In reply, the learned senior counsel for the appellants relied on the Memorandum of Association of the Guild and relying on Clause 3.3 of the same he submitted that the Guild is associated with the functions of spreading education. Clause 3.3 of memorandum of association of the Guild reads as follows:

"*to encourage the spread of literacy and education in India and throughout the world.*"

He then relied on the introduction and/or preface of the directory of book fair published by the Guild which reads as follows:

"*the objective of the book fair organized by the Book Sellers and Publishers Guild is not merely to market books, but aims to provide an opportunity for general public to browse fully enabling educational institutions and individuals to acquire books they need.*"

33. Relying on the memorandum of association and the introduction of text included in the directory published by the Guild, he submitted that the Guild is involved in imparting education by conducting book fair.

34. Learned senior counsel for the appellant then distinguishes the judgement relied on by the State in the case of ***Madan Gopal Rungta (supra)***[19] and submitted that book fair continues to perform substantive public function irrespective of its status as a facilitator or a platform. Thus, the present appellants seek substantive declaratory and mandatory relief again for the arbitrary denial of stall allotment under public law. With regard to the decision of the Hon'ble Supreme Court in the case of ***Ramakrishna Mission (supra)***[20] relied on by the State, the learned senior counsel for the appellant submitted that the case involved in Ramakrishna Mission matter concerns a purely private contract of personal service whereas the stall allotment in a book fair directly impacts public access to literacy, freedom of speech under

[19] ***Mandan Gopal Rungta and Ors. Vs. State of Orissa, 1951 SCC 1024***
[20] ***Ramakrishna Mission Vs. Kago Kunya, (2019) 16 SCC 303***

Article 19(1)(a) of the Constitution and equitable non-discretionary access to State subsidized fair ground. He further submits that in view of the discussion rendered in ***St. Mary's Education Society (supra)***[21] it can safely be concluded that the denial of right of the appellant to disseminate information through their publishers in the book fair stands contrary to the principles laid down in the said decision.

35. With regard to the decision of the Hon'ble Supreme Court in the case of ***Muthoot Finance (supra)***[22] relied by the State, the learned counsel for the appellant submitted that it has been decided in the said judgment that a commercial private non-banking financial company is immune from writ jurisdiction which is distinctly different from the field of disseminating education and State supported cultural, educational or public functioning on public law. With regard to the decision of the Hon'ble Supreme Court in the case of ***Ravi Khokar (supra)***[23] relied on by the State, the learned senior counsel for the appellant submitted that the said decision concerned internal service dispute, boundaries and specific statutory limits and as such the said judgement dilutes the settled principles laid in ***BCCI***

[21] ***St. Mary's Education Society vs. Ranjendra Prasad (2023) 4 SCC 498***
[22] ***S. Sobha vs. Muthoot Finance Ltd. (2025) SCC On Line 177***
[23] ***Ravi Khokar vs. Union of India , 2026 SCC On Line SC 372***

***(supra)***[24] and ***Janet Jeyapaul (supra)***[25]. With regard to the decision of the Hon'ble Supreme Court in the case of ***Ram Chandra Choudhury (supra)***[26] relied on by the learned counsel for the State, the learned senior counsel for the appellant submitted that in the field that the fact situation where local milk supplier cooperative society operating for private commercial interest of dairy farmers is fundamentally distinct from the case at hand. With regard to the decision of the Hon'ble Supreme Court in the case of ***Pradeep Kumar Biswas (supra)***[27] part whereof relied on by the learned counsel for the State, the learned senior counsel for the appellant submitted that following the said decision the Hon'ble Supreme Court subsequently in the case of ***BCCI (supra)***[28] held that while the entity may not be 'State' under Article 12 of the Constitution of India, it remains amenable to Article 226 of the Constitution of India when performing public function.

36. Heard the learned counsel for the respective parties and considered the materials on record.

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[24] ***BCCI vs. Cricket Assn of Bihar, (2015) 3 SCC 251***
[25] ***Janet Jeyapaul vs. SRM University, (2015) 6 SCC 530***
[26] ***Ram Chandra Choudhury and Ors. Vs. Roop Nagar Dugdh Utpadayak Sahakari Samiti ltd and Ors.,***
***2026 SCC On Line SC 583***
[27] ***Pradeep Kumar Biswas vs. IICB and ors., (2002) 5 SCC 111***
[28] ***BCCI vs. Cricket Assn of Bihar ,(2015) 3 SCC 251***

37. The factual aspect of the matter at hand is that the Guild is a society registered under the West Bengal Societies Registration Act,1961 and it works for the benefit of its members. Clause 3.3 of the Memorandum of Association of Guild spells out that one of the objects of the Guild is to encourage the spread of literacy and education in India and throughout the world. The Guild conducts and/or organizes the book fair and as has been submitted before this Court by the Guild, the Guild earns profit from the book fair. There are several book fairs organized throughout the State and country but all of them are not organized and/or conducted by the Guild. The Guild is not having any control over the conducting and/or organizing of the book fairs throughout the State as well as in the other parts of the country. The patronage from the State towards the Guild in organizing the book fair is a part of benevolence by the State. The allocation and/or allotment of stalls in the book fair is completely within the control of Guild and the terms and conditions for allotment of such stalls are within the exclusive domain of Guild as a private body of individuals.

38. The authoritative Lexicons and law Lexicons laid down the definition of "context" which means that the circumstances that form the setting of an event, statement or idea and in terms of which it can be fully understood, the parts of something written or spoken that immediately receive and follow the

word or passage and clarify its meaning. The word ‘duty’ means a moral or legal obligation; a responsibility; something done from a sense of moral obligation rather than for pleasure. The term ‘nexus’ means a connection or series of connections linking two or more things, a connected group or series. The word ‘obligation’ means an act or core of actions which a person is morally or legally bound; a duty or commitment, etc. In the conspectus of the definitions, the issues in questions are to be dealt with.

39. Therefore, we are to examine the issues at hand in the context of duty and obligation; nexus between the functions to be performed by the Guild and the duties and obligations connected to such functions.

40. The questions that come to fore for decision are as follows:

(i) Whether the functions performed by the Guild are ‘public functions’ while organizing and/or conducting the book fair?;

(ii) If such function is ‘public function’, whether the Guild is amenable to writ jurisdiction under Article 226 of the Constitution of India?; and

(iii) Whether the allotment of stalls by the Guild are amenable to judicial review under Article 226 of the Constitution of India?

41. The decision regarding question (i) begins with the discussions as follows. One of the rudimentary principles of jurisprudence is the right-duty relationship between the parties to maintain any action in the Courts of Law.

The party seeking relief has to assert violation of rights and the corresponding duty not being performed by the other party as the basis to maintain any action before the Court of Law. Therefore, the right-duty relationship is required to be taken as a yardstick to decide the issues at hand.

42. The right-duty relationship with regard to the 'Right to Education' has been brought in the Constitution of India by way of 86th Amendment of the Constitution. By way of the said Amendment, Article 21-A has been introduced which speaks about right to free education for children from 6-14 years. The corresponding duty towards the citizens have also been brought in by way of the same Amendment to the Constitution by introducing 51-A(k) as a fundamental duty towards the citizens of the country who are parents or guardians to provide opportunities for education to his child or ward between the age of 6 and 14 years.

43. Another right-duty relationship existed prior to 86th Amendment of the Constitution of India and it is related to right to impart education. The Right to impart education is also a part of Fundamental Rights guaranteed under Chapter III of the Constitution of India. Such imparting of education is found in series of decisions of the Hon'ble Supreme Court and various High Courts throughout the country, are found to be necessarily through

institutionalised form. While considering the various facets of the right to impart education upon establishing educational institution by individuals or body of individuals other than the Government and authorities under the Government, the Courts have consistently held that imparting education through such institutions are 'necessarily' and 'essentially' public functions. In such conspectus, the issues relating to establishment of the institutions, getting grants and/or aids from the Government in different forms, employment, different aspects of teaching-learning process, etc. and management and control of such institutions have been considered by the Hon'ble Supreme Court as well as various High Courts of the country. The entire realm of right relating to imparting education is governed by the fundamental rights as guaranteed under Part III of the Constitution of India. Resultantly, the right-duty relationship is well founded in the realm of imparting education through the institutions.

44. In the case at hand, the facts are completely different. The organizers of book fair, i.e., the Guild has neither established nor establishing any permanent institutions for imparting education. Following their objective of encouraging and spreading literacy and education as mentioned in their Memorandum of Association, the Guild conducts and/or has been organizing the book fair for years. The benevolent and the philanthropic act on the part

of Guild in organizing book fair cannot, by any stretch of imagination, be equated with the concept of right to impart education through institutions being the subject matter of the cited decisions by the parties before us. Therefore, the case of the appellants that imparting education and dissemination of knowledge is not confined to formal four-walled classroom instructions cannot be stretched to the extent that the same could be brought within the sweep of Right to Impart Education covered by Part III of the Constitution of India. Consequently, the functions of the Guild cannot be brought within the sweep of Article 51-A(h) of the Constitution as submitted by the appellants.

45. In ***Madan Gopal Rungta (supra)***[29]**,** the Hon'ble Supreme Court held that the existence of the rights is the foundation of the exercise of the jurisdiction of the Court under Article 226 of the Constitution of India. In ***Ajay Hasia (supra)***[30]**,** the Hon'ble Supreme Court held that if a society is an 'authority' and therefore, 'State' within the meaning of Article 12, it must follow that it is subject to the Constitutional obligation under Article 14 of the Constitution. In ***Andi Mukta Sadguru (supra)*** [31] **,** the Hon'ble Supreme Court held that the words 'any person or authority' used in

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[29] ***Madan Gopal Rungta vs. State of Orissa, 1951 SCC 1024***

[30] ***Ajay Hasia vs. K.M Sehrawardi , (1981) 1 SCC 722***

[31] ***Andi Mukta Trust vs. V.R Rudani, (1989) 2SCC 691***

Article 226 of the Constitution are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owned by the person or the authority to the affected party. No matter by what means the duty is imposed, if a positive obligation exists mandamus cannot be denied.

46. In ***Mohini Jain (supra)***[32]**,** the Hon'ble Supreme Court while considering the question of charging of capitation fees held that it is obligatory for the State to provide education for its citizens. In ***Unni Krishnan (supra)***[33]**,**the Hon'ble Supreme Court recorded that education is perhaps the most important function of State and local bodies. It is required in the performance of most basic responsibilities, even service in armed forces. It is the very foundation of good citizenship. Today, it is the principal instrument in awakening the child to cultural values in preparing him for later environment. In these days it is doubtful any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. In ***J Mohapatra (supra)*** [34] **,** the

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[32] ***Mohini Jain Vs. State of Karnataka , (1992) 3 SCC 666***
[33] ***Unni Krishnan vs. State of AP , (1993) 1 SCC 645***
[34] ***J. Mohapatra and Co. vs State of Orissa , (1984) 4 SCC 103***

Hon'ble Supreme Court has recorded that it is, therefore, essential for a country to have appropriate educational system. The general pattern of education in our country is, however, the traditional one of studying from prescribed textbooks, attending lectures based on such books and answering questions in examinations set from them. The study of textbooks is often supplemented by reading books which are kept in school and college libraries. These books may be on various subjects- literature, history, art, science, geography, and even works of fiction. General reading is as essential for a student as it is for any man, for it is reading which broadens the mind and widens the horizon.

47. In the Constitution Bench decision rendered in the case of ***Pradeep Kumar Biswas (supra)*** [35] **,** the Hon'ble Supreme Court decided the scope and ambit of 'State' within the meaning of Article 12 of the Constitution. The Hon'ble Supreme Court held that financial, functional and administrative control must be particular to the body in question must be pervasive. If it 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'. In ***Modern School (supra)*** [36] the Hon'ble Supreme Court while deciding question of hike in school fees in the

[35] ***Pradeep Kumar Biswas vs. IICB and Ors. (2002) 5 SCC 111***
[36] ***Modern School Vs. Union of India , (2004) 5 SCC 583***

various schools in Delhi, held that imparting education is a charitable activity.

48. In ***Zee Telefilms Ltd (supra)***[37]**,** the Hon'ble Supreme Court laid down tests for deciding whether a body is a public authority and has a public duty to perform. The Hon'ble Supreme Court found that the writ petition is not maintainable against the Board of Cricket Control of India (BCCI) under Article 32 of the Constitution as per the majority view. Subsequently, in ***BCCI (supra)***[38]**,** it was held that it is common ground that the respondent Board has a complete sway over the game of cricket in this country. It regulates and controls the game to the exclusion of all others. It formulates rules, regulations, norms and standards covering all aspects of the game. It enjoys the power of choosing the members of the national team and the umpires. It exercises the power of disqualifying players which may at times put an end to the sporting career of a person. It spends crores of rupees on building and maintaining infrastructure like stadia, running of cricket academies and supporting State associations. It frames pension schemes and incurs expenditure on coaches, trainers, etc. It sells broadcast and telecast rights and collects admission fee to venues where the matches are played. All these activities are undertaken with the tacit concurrence of the State

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[37] ***Zee Telefilms Ltd. Vs. Union of India , (2005) 4 SCC 649***
[38] ***BCCI vs. Cricket Assn of Bihar, (2015) 3 SCC 251***

Government and the Government of India who are not only fully aware but supportive of the activities of the Board. The State has not chosen to bring any law or taken any other step that would either deprive or dilute the Board's monopoly in the field of cricket. On the contrary, the Government of India has allowed the Board to select the national team which is then recognised by all concerned and applauded by the entire nation including at times by the highest of the dignitaries when they win tournaments and bring laurels home. Those distinguishing themselves in the international arena are conferred highest civilian awards like the Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri apart from sporting awards instituted by the Government. Such is the passion for this game in this country that cricketers are seen as icons by youngsters, middle aged and the old alike. Any organisation or entity that has such pervasive control over the game and its affairs and such powers as can make dreams end up in smoke or come true cannot be said to be undertaking any private activity. The functions of the Board are clearly public functions, which, till such time the State intervenes to takeover the same, remain in the nature of public functions, no matter discharged by a society registered under the Registration of Societies Act. Suffice it to say that if the Government not only allows an autonomous/private body to discharge.

functions which it could in law take over or regulate but even lends its assistance to such a non-government body to undertake such functions which by their very nature are public functions, it cannot be said that the functions are not public functions or that the entity discharging the same is not answerable on the standards generally applicable to judicial review of State action.

49. In ***Asha Srivastava (supra)***[39],a coordinate Division Bench of this Court considered the issue whether the Managing Committee of Marwari Balika Vidyalaya, an unaided educational institution would be amenable to writ jurisdiction under Article 226 of the Constitution of India. The Coordinate Division Bench held that the school is recognized under West Bengal Primary Education Act,1973. As such, the Managing Committee of the school was amenable to writ jurisdiction under Article 226 of the Constitution of India. Subsequently, the said judgement has been upheld by the Hon'ble Supreme court as reported in ***(2020) 14 SCC 449.***

50. In ***Binny Ltd.(supra)*** [40] the Hon'ble Supreme Court held that there must be a public law element on writ jurisdiction under Article 226 of the Constitution of India cannot be exercised to enforce purely private contracts entered into between the parties.

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[39] ***Marwari Balika Vidyalaya Vs, Asha Srivastava , (2020) 14 SCC 449***
[40] ***Binny Ltd. Vs. V. Sadasivam , (2005) 6 SCC 657***

51. In ***Swarnendu Banerjee (supra)***[41]**,** a learned Single Judge of this Court, following the ratio laid down in B***CCI (supra)***[42] held that the West Bengal Bridge Association is having its credit and sponsorship from the Sports Authority of India which further goes to show the financial connection between the association and the public bodies related to sports in the country. The learned single judge further held that the association is the sole repository of rights in connection with selection of players including for grant of permission to play in the national and international bridge tournaments. As such, the learned Single Judge held that the association is amenable to writ jurisdiction under Article 226 of the Constitution of India.

52. In ***St. Mary's Education Society (supra)***[43] the Hon'ble Supreme Court held that an application under Article 226 of the Constitution is maintainable against a person or body discharging public duty or public function. Public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. In ***Siyaram Education Society (supra)***[44] the Hon'ble Supreme Court held that a writ petition would be maintainable for its enforcement even against a private unaided

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[41] ***Swarnendu Banerjee vs. Union of India , 2022 SCC Online (Cal) 3914***
[42] ***BCCI vs. Cricket Assn of Bihar, (2015) 3 SCC 251***
[43] ***St. Mary's Education Society vs. Rajendra Prasad , (2023) 4 SCC 498***
[44] ***Siyaram Education Society vs. Chhaya , (2026) INHC 871***

educational institution as it has a rational nexus to the performance of that public duty. It was further held that form of the body concerned is not much relevant. What is relevant is the nature of the duty imposed on the body. In ***K.K Saxena (supra)*** [45] **,**the Hon'ble Supreme Court held that International Commission for Irrigation and Drainage is not discharging any pubic duty, even otherwise, it is clear that the impugned action does not involve public law element and no 'public law rights' if accrued in favour of the appellant which are infringed. It was further recorded that in the said decision that a service voluntarily undertaken cannot be said to be a public duty. In ***Janet Jeyapaul (supra)***[46] the Hon'ble Supreme Court held that the university is imparting higher education to students at large and as such, it is discharging 'public function' by way of imparting education. Furthermore, the university is notified as 'deemed university' by the Central Government and as such, the provisions of UGC Act are applicable to such university. Accordingly, the university cast within the purview of 'authority' within the meaning of Article 12 of the Constitution and as such, amenable to writ jurisdiction under Article 226 of the Constitution of India.

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[45] ***K.K Saxena vs. ICRD , (2015) 4 SCC670***
[46] ***Janet Jeyapaul vs. SRM University ,(2015) 16 SCC 530***

53. In ***Ramakrishna Mission (supra)***[47]**,** the Hon'ble Supreme Court held that a contract of personal service is not capable of being specified as specifically enforced or performed. It was further held that neither Ramkrishna Mission nor hospital would constitute as authority within meaning of Article 226 of the Constitution of India.

54. In ***Kishore Madhukar Pinglikar (supra)***[48]**,** the Hon'ble Supreme Court held that the facts are sufficient to evince that a formation of Automotive Research Association of India and functioning are under the control and management of the Government or that its object and purpose in the memorandum of association unable one to categorize its operation as a State function. As such, the writ petition against such organization was rightly not enforced. In ***Muthoot Finance (supra)***[49]**,** the Hon'ble Supreme Court held that 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 of the 'function test' as regards the maintainability of a writ petition. If a public duty or public function is involved, any body, public or private, concerned or in connection with the duty or function and limited to that be subjected to judicial scrutiny under the extraordinary writ jurisdiction

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[47] ***Ramakrishna Mission Vs. KagoKunya, (2019) 16 SCC 303***
[48] ***Kishore Madhukar Pinglikar vs. ARAI , (2023) 20 SCC 719***
[49] ***S. Sobha vs. Muthoot Finance Ltd, 2025 SCC Online 177***

of the Article 226 of the Constitution of India. It was however found that the finance company has no duty towards the public. Its functioning duty towards its accounts holders which may include borrowers availed of the loan facility. In ***Ravi Khokar (supra)***[50]***,*** the Hon'ble Supreme Court held that since the Air Force Group Insurance Society perform public duty, the same would be 'State' under Article 52 of the Constitution of India and amenable to writ jurisdiction.

55. In ***Ram Chandra Choudhary (supra)*** [51] ***,*** the Hon'ble Supreme Court held that the society being subject to statutory regulations, etc. of the registration or supervision by the State Cooperative Election Authority does not detract from their essential character as independent cooperative institution. Furthermore, the disputes essentially being related to internal governance and electoral framework of the cooperative society do not disclose any breach of statutory duty or a public duty of a public law character.

56. In ***Kalachuvadu (supra)***[52]***,*** the learned Single Judge of Madras High Court held that the Book Sellers and Publishers Association of South India discharges public function as such, cannot be arbitrary in fixation of tariffs.

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[50] ***Ravi Khokar and Ors vs. UOI an Ors., 2026 SCC Online SC 372***

[51] ***Ram Chandra Choudhury and Ors. Vs. Roop Nagar Dugdh Utpadayak Sahakari Samiti ltd and Ors., 2026 SCC Onlin SC 583***

[52] ***Kalachuvadu Publications vs. The Director , Public Library , WP(MD) no. 6346 of 2024***

57. In ***Federal Bank (supra)***[53]**,** the Hon'ble Supreme Court held that merely because RBI lays the banking policy in the interest of the banking system or in the interest of monetary stability or set out economic growth having due regard to the interest of the depositors, etc, as provided under Section 5(c)(a) of the Banking Regulation Act does not mean that the private company carrying on business or commercial activity of bank, discharge any public function or public duty.

58. Right to impart education has been enshrined as part of fundamental rights in the Constitution of India and has been reiterated by the Hon'ble Supreme Court in several decisions as discussed above. The test laid down in the decisions of Hon'ble Supreme Court as well as High Courts, it is clear that individual or a body of individuals, in order to be amenable under Article 226 of the Constitution of India in its writ jurisdiction, has to discharge public functions and must have an element of public duty. It is further found that the State has to delegate or divest its functions to such individual or body of individuals by way of statutory provisions or otherwise. The leading case of ***BCCI (supra)***[54] stands on the completely different footing as in the case of BCCI, BCCI is having a kind of monopoly in the game of cricket in the country and exercise supervision and

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[53] ***Federal Bank vs. Sagar Thomas , (2003) 10 SCC 733***
[54] ***BCCI vs. Cricket Assn of Bihar and Ors. (2015) 3SCC 251***

control of game of cricket throughout the country having control over the State association. The observation of the Hon'ble Supreme Court regarding the functions of BCCI makes it abundantly clear that the functions performed by the BCCI are completely different from that of the Guild. The Guild conducts and/or organizes book fair and there are other bodies or individuals who also conduct book fair in different part of States as well as in the country. Therefore, test laid down in BCCI does not apply in the present case.

59. Consequently, the decisions following BCCI with regard to amenability of writ jurisdiction in case or body of individuals performing public functions are not applicable to the present case.

60. In ***Kalachuvadu (supra)***[55] the learned Civil Judge of Madras High Court held that holding the book fair is a public function. However, the said learned Single Judge did not notice the series of judicial pronouncements in this connection. As such, the said judgment is not a good law and cannot be binding or persuasive for us.

61. The series of decisions laid down by the1Hon'ble Supreme Court from ***Andi Mukta (supra)***[56] to ***Siyaram Educ***

[55] ***Kalachuvadu Publication vs. The Director , Public Library , WP(MD) no. 6346 of 2024***
[56] ***Andi Mukta Trust vs. V.R Rudani, (1989) 2SCC 691***

***-ation Society (supra)***[57]**,** reveal that the imparting education is a public function as being part of fundamental rights and as a corollary to the same, the element of duty and/or public duty is attracted and in such conspectus, those cases were decided by the Hon'ble Supreme Court. Conducting and/or organizing a book fair is not related to imparting education. The concept of encouraging the spread of literacy and education throughout the country and the world makes is clear that such a declaration is benevolent and philanthropic in nature and cannot be equated with the concept of 'public function' intrinsically related to imparting of education through institutions and correlated fundamental rights enshrined in the Constitution of India. The core concept of right-duty relationship cannot be found out from the benevolent and philanthropic declaration in the memorandum of association of the Guild. In this context, it is pertinent to refer to the observation of the Hon'ble Supreme Court in ***Unni Krishnan (supra)*** [58] which is a salutary observation in the judgement and the same is not even *obiter dictum*. The concept of education, in our view, cannot be stretched that far, which would include conducting and/or organizing the book fair as imparting education. A book fair is a platform where large number of books

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[57] ***Siyaram Education Society vs. Chhaya, 2026 INHC 871***

[58] ***Unni Krishnan vs. State of AP, (1993) 1 SCC 645***

from multiple disciplines are exhibited and the books are sold on commercial basis. Such an activity cannot be *per se*, included in the concept of imparting education as sought to be canvassed by the appellants.

62. The State may patronize the event of book fair being a renowned cultural activity and adding to the repute of the city, but the same cannot be equated with the divesting and /or parting with its essential functions in favour of the Guild. There is no statutory force that creates an obligation upon the Guild to conduct the book fair. Moreover, the State has no control in any manner whatsoever over and above the events of book fair. The guild has no public duty or obligation towards the appellant as the functions performed by the Guild have no nexus with 'public functions' in the context of enforcement of rights.

63. The Guild, therefore, while conducting and /or organizing, the book fair, does not owe any 'public duty' to anyone. The organizing and/or conducting of book fair by the Guild is, therefore, not a 'public function'.

64. In the circumstances, the Question(i) is held against the appellant as the Guild does not perform any 'public function' while conducting and/or organizing the book fair.

65. So far as Question(ii) is concerned, as we have already held that the Guild does not perform any 'public duty' while conducting and/or organizing the

book fair, the said activity is absolutely private in nature. The line of decisions of the Hon'ble Supreme Court placed before us, right from ***Pradeep Kumar Biswas (supra)*** [59] till ***Ram Chandra Choudhury (supra)*** [60]**,** clearly declare that in order to be amenable to writ jurisdiction under Article 226 of the Constitution of India, the individual or the body of individuals must perform 'public functions' and /or such functions as to be under statutory control of the State. Since in the present case, aforesaid factors are conspicuously absent as a private activity of the Guild in holding the book without having any statutory control or otherwise from the State cannot be held to be a public function, we hold that the writ petition under Article 226 of the Constitution of India against the Guild is not maintainable.

66. So far as Question(iii) is concerned, such issue becomes otiose to the context at present as in the 48th edition of book fair, the appellants did not get the stall and the book fair already took place. It would be preemptive on our part to express any opinion with regard to such question as at present, the same is non-existent. Moreover, the conducting and/or organizing the book fair being private activity as already held by us, the allocation of stall falls

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[59] ***Pradeep Kumar Biswas Vs. IICB , (2002) 5 SCC 111***

[60] ***Ram Chandra Choudhury and Ors. Vs. Roop Nagar Dugdh Utpadayak Sahakari Samiti ltd and Ors., 2026 SCC Online SC 583***

within the domain of the Guild and being a private body, the same cannot be looked into in writ jurisdiction.

67. In the conspectus of the narrations made above, the appeal stands dismissed.

68. The judgement and order impugned passed by the Learned Single Judge is upheld and confirmed.

69. Consequentially, CAN 1 of 2025 is disposed of.

70. There shall be no order as to costs.

71. Urgent certified copies of this judgement, if applied for, be supplied to the parties upon compliance of all formalities.

**I agree.** **(Sandip Kumar De, J).**

**(Sabyasachi Bhattacharyya, J).**