



2026:CGHC:81

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved on : 27.10.2025 & 31.10.2025

Delivered on : 02.01.2026

WPS No. 11842 of 2025

**1 - Dr. Madhurima Pandey W/o Shri Piyushkant Pandey Aged About 60 Years
R/o Quarter No. 4-B, Street No. 20, Sector 8, Bhilainagar, District Durg (C.G.)**

... Petitioner(s)

versus

**1 - State Of Chhattisgarh Through The Secretary, Technical Education
Department, Atal Nagar, Nawa Raipur, District Raipur (C.G.)**

**2 - Chhattisgarh Swami Vivekanand Technical University Through The
Registrar P.O. Newai, District- Durg (C.G.)**

**3 - Bhilai Institute Of Technology Through The Registrar Bhilai House,
District- Durg (C.G.)**

**4 - Incharge Principal Bhilai Institute Of Technology Bhilai House, District
Durg (C.G.)**

... Respondent(s)

WPS No. 11867 of 2025

**1 - Dr. Banita Sinha W/o Shri Rajkumar Sinha Aged About 57 Years R/o
Street 1, Ashish Nagar East Risali, Civil Centre Bhilai, Bhilai, District Durg
Chhattisgarh**

... Petitioner(s)

versus

**1 - Kalyan Post Graduate College, Bhilai Nagar, Through Its Chairman, Bhilai
Nagar, District Durg Chhattisgarh**

**2 - Hemchand Yadav University Through Its Registrar, Durg, District Durg
Chhattisgarh**

**3 - Dr. Ishwar Singh Bargah Assistant Professor Working At Kalyan Post
Graduate College, Bhilai Nagar, District Durg Chhattisgarh**

... Respondent(s)

and

WPS No. 6150 of 2014

**1 - M.P. Yadav S/o Lt. Shri K.R. Yadav Aged About 64 Years Former Principal
R/o 62/10, Motilal Nehru Nagar East Bhilai, Distt. Durg. C.G. , Chhattisgarh**

... **Petitioner(s)**

versus

- 1** - Bhilai Steel Plant Through Chief Executive Officer Ispat Bhawan Bhilai Steel Plant Bhilai Distt. Durg C.G., Chhattisgarh 490001
- 2** - Steel Education Society Through Secretary Steel Education Society Ispat Bhawan Bhilai Steel Plant Bhilai Distt. Durg C.G. 490001
- 3** - Pro - Vice Chairman Smc Delhi Public School Bhilai And Executive Director Works Sanyantra Bhawan Bhilai Steel Plant Bhilai Distt. Durg. C.G. 490001
- 4** - Chairman SMC DPS Bhilai The Delhi Public School Society F - Block East Of Kailash New Delhi 110065.
- 5** - Chairman The Delhi Public School Society F - Block East Of Kailash New Delhi- 110065
- 6** - Principal Delhi Public School Risali Sector Bhilai Distt. Durg. C.G. 4900006

--- **Respondents**

For petitioner in WPS No. : Mr. Prateek Sharma, Advocate.
11842/2025

For petitioner in WPS No. : Mr. Ghanshyam Kashyap, Advocate.
11867/2025

For petitioner in WPS No. : Mr. Kishore Bhaduri, Sr. Advocate along
6150/2014 with Mr. Harsh Dave, Advocate.

For State : Mr. Santosh Bharat, Panel Lawyer.

For Resp. No. 3 to 6 in : Mr. Dr. Sourabh Kumar Pande, Advocate.
WPS No. 6150/2014

Hon'ble Shri Narendra Kumar Vyas, J.

CAV ORDER

1. Since an identical issue regarding maintainability of the writ petition against private educational institution is involved in all the writ petitions, therefore, they are being disposed of by this common order.
2. From perusal of the records of the case, it is quite vivid that the petitioners are either teachers of the private or aided educational institutions, therefore, the point emerged for determination is:-

“Whether the writ petition against private/ aided institution is maintainable or not?”

3. To ascertain, the Point for determination, this Court has taken note of the brief facts of each of the case.
4. **WPS No. 11842/2025** has been filed by the petitioner assailing the order dated 29.09.2025 passed by the Principal Incharge of Bhilai Institute of Technology, Durg by which services of the petitioner have been terminated with immediate effect on the following facts:-
 - (A) The petitioner was appointed on 09.02.1994 on the post of Assistant Professor in respondent/Bhilai Institute of Technology, Durg and was promoted on the post of Associate Professor vide order dated 15.02.2003 and on the post of Professor vide order dated 24.06.2008. It is the case of the petitioner that as per clause 3 of the promotion order dated 24.06.2008, the services of the petitioner can be terminated by respondent No. 3 by paying three months salary in lieu of notice and clause 4 prescribes that the teaching staff of the respondent No. 3 shall be governed by the general terms and conditions of service as per college code applicable under C.G. Vishva Vidyalaya Adhinyam and such other conditions laid down by the Institution/affiliating University/AICTE from time to time but ignoring these provisions of the University, college code and the rules framed by AICTE, respondent No. 3 issued termination order dated 29.09.2025 with immediate effect.
5. **WPS No. 11867 of 2025** has been filed by the petitioner assailing the order dated 24.09.2025 issued by the Principal, Kalyan Post Graduate College, Bhilai Nagar, District- Durg by which charge of departmental work has been given to respondent No. 3 who is junior according to the petitioner on the following facts:-

(A) The petitioner vide order dated 08.09.2004 was appointed on the post of Assistant Professor and joined on 13.09.2004 on the said post in Kalyan Post Graduate College, Bhilai Nagar, District Durg which is a government-aided institution affiliated to Hemchand Yadav University, Durg. Respondent No. 3 was also appointed on the same date and joined on 13.09.2004 and he was subsequently transferred in 2004 to another institution as Principal, where his salary and allowances were paid by the said management. The case of the petitioner is that on superannuation of one Dr. (Smt.) Pushpalata Sharma on 31.08.2023, the Principal, the charge of Head of Department (Faculty of Education) was given to the petitioner and vide impugned order dated 24.09.2025, the respondent Principal withdrew the departmental charge from the petitioner and handed over it to respondent No. 3, who is junior to the petitioner.

6. **WPS No. 6150 of 2014** has been filed by the petitioner assailing the order dated 10.03.2014 by which petitioner's salary was re-fixed by the Steel Education Society directing the School Management Committee, Delhi Public School to pay the dues of the petitioner on the following facts :-

(A) The petitioner was appointed on the post of Principal, Delhi Public School, Bhilai on 04.03.1996 and served continuously from 15.05.1996 to 18.04.2013. The School Managing Committee approved extension of service up to 31.03.2015 vide order dated 28.03.2013, but due to internal management disputes, the extension was neither communicated nor implemented and the petitioner was abruptly retired on 18.04.2013 but the petitioner's retiral dues for Rs. 30,76,690/- have

not been released and only partial payments (gratuity Rs. 10,00,000/- and Rs. 11,39,130/-) were made. It is also case of the petitioner that after retirement, the respondents issued the impugned order dated 10.03.2014, retrospectively revising the petitioner's salary, excluding approved increments, MACPS and stagnation benefits and thereby reducing retiral dues which have been challenged in this writ petition.

7. Learned counsel for the petitioner in **WPS No. 11842/2025** Mr. Prateek Sharma would submit that the petition is maintainable as Bhilai Institute of technology Durg is an institution duly affiliated with respondent Chhattisgarh Swami Vivekanand Technical University, therefore, all the rules, regularisation, ordinance, statute and laws of respondent University are binding upon its affiliated colleges/Institutions, including respondent BIT Durg. He would further submit that as per applicable service Rules of respondent No. 3 age of superannuation of Professor is 62 years and the service Rules of respondent No. 3 clearly prescribes that respondent No. 3 is governed by the rules and regulations of the affiliating University. Service conditions as enumerated in Ordinance No. 19 (College Code) of CSVTU, Bhilai and C.G.Vishva Vidyalaya Adhiniyam 1973 are applicable to the employees of BIT Durg, as such the writ petition is very much maintainable. He would further submit that one of the professors has filed the petition bearing WPS No. 5149 of 2022 wherein the Institute has settled their dispute and the writ petition has been taken cognizance by this Court, and the Institute without complying with the Statute No. 19 of the respondent University has issued termination order, therefore, the writ petition is very much maintainable. To substantiate his submission, he would refer to the judgment rendered by Hon'ble the Supreme Court in

case of **Marwari Balika Vidyalaya Vs. Asha Shrivastava & others [(2020) 14 SCC 449]** & **Gajanand Sharma Vs. Adarsh Siksha Parisad Samiti & others [(2023) 18 SCC 581]**.

8. Learned counsel for the petitioner in **WPS No. 11867/2025** Mr. Ghanshyam Kashyap would adopt the submissions made by the learned counsel for the petitioner in WPS No. 11842/2025 and in addition to it he would submit that since without opportunity of hearing, the impugned order has been passed, as such the writ petition is very much maintainable before this Court.
9. Learned senior counsel for the petitioner in **WPS No. 6140/2014** Mr. Kishore Bhaduri assisted by Mr. Harsh Dave, Advocate would submit that Delhi Public School, Bhilai is amenable to writ jurisdiction as they are financially, functionally and administratively controlled by Bhilai Steel Plant. He would further submit that the salary and retiral benefits cannot be revised to the detriment of an employee after retirement, especially when pay fixation was duly approved and audited. He would further submit that the impugned order dated 10.03.2014 was passed without affording opportunity of hearing, as such there is flagrant violation of principle of natural justice and the impugned order withholding of retiral dues is unconstitutional as there is no statutory authority permitting such withholding, therefore, the writ petition is maintainable and would pray for setting aside the impugned order. To substantiate his submission, he would refer to the judgment rendered by Hon'ble the Supreme Court in case of **Pradeep Kuamr Biswas Vs. Indian Institute of Chemical Biology [(2002) 5 SCC 111]**, **Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti**

Mahotsav Smarak Trust Vs. V.R. Rudani [(1989) 2 SCC 691], Zee Telefilms Limited Vs. Union of India [(2005) 4 SCC 649], D.A.V. College Trust & Management Society Vs. Director of Public Instructions [(2019) 9 SCC 185], M/s Utkal Highways Engineers & Contractors Vs. Chief General Manager & others [SLP (C) Nos. 14350/2022 & 15596/2022], D.K. Pandey & others Vs. Union of India [(2025) SCC OnLine SC 1192], Army Welfare Education Society Vs. Sunil Kumar Sharma [2024 SCC OnLine SC 1683].

10. On the other hand, learned counsel for the respondent/ Mr. Sourabh Pande in WPS No. 6150/2014 opposing the submission made by learned counsel for the petitioner would submit that this petition is not maintainable against them as they are purely private institutions neither established under any statute nor owned, controlled, or substantially financed by the Government, therefore, does not fall within the definition of "State" or "other authority" under Article 12 of the Constitution of India. He would further submit that respondent No. 3 & 4 are office bearers of school management committee which is being run, managed and controlled by a society registered under the Chhattisgarh Societies Registration Act, 1973 in the name and style of Steel Education Society and a registration certificate is also filed by the respondents. It has also been contended that the Society is financial independent and no external grant or aid is received from any authority for running the school. He would further submit that the respondent is not discharging any public or statutory function, and no material has been placed on record by the petitioners to demonstrate that the respondents are amenable to writ jurisdiction under Article 226 of the Constitution of India. He would further submit that the dispute raised by

the petitioners is essentially private and contractual in nature, for which an alternative and efficacious remedy is available under the appropriate forum. Hence, the extraordinary writ jurisdiction of this Court cannot be invoked and the writ petitions deserve to be dismissed at the threshold as not maintainable.

11. I have heard learned counsel for the parties and perused the documents placed on record with utmost satisfaction.

Finding & discussion in WPS No. 6150/2014

12. The submission made by learned senior counsel for the petitioner that respondents No. 2 & 3 are giving grant-in-aid to the institution to run their school, as such the petitioner is an employee of Bhilai Steel Plant being subsidiary company of Steel Authority of India, is State within the Article 12 of the Constitution of India, as such, the writ petition is maintainable, is being considered by this Court.
13. From the record annexed with the writ petition, it is quite vivid that no material was placed on record that the Bhilai Steel Plant is giving grant-in-aid to the school namely Delhi Public School, Bhilai whereas from the documents filed by the petitioner itself, it is quite vivid that the appointing authority of the petitioner is Delhi Public School and the petitioner has annexed the Education Joint Venture with the Steel Education Society Bhilai which is registered under the Societies Registration Act, 1973 dated 17.05.2007. Clause 6 (b) & (c) of the Education Joint Venture provides that the Principal and teacher of the said school will be selected by selection committee duly constituted by the Delhi Public School Society as per CBSE norms to which atleast one representative of Steel Education Society (in short "SES") will be

invited. Clause 7 of the Education Joint Venture provides that the SES will provide land and building for school, class room, suitable accommodation and furniture, science demonstration laboratory, suitable facilities and equipment for development of school and games and other co-curricular activities. Clause 7(k) of the Education Joint Venture provides that in case of net deficit i.e. the balance of revenue budgeted expenditure, less collection of fee, if any, the school budget will be made by SES.

14. From perusal of clause of the Education Joint Venture, it is quite vivid that the entire management of the school, financial, functional and administrative control lies with the Delhi Public School and even the Steel Education Society which is a society registered under the Societies Registration Act, 1973, has no pivotal role to play, as such it cannot be presumed that the Bhilai Steel Plant has any vital role to play and it cannot be held that the petitioner is employed by the Bhilai Steel Plant Bhilai, as such service dispute between the Delhi Public School, Steel Education Society and the petitioner is not amenable under Article 226 of the Constitution of India before this Court.
15. This issue has come up for consideration before Hon'ble the Supreme Court in case of **National Aluminium Company Limited & others Vs. Ananta Kishore Rout & others [(2014) 6 SCC 756]** wherein it has been held in paragraphs 22, 23, 27 & 30 as under:-

“22. In order to determine the existence of employer - employee relationship, the correct approach would be to consider as to whether there is complete control and supervision of the NALCO. It was so held by this Court in Chemical Works Limited (supra) way back in the year 1957. The court emphasised that the relationship of master and servant is a question of fact and that depends upon the existence of power in the employer, not only

to direct what work the servant is to do but also the manner in which the work is to be done. This was so explained by formulating the following principle:-

“14. The principle which emerges from these authorities is that the prima facie test for the determination of the relationship between master and servant is the existence of the right in the master to supervise and control the work done by the servant not only in the matter of directing what work the servant is to do but also the manner in which he shall do his work, or to borrow the words of Lord Uthwatt at Page 23 in *Mersey Docks and Harbour Board v. Coggins & Griffith (Liverpool) Ltd., and Another*, “The proper test is whether or not the hirer had authority to control the manner of execution of the act in question.”

23. It has been established from the documents on record that both the schools have their own independent Managing Committees. These Managing Committees are registered under the Societies Registration Act. It is these Managing Committees who not only recruit teaching and other staff and appoint them, but all other decisions in respect of their service conditions are also taken by the Managing Committees. These range from pay fixation, seniority, grant of leave, promotion, disciplinary action, retirement, termination etc. In fact, even Service Rules, 1995 have been framed which contain the provisions; delineating all necessary service conditions. Various documents are produced to show that appointment letters are issued by the Managing Committees, disciplinary action is taken by the Managing Committees, pay fixation and promotion orders are passed by the Managing Committees and even orders of superannuation and termination of the staff are issued by the Managing Committees. It, thus, becomes clear that day to day control over the staff is that of the Managing Committees. These Managing Committees are having statutory status as they are registered under the Societies Registration Act. Therefore, Mr. Venugopal is not right in his submission that Managing Committees do not have their own independent legal entities.

27. In *Workmen of Nilgiri Cooperative Marketing Societies Ltd.* (Supra) the entire law was re-visited. The Court emphasised that no hard and fast rule can be laid down nor it is possible to do so. Likewise no single test – be it control test, be it organisational or any other test – has been held to be the determinative factor for determining the jural relationship of employer and employee. The Court enumerated the relevant factors, which are to be examined in such cases, in Paras 37 and 38 which reads as under:-

“37. The control test and the organisation test, therefore, are not the only factors which can be said to be decisive. With a view to

elicit the answer, the court is required to consider several factors which would have a bearing on the result: (a) who is the appointing authority; (b) who is the paymaster; (c) who can dismiss (d) how long alternative service lasts; (e) the extent of control and supervision; (f) the nature of the job e.g. whether it is professional or skilled work; (g) nature of establishment; (h) the right to reject.

38. With a view to find out reasonable solution in a problematic case of this nature, what is needed is an integrated approach meaning thereby integration of the relevant tests wherefor it may be necessary to examine as to whether the workman concerned was fully integrated into the employer's concern meaning thereby independent of the concern although attached therewith to some extent.”

In the facts of that case, where the court found that the portress and gridders who were claiming themselves to be the employees of Nilgiri Cooperative Marketing Society, were not its employees as the said society was neither maintaining any attendance register or wage register or fixing working hours or had issued appointment letters to them.”

30. No doubt, there may be some element of control of NALCO because of the reason that its officials are nominated to the Managing Committees of the schools. Such provisions are made to ensure that schools runs smoothly and properly by the society. It also becomes necessary to ensure that the money is appropriately spent. However, this kind of 'remote control' would not make NALCO as the employer of these workers. This only shows that since NALCO is shouldering and meeting the financial deficits, it wants to ensure that money is spent for rightful purposes. ”

16. The seven judges Constitutional Bench of Hon'ble the Supreme Court in case of **Pradeep Kuamr Biswas** (supra) has also considered the issue and has held in paragraphs 98 & 99 as under:-

“98. We sum up our conclusions as under:-

(1) Simply by holding a legal entity to be an instrumentality or agency of the State it does not necessarily become an authority within the meaning of 'other authorities' in Article 12. To be an authority, the entity should have been created by a statute or under a statute and functioning with liability and obligations to public. Further, the statute creating the entity should have vested that entity with power to make law or issue binding directions amounting to law within the meaning of Article 13(2) governing its

relationship with other people or the affairs of other people — their rights, duties, liabilities or other legal relations. If created under a statute, then there must exist some other statute conferring on the entity such powers. In either case, it 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. Such authority would be the State, for, one who enjoys the powers or privileges of the State must also be subjected to limitations and obligations of the State. It is this strong statutory flavour and clear indicia of power — constitutional or statutory, and its potential or capability to act to the detriment of fundamental rights of the people, which makes it an authority; though in a given case, depending on the facts and circumstances, an authority may also be found to be an instrumentality or agency of the State and to that extent they may overlap. Tests 1, 2 and 4 in *Ajay Hasia* enable determination of Governmental ownership or control. Tests 3, 5 and 6 are 'functional' tests. The propounder of the tests himself has used the words suggesting relevancy of those tests for finding out if an entity was instrumentality or agency of the State. Unfortunately thereafter the tests were considered relevant for testing if an authority is the State and this fallacy has occurred because of difference between 'instrumentality and agency' of the State and an 'authority' having been lost sight of sub-silentio, unconsciously and un-deliberated. In our opinion, and keeping in view the meaning which 'authority' carries, the question whether an entity is an 'authority' cannot be answered by applying *Ajay Hasia* tests.

(2) The tests laid down in *Ajay Hasia's* case are relevant for the purpose of determining whether an entity is an instrumentality or agency of the State. Neither all the tests are required to be answered in positive nor a positive answer to one or two tests would suffice. It will depend upon a combination of one or more of the relevant factors depending upon the essentiality and overwhelming nature of such factors in identifying the real source of governing power, if need be by removing the mask or piercing the veil disguising the entity concerned. When an entity has an independent legal existence, before it is held to be the State, the person alleging it to be so must satisfy the Court of brooding presence of government or deep and pervasive control of the government so as to hold it to be an instrumentality or agency of the State.

CSIR, if 'the State'?

99. Applying the tests formulated hereinabove, we are clearly of the opinion that CSIR is not an 'authority' so as to fall within the

meaning of expression 'other authorities' under Article 12. It has no statutory flavour ___ neither it owes its birth to a statute nor is there any other statute conferring it with such powers as would enable it being branded an authority. The indicia of power is absent. It does not discharge such functions as are governmental or closely associated therewith or being fundamental to the life of the people.”

17. The judgments cited by learned senior counsel for the petitioner in case of **D.A.V. College Trust & Management Society** (supra) are distinguishable on the law itself as in that case, the issue was required for determination of the Supreme Court whether non-government institution substantially financed falls within the ambit of public authority under Section 2(h) of the Right to Information Act, 2005, has answered that they fall within the public authority. Hon'ble the Supreme Court in respect of 2(h) of the Right to Information Act, 2005 has given its finding and it has not dealt with the issue whether it is a State within the ambit of Article 12 of the Constitution of India for amenable in the writ jurisdiction under Article 226 of the Constitution of India.
18. Taking into consideration the facts as projected by the parties in WPS No. 6150/2014 and the law on the subject, it is quite vivid that the petitioner is unable to demonstrate that the Steel Education Society and Delhi Public School Bhilai fall within the ambit of State as defined under Article 12 of the Constitution of India, therefore, the writ petition under Article 226 of the Constitution of India is not maintainable. However, the petitioner is granted liberty to avail the remedies available to him under the relevant provisions of law governing the field. It is made clear that the time spent before this Court on account of pendency of this writ petition will be excluded for computing the limitation and the adjudicating authorities will not insist for delay and

will decide the case on its own merits. Thus, the Point determined by this Court is answered against the petitioner.

Finding & discussion in WPS No. 11842/2025 & WPS No. 11867/2025

19. Learned counsel for the petitioners would submit that the writ petition under Article 226 of the Constitution of India is maintainable against private educational institution as the respondents are discharging public function i.e. providing education to children in their institutions and to substantiate this submission, they have referred to the judgment of Hon'ble the Supreme Court in case of **Marwari Balika Vidyalaya** (supra) wherein it has been held in paragraph 14 & 21 as under:-

“14. This Court has laid down in *Raj Kumar v. Director of Education & Ors.* (supra) that the intent of the legislature while enacting the Delhi School Education Act, 1973 (in short, ‘the DSE’) was to provide security of tenure to the employees of the school and to regulate the terms and conditions of their employment. While the functioning of both aided and unaided educational institutions must be free from unnecessary Governmental interference, the same needs to be reconciled with the conditions of employment of the employees of these institutions and provision of adequate precautions to safeguard their interests. Section 8(2) of the DSE Act is one such precautionary safeguard which needs to be followed to ensure that employees of educational institutions do not suffer unfair treatment at the hands of the management.

21. In view of the aforesaid discussion, we have no hesitation to hold that the Writ Application is maintainable as rightly held by the Division Bench of the High Court.”

20. Whereas in the subsequent judgment Hon'ble the Supreme Court in case of **St. Mary's Education Society & others Vs. Rajendra Prasad Bhargava & others [(2023) 4 SCC 498]** has examined the issue of maintainability of writ petition against private person or body and has held in paragraphs 75 as under:-

“75. We may sum up our final conclusions as under:

75.1. An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The 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. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.

75.2. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of “State” within the expansive definition under Article 12 or it was found that the action complained of has public law element.

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. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.

75.4. Even if it be perceived that imparting education by private unaided the school is a public duty within the expanded

expression of the term, an employee of a nonteaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether “A” or “B” is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and nonteaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of nonteaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.

75.5. From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.”

21. Again Hon’ble the Supreme Court in case of **Army Welfare Education Society New Delhi Vs. Sunil Kumar Sharma & others [2024 SCC OnLine SC 1683]** has held in paragraphs 42 & 43 as under:-

“42. In the penultimate paragraph, this Court ruled as under:- (Binny case, SCC p. 674, para 32)

“32. Applying these principles, it can very well be said that a writ of mandamus can be issued against a private body which is not “State” within the meaning of Article 12 of the Constitution and such body is amenable to the jurisdiction under Article 226 of the Constitution and the High Court under Article 226 of the Constitution can exercise judicial review of the action challenged by a party. But there must be a public law element and it cannot be exercised to enforce purely private contracts entered into between the parties.” (Emphasis supplied)

43. In the background of the above legal position, it can be safely concluded that power of judicial review under Article 226 of the Constitution of India can be exercised by the High Court even if the body against which an action is sought is not State or an authority or an instrumentality of the State but there must be a public element in the action complained of.”

22. From perusal of the law laid down by Hon’ble the Supreme Court and

coming to the facts of the case, it is quite vivid that in WPS No. 11842/2025, the petitioner has challenged his termination order passed by respondent No. 3 which is purely a private contract and the same does not touch any public law element and the Bhilai Institute of Technology cannot be said to be discharging any public duties in connection with the employment of the petitioner. Even the service conditions of the petitioner are not regulated by the statutory provisions or the employer had the status of 'State' within the expansive definition under Article 12 of the Constitution of India or it has found that the action complained of has public law element.

23. The petitioner to fall his case amenable to writ jurisdiction has contended that the statute of University has been violated by the respondent institution, as such the writ petition is maintainable. This submission is misconceived and deserves to be rejected as non-compliance of provisions may not entitle the petitioner to fall his case amenable to writ jurisdiction of this Court but it may be a ground to nullify the action of private respondent before appropriate forum.
24. Similarly in WPS No. 11867/2025, the petitioner has complained about giving charge to private respondent No. 3 who according to the petitioner, is junior to her. The complaint does not involve any public duty as it does not touch any public law element and respondent No. 1 cannot be said to be discharging any public duties in connection with the employment of the petitioner though the respondent institution is an aided institution getting grant-in-aid from the State Government. Thus, both the writ petitions are not maintainable.
25. Considering the afore-stated factual and legal position, I am of the view

that the writ petitions are not maintainable and liable to be dismissed. However, the petitioners are at liberty to take recourse to the remedy available to them under the rules, provisions governing the field. It is made clear that the time spent before this Court will be excluded for computing the period of limitation as the petitioners are bonafidely agitating before this Court. Thus, the Point determined by this Court is answered against the petitioners.

26. It is made clear that this Court has not touched the merits of the case and has only referred the facts of each case to determine the Point. In the eventuality of taking recourse under the law by the petitioners, the adjudicating authority/ Court will not influence from dismissal of the writ petitions and they will decide the case of the petitioners on its own merits.
27. Resultantly, all the writ petitions are dismissed as not maintainable.

**Sd/-
(Narendra Kumar Vyas)
Judge**