
(2015) 09 AP CK 0016

In the Andhra Pradesh High Court

Case No : W.P. Nos. 8156 and 11599 of 2010

R.M. Ramesh Babu and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Constitution of India, 1950 — Article 12, 14, 16, 21, 226

Citation : (2015) 09 AP CK 0016

Hon'ble Judges : C.V. Nagarjuna Reddy, J.

Bench : Single Bench

Advocate : D.V. Sitharam Murthy, Senior Counsel for N. Ashwini Kumar, for the Appellant; Ponnamm Ashok Goud, Assistant Solicitor General, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy, J.—These two Writ Petitions raise common questions of fact and law and hence they are being heard and disposed of together.

2. For the purpose of convenience, the parties are referred as they are arrayed in W.P. No. 8156 of 2010.

3. The Writ Petitions have been filed for a writ of mandamus to declare the inaction of the respondents in paying salaries of the petitioners from 1-5-2009 to 31-3-2010 as illegal.

4. The petitioners averred that in terms of the policy of the Central Government Krishi Vigyan Kendras were established in every District of the States, including the State of Andhra Pradesh; that they are the employees of respondent No. 5-Prof. N.G. Ranga Krishi Vigyan Kendra (for short "KVK")-Vinayashramam, a Farm Science Centre, working in various capacities; that respondent No. 1-Union of India, provides financial aid to respondent No. 3 and the KVK through respondent No. 2 and hence the KVK assumes the character of "State" within the meaning of Article 12 of the Constitution of India. That the KVK is an innovative science based institute which undertakes vocational training for farmers, farm women

and rural youth and school dropouts, conducts on-farm research for technology refinement and frontline demonstrations to promptly demonstrates latest agricultural technologies to farmers as well as extension workers; and that the KVKs function on the principles of collaborative participation of scientists, subject matter experts, extension workers and farmers. It was further averred that on the recommendations of the Education Commission (1964-66) and the Inter-Ministerial Committee 1973), respondent No. 2-the Indian Council of Agricultural Research (ICAR) has decided in principle to establish KVKs in the country; and the KVKs function on Gandhian ideologies; and that the purpose of establishing the KVKs is to impart learning through work-experience. That the KVKs function in three modalities viz., (a) directly under the control of ICAR; (b) under the State Agricultural Universities; and (c) by recognised and reputed voluntary organisations. That respondent No. 5 is being run by "Vinayashramam", a voluntary organisation started by Mahatma Gandhi in 1933.

5. It was further averred that respondent No. 5-KVK was sanctioned in the year 1991 and it commenced functioning from October 1992; and that the KVK is headed by a Board of Trustees and Chairman. That when the District Collector and Magistrate assumed control of respondent No. 5-KVK in view of internal disputes amongst the Trustees of the Board, the same was questioned in W.P. No. 790 of 2009; that the said Writ Petition was allowed by declaring that the Collector has no jurisdiction to interfere with the administration and management of the Trust Board. It was further averred that in view of the disputes between the Trustees of the KVK and the above mentioned litigation, the petitioners are not being paid salaries for the past one year. That respondent No. 1 provides 100% financial assistance and exercises deep and pervasive control over KVK and the same is evident from communication dated 24-6-1998 in proceedings No. D. No. 1(1)/96-AE-1 of the Deputy Director General (Ag.Extn.), ICAR, New Delhi.

6. It was further averred that the Assistant Director General, ICAR, Ministry of Agriculture, Government of India is the appointing authority of the petitioners; that all of them are permanent employees working for the past 16 years under respondent No. 5-KVK; that the salaries of the petitioners are drawn from the sanction of budget of the Zonal Project Director, Zone V, Hyderabad, through the ICAR, New Delhi; that the petitioners have been working without salary for the past one year; and that in spite of giving several representations, the respondents have not taken any steps for payment of the petitioners' salaries and hence they are constrained to approach this Court.

7. Counter-affidavits have been filed on behalf of respondent Nos. 2 and 3, sworn to by respondent No. 3, taking a similar stand, in both the cases. In the counter-affidavits, it was averred that "Krishna Vigyan Kendra" is a scheme granted to non-governmental organisation viz., Vinayashramam, Kalyana Kavur, Cherukupalli Mandal, Guntur District, A.P. (for short "the Vinayashramam") during the year 1991; that as per the Memorandum of Understanding (MOU), the

administrative control over the staff employed under the scheme shall vest in the Vinayashramam; and that the Chairman of the Vinayashramam is the appointing authority of the staff employed under the scheme. That the ICAR will provide guidance on the aspect of recruitment of technical staff i.e., Subject Matter Specialists and also the training programmes including frontline demonstration under the KVK; that the ICAR is only the funding agency keeping in view the performance of the KVK and therefore the petitioners are claiming service conditions on par with the employees of the ICAR. That as per the MOU, the staff necessary to support the KVK in the disciplines i.e., Agriculture, Livestock production, Horticulture etc., are appointed based on the local needs and requirements for organising skill oriented training programmes for the farmers, field level in-service extension personnel, school teachers, farm women and similar other rural groups; that the cost of approved recurring and non-recurring items is based on the pattern of assistance applicable to the KVKs; that the maintenance of farms, workshops, gardens, farm animals, birds, ponds etc., shall be the responsibility of the concerned KVKs; and that costs incurred additionally and specially on instructional programmes would be considered for assistance. That the KVKs are essentially a co-operative venture; that the KVKs are allotted to various organisations based on the suitability of a particular organisation; that respondent No. 5 was granted the KVK through a MOU on 14-7-1991; and that but for the disputes from the year 2009 between two groups with respect to the management of the KVK, respondent No. 5 was running smoothly. That the petitioners are the employees of the KVK; that the MOU entered into between respondent No. 2 and the KVK clearly mentions that the administrative control over the staff employed under the scheme vests in the latter; that the MOU further specifies that only after submission of the detailed report by the in-charge of the KVK of the work undertaken and completed under the scheme and basing on the assessment of the reports, respondent No. 3 would release grants; and that respondent No. 3 can stop release of the grant in the event of unsatisfactory progress of work at the KVKs. It was further averred that due to internal disputes between two warring groups for the management and control, the work and the functioning of respondent No. 5-KVK has been unsatisfactory and therefore funds have been stopped temporarily. That the petitioners cannot have any claim over respondent No. 3 in view of the MOU between respondent No. 2 and the KVK; that there is no direct relationship of employee and employer between the petitioners and respondent No. 3; and that in the event of termination of the scheme or the MOU, there would be no funding and the employees of the KVKs cannot claim any right against respondent No. 3.

8. Respondent No. 5, who was impleaded as per order dated 18-9-2013 in WPMP No. 9614/2012 in W.P. No. 8156 of 2010, filed a counter-affidavit. A preliminary objection has been raised as to the maintainability of the Writ Petitions as the Departments of respondent Nos. 2 and 3 were not impleaded as such. It is denied that the KVK is "State" within the meaning of Article 12 of the Constitution of India. Respondent No. 5 traced the litigation relating to the power

of the District Collector vis-a-vis the functioning of the KVK, the proceedings initiated in the Civil Court and the dismissal of C.M.A. No. 850 of 2010 wherein it was held that respondent No. 5 is the Managing Trustee of the Vinayashramam and the Chairman of the KVK, and averred that in view of the same he is legally looking after the affairs of the KVK. Respondent No. 5 further pleaded that the ICAR was misled resulting in imposing of prohibition on him from operating the Bank account of the KVK; that he approached the ICAR setting out the difficulties being faced by those who are directly or indirectly dependent upon the KVK; that he has also requested the ICAR to conduct an enquiry into the affairs of the KVK and to take appropriate decision; that accordingly a Committee was appointed by the ICAR to conduct enquiry and submit a report for future course of action; that in the interest of functioning of the KVK in general and as the properties of the KVK are being damaged, respondent No. 5 was constrained to request the ICAR to permit him to operate the Bank account as per the direction of this Court and that the ICAR is yet to take a decision. It was also further averred that respondent No. 5 has apprised the ICAR about non-payment of salaries to the staff; that the dispute between the two groups of Trustees has nothing to do with the payment of salaries to the petitioners and eligible persons; that if the ICAR permits the operation of the existing bank accounts, the KVK will continue to pay the salaries to the eligible petitioners. It was specifically averred that respondent No. 1 has no deep and pervasive control over the KVK and that KVK is the appointing authority of the petitioners and that the petitioners are trying to mislead this Court. It was further averred that respondent No. 5 has taken steps and repeatedly requested the ICAR to permit him to operate the Bank accounts and that as there was no response, the salaries of the eligible petitioners could not be paid. That some of the petitioners are no longer the employees of the KVK and therefore they are not entitled to the reliefs sought for in the Writ Petitions. That petitioner No. 1 was suspended on 10-8-2011 and enquiry is pending, but however by virtue of the interim order, he is projecting as if he is continuing; that petitioner No. 9 retired from service on attaining the age of superannuation of 58 years and subsequently expired; that petitioner No. 10 has been placed under suspension and he has filed W.P. No. 16716 of 2010 challenging the suspension order; that petitioner No. 6 also was suspended, but the same was suspended by this Court in WPMP No. 28502 of 2009 in W.P. No. 21939 of 2009. Respondent No. 5 further averred that as per the MOU entered into between the ICAR and the Vinayashram, Kavuru, it is the Chairman of the KVK who has the power and administrative control over its staff, including payment of salaries; that however as this Court through an interim order directed respondent No. 3 to pay salaries directly to the petitioners, some of them are pretending as if they need not work under the control of the KVK and receiving salaries without doing any work; that the staff of the KVK are acting detrimental to the interests of the institution; that the villagers and farmers have been complaining about the adamant attitude and indecent behaviour of the staff of the KVK and that the staff are demanding money from the farmers for attending to their legitimate duties. It was further averred that the staff of the KVK are not receiving notices/

orders/letters sent to them by registered post or in person as they are getting salaries directly. That due to the aforesaid commissions and omissions of the staff, the reputation of the KVK is getting degraded. That unless the ICAR is directed to adhere to the MOU and respondent No. 5 is permitted to operate the Bank accounts - be it for payment of salaries to the staff or for any other developmental activities, the purpose of establishing the KVK will be defeated; that if the stand taken by the petitioners is upheld, no employee will work under any NGO on the ground that it is the Central Government or the Central Agency which is funding the institution. That the petitioners suppressed several relevant facts and obtained ex-parte interim orders; and that the ICAR is also indirectly helping the petitioners in order to have control over the staff which is impermissible.

9. The petitioners filed reply affidavits to the counter affidavits filed by respondent No. 5, wherein, while reiterating the stand taken by them in the Writ Petitions, averred that the capacity of respondent No. 5 as the Chairman of the KVK itself is in dispute and therefore he is not entitled to swear to the counter affidavit. It was further averred that the disputes in the KVK have no relevance to the payment of salaries of the petitioners; that except stating that he has brought the disputes in the KVK to the notice of the ICAR, respondent No. 5 has not stated whether any steps have been taken by him with regard to payment of the salaries. It was further averred that petitioner No. 1 in W.P. No. 8156 of 2010 was never suspended; that no suspension order has been served on him at any point of time; that his salary for about ten days was withheld and later on the Zonal authorities paid the salary after rectifying the record and that his salary was withheld only to harass him. It was denied that petitioner No. 9 retired, but he has filed W.P. No. 28290 of 2011 challenging fixation of 58 years as the age of superannuation. It was admitted that petitioner Nos. 6 and 10 have filed W.P. Nos. 28502 of 2009 and 16716 of 2010 and obtained interim orders against the orders of their suspension. It was further averred that the petitioners have never acted detrimental to the interests of the KVK despite there being an internal feud for the Chairmanship and that in spite of stoppage of their salaries, the petitioners have been conducting the affairs of the KVK in a smooth fashion; that the petitioners' activities can be vouchsafed by the beneficiaries of their services; that the petitioners and their families are dependent on salaries and that as they are not being paid the same, they have borrowed monies from the local financiers and paying interest for the same.

10. The main point that arises for consideration is whether the Writ Petitions are maintainable under Article 226 of the Constitution of India?

11. The need to determine whether an agency or an organization is "State" or its instrumentality within the meaning of Article 12 of the Constitution of India arises for enforcement of fundamental rights enshrined under Part-III of the Constitution. However, the jurisdiction of this Court under Article 226 can be invoked even against any person or authority, which may not answer the

description of "State", provided the person seeking the relief shall establish an enforceable constitutional or legal right in him and the corresponding public duty on such person or authority (See: Dwarka Nath Vs. Income Tax Officer, Special Circle D-ward, Kanpur and Another,). Mr. D.V. Sitharam Murthy, learned Senior Counsel appearing for the petitioners has submitted that though respondent No. 5 is a society, it is discharging the functions of "State" in organizing agricultural and animal husbandry on modern and scientific lines as envisaged under Article 48 of the Constitution of India and that as the said respondent is performing public duties, the present Writ Petitions under Article 226 of the Constitution of India are maintainable. He has further argued that the ICAR is held to be "State" under Article 12 by the Apex Court in P.K. Ramachandra Iyer and Others Vs. Union of India (UOI) and Others, ; that not only the ICAR funds respondent No. 5 but it also exercises control over its activities and that therefore the said respondent is also liable to be treated as an instrumentality of the State under Article 12 of the Constitution of India.

12. It is pertinent to note that the petitioners have not based their claim for payment of salaries on any statutory provision or instrument which has the force of law. Thus, the petitioners are neither seeking enforcement of any of their statutory rights nor they have termed non-payment of their salaries by respondent No. 5-Vinayashramam as a failure of public duty so as to compel the latter to carry out such public duty. Instead, the petitioners have perched their claim only on the nest of Articles 14 , 16 and 21 of the Constitution of India, which fall under Part-III thereof. Therefore, in order to succeed, it is not merely sufficient for the petitioners to establish that the duties being discharged by respondent No. 5-Vinayashramam are public duties but they must also prove that it is an instrumentality of the State under Article 12 of the Constitution of India.

Case law: Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, is one of the earliest decisions which has dealt with the concept of State and its instrumentalities. Drawing strong support from the US Supreme Court's Judgment in Marsh Vs. Alabama , 326 US 501 , the Supreme Court held:

"Another factor which might be considered is whether the operation is an important public function. The combination of State aid and the furnishing of an important public service may result in a conclusion that the operation should be classified as a State agency. If a given function is of such public importance and so closely related to governmental functions as to be classified as a governmental agency, then even the presence or absence of State financial aid might be irrelevant in making a finding of State action. If the function does not fall within such a description, then mere addition of State money would not influence the conclusion.

In America, corporations or associations, private in character, but dealing with

public rights, have already been held subject to constitutional standards. Political parties, for example, even though they are not statutory organisations, and are in form private clubs, are within this category. So also are labour unions on which statutes confer the right of collective bargaining....

Institutions engaged in matters of high public interest or performing public functions are by virtue of the nature of the function performed government agencies. Activities which are too fundamental to the society are by definition too important not to be considered government function. This demands the delineation of a theory which requires Government to provide all persons with all fundamentals of life and the determinations of aspects which are fundamental. The State today has an affirmative duty of seeing that all essentials of life are made available to all persons. The task of the State today is to make possible the achievement of a good life both by removing obstacles in the path of such achievements and in assisting individual in realising his ideal of self-perfection...."

Close on the heels of the Judgment in Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, , came the Judgment in Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, , wherein the following tests were applied for an agency to fall under the definition of "State" or its instrumentalities:

- (i) Whether there is any financial assistance given by the State, and if so, what is the magnitude of such assistance?
- (ii) Whether there is any other form of assistance, given by the State, and if so, whether it is of the usual kind or it is extraordinary?
- (iii) Whether there is any control of the management and policies of the corporation by the State and what is the nature and extent of such control?
- (iv) Whether the corporation enjoys State conferred or State protected monopoly status?
- (v) Whether the functions carried out by the corporation are public functions closely related to governmental functions?

13. In Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others, , a Constitution Bench of the Supreme Court, after referring to the Judgments in Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, , and Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, laid down the following indicia:

- (1) One thing is clear that if the entire share capital of the corporation is held by Government, it would go a long way towards indicating that the corporation is an

instrumentality or agency of Government.

(2) Where the financial assistance of the State is so much as to meet almost entire expenditure of the corporation, it would afford some indication of the corporation being impregnated with governmental character.

(3) It may also be a relevant factor...whether the corporation enjoys monopoly status which is State-conferred or State-protected.

(4) Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality.

(5) If the functions of the corporation are of public importance and closely related to governmental functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government.

(6) "Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference" of the corporation being an instrumentality or agency of Government.

14. In *Sabhajit Tewary Vs. Union of India (UOI) and Others*, , the Supreme Court held that the CSIR was not a State within the meaning of Article 12 of the Constitution of India.

15. In *Chander Mohan Khanna Vs. The National Council of Educational Research and Training and other*[OVERRULED], , the Supreme Court, referring to its earlier Judgments in *Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation*, , *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, , *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, etc., struck a note of caution to the effect that "...these are merely indicative criteria and are by no means conclusive and clinching in any case". In that case, the Supreme Court held that the National Council for Educational Research and Training (NCERT), which is an autonomous body, and whose activities are not wholly related to the governmental functions, and the governmental control was confined only to the proper utilization of the grant and its funding was not entirely from government resources, did not satisfy the requirements of State under Article 12 of the Constitution of India.

16. In *The Mysore Paper Mills Ltd. Vs. The Mysore Paper Mills Officers' Association and Another*, , the Supreme Court held that a company substantially financed and financially controlled by the Government, managed by a Board of Directors nominated and removable at the instance of the Government and carrying on important functions of public interest under the control of the Government, is "an authority" within the meaning of Article 12 .

17. In a lucid exposition of the case law on the subject, Ruma Pal, J. speaking for herself, S.P. Barucha, Syed Shah Mohammed Quadri, N. Santosh Hegde, and

Arijit Pasayat, JJ., (R.C. Lahoti and Doraiswamy Raju, JJ., dissenting) in Pradeep Kumar Biswas and Others Vs. Indian Institute of Chemical Biology and Others, , has succinctly summarized the law, at para-40, as under:

"The picture that ultimately emerges is that the tests formulated in *Ajay Hasia* are not a rigid set of principles so that if a body falls within any one of them it must, *ex hypothesi*, be considered to be a State within the meaning of Article 12 . The question in each case would be--whether in the light of the cumulative facts as established, the body is financially, functionally and administratively dominated by or under the control of the Government. Such control must be particular to the body in question and must be pervasive. If this 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."

18. In its latest Judgment, while considering whether the Board of Control for Cricket in India and Others Vs. Cricket Association of Bihar and Others , a two Judge Bench of the Supreme Court after widely referring to the case law, held that while BCCI may not be "State" under Article 12 , but it is certainly amenable to writ jurisdiction under Article 226 of the Constitution of India having regard to the duties and functions it discharges which are clearly public in nature.

19. We need to examine the question arising in the instant cases with reference to the facts applying the settled legal position to them.

20. Respondent No. 5-Vinayashramam is a non-governmental organization established evidently during the visit of the Father of our Nation, Mahatma Gandhi in 1933 to Kalyana Kavuru village of Cherukupalli Mandal, Guntur District. Some of the objects of the Vinayashramam were to help small and marginal farmers, rural artisans and agricultural labourers by providing them integrated services and facilities for increasing employment, production and income; to establish agro-service centres, conduct training, short term courses for farmers and agricultural labourers etc. (Gathered from the MOU dated 14-7-1991 between the ICAR and respondent No. 5). The ICAR, which is *inter alia* charged with the responsibility of agricultural research, education and extension education in the country has established KVKs all over the country intended to be rural technology and production-cum-training centres in order to provide training to fulfill the aforesaid objects for tackling food problems, to support the agricultural production programmes, and to impart skill oriented training to the farmers and the fishermen. The ICAR has chosen respondent No. 5-Vinayashramam for establishing the KVK and accordingly entered into MOU dated 14-7-1991. Under Clause 6 of the MOU, the ICAR agreed to provide grant for the project according to the assistance approved under the KVK scheme subject to personnel and budgetary limitations imposed by the Government of India from time to time. Sub-clauses (iii) to (vi), pertaining to financial assistance and administrative control read as under:

(iii) The cost of approved recurring and non-recurring items based on the pattern of assistance applicable to KVKs, maintenance of farms, workshops, gardens, farm animals, birds ponds etc., shall be the responsibility of the host institution. However, such costs as are incurred additionally and specially on instructional programmes could be considered for assistance.

(iv) Participation in and organization of workshops, seminars, symposia and meetings approved in advance by the ICAR.

(v) Expenses and publications of Progress Reports and other literature as approved by the Council.

(vi) Expenditure incurred over and above the sanctioned amount against one or more sub-heads of expenditure such as pay and allowances, recurring contingencies etc., shall be met with specific and prior approval of the Council by reappropriation of savings under remaining sub-heads provided the total expenditure incurred during a financial year is within the overall sanctioned ceiling of that year. No expenditure shall however be incurred by reappropriation of savings on items not sanctioned by the Council i.e., non-consumable equipment/stores not sanctioned by the Council. Savings shall also not be reappropriated for meeting or incurring expenditure on staff that has not been sanctioned by the Council.

Under Clause 7 of the MOU, the Vinayashramam agreed to provide the following infrastructure for the scheme:

(i) 20 to 40 hectares of cultivable land and required road, water, sewerage and electricity facilities.

(ii) Existing buildings, equipments and animals presently available with the Institution.

(iii) Monetary and material support in addition to the provision made by the Council with a view to rapidly develop the Krishna Vigyan Kendra and enlarge their programmes.

(iv) The profits, if any, from the KVK farms/animals shall be ploughed in for the development and execution of the scheme.

As regards the administrative control over the staff, Clause 9(ii) of the MOU envisages as under:

"The administrative control over the staff employed under the scheme shall vest in the Vinayashramam, Kalyana Kavuru, Guntur District A.P. (Institute/Second Party)."

Sub-clauses (v) and (vi) of Clause 9, which are very relevant for this case read as under:

(v) A detailed report of the work undertaken and completed under the scheme shall be submitted to the Council by the Incharge, Krishi Vigyan Kendra, every

half year. Such report shall be furnished at the end of June and December every year through the Incharge, Krishi Vigyan Kendra of the host institution.

(vi) On the basis of the assessment of these reports, the Council would release grants for the Scheme every half year in the event of unsatisfactory progress of work at the Kendra as assessed by the Council, the Council may stop the release of further grants to such Kendra.

Under sub-clause (vii) of Clause 9, the expenditure incurred from the grant will be audited by the Accountant General, Central Revenues/Commerce, Works and Miscellaneous or Accountant General of the State concerned. Further, the grants in respect of the scheme will be stopped unless the audit and utilization certificates in the proforma are received within a period of two years after the end of the financial year during which the grant has been made, and besides stoppage of grant of the particular scheme due to non-receipt of Audit and Utilization Certificate, the Council at its discretion may stop release of grant for other schemes being conducted at the time under the control of the defaulting grantee till the Audit and Utilization Certificates due are received.

21. Clause (1) of Article VII of the MOU reads as under:

"Assessment of the performance of staff of Krishi Vigyan Kendra shall be done by the concerned institution as per norms and procedure agreed between host institution and ICAR in advance. The administrative control over the staff, both scientific and administrative employed under the project shall vest in the Vinayashramamu, Kalyana Kavuru, Guntur District, Andhra Pradesh.

22. In the light of the various terms of the MOU, there is no cavil of doubt that respondent No. 5-Vinayashramam does not attract any of the six tests laid down in *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, . The ICAR has no control over respondent No. 5-Vinayashramam, either financial, functional or administrative. As pleaded in the counter affidavit filed by respondent No. 3, the administrative control over the staff employed by respondent No. 5 is vested in the Vinayashramam; that the Chairman of the Vinayashramam is the appointing authority of the staff employed under the scheme; that the ICAR will only provide guidance on the aspect of recruitment of technical staff i.e., subject matter experts and training programmes including frontline demonstration under the KVK and the ICAR is only the funding agency which depends upon the performance of the KVK. The petitioners are thus under the complete administrative control of the Vinayashramam. As regards the financial control, as could be seen from the terms of the MOU referred to and extracted above, the release of grants is subject to the assessment of performance by respondent No. 5-Vinayashramam and respondent No. 3 can stop the release of the grant in the event of unsatisfactory progress of the work.

23. The counter affidavit has also averred that due to internal disputes between two warring groups for the management control and functioning of respondent No. 5, the work assessed was found unsatisfactory and therefore respondent

Nos. 2 and 3 completely stopped releasing the funds temporarily. Further, as could be seen from Clause 6(iii) of the MOU, the expenditure on infrastructure, namely, maintenance of farms, workshops, gardens, farm animals, birds, ponds etc., shall be borne by the Vinayashramam while the additional costs incurred on instructional programmes would be considered for assistance by respondent No. 2. The various terms of the MOU clearly establish that even the financial assistance by respondent No. 2 is only partial, besides there being no financial control over respondent No. 5. The limited financial control is only to the extent of insisting on proper audit of the funds provided by ICAR with the power reserved with respondent No. 2 to discontinue the financial grant in the event it is found that the funds are not properly applied. Hence, I have no hesitation to hold that respondent No. 5-Vinayashramam, which is an autonomous society, is not under the functional, financial or administrative control of respondent No. 2 and therefore its actions cannot be tested on the anvil of Articles 14 , 16 and 21 of the Constitution of India. The appropriate remedy for the petitioners is to avail the common law remedies, if any, available to them for enforcement of the rights claimed by them in these Writ Petitions.

24. For the aforementioned reasons, the Writ Petitions fail and they are accordingly dismissed.

25. As a sequel to the dismissal of the Writ Petitions, interim orders dated 29-4-2010 and 31-5-2010 in WPMP Nos. 10488 of 2010 and 14698 of 2010 in W.P. Nos. 8156 and 11599 of 2010, respectively, are vacated and WPMP No. 10488 of 2010, WVMP No. 656 of 2012 and WPMP No. 12312 of 2013 in W.P. No. 8156 of 2010, and WPMP No. 14698 of 2010, WVMP No. 700 of 2012 and WPMP No. 12378 of 2013 in W.P. No. 11599 of 2010 are disposed of as infructuous.