

(2004) 02 DEL CK 0083

In the Delhi High Court

Case No : C.W. No. 1418 of 2002

Staff Welfare Association (TRTC) Regd.

APPELLANT

Vs

Chairman, TRTC and Others

RESPONDENT

Date of Decision : 27-02-2004

Acts Referred:

Constitution of India, 1950 — Article 12, 226

Citation : (2004) 2 LLJ 931

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : J.N. Singh, for the Appellant; R.K. Sani and Gaurav Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—The writ petition claims relief against respondent No. 1. Respondent No. 1 is Tool Room & Training Centre. A perusal of "Annexure P-4" would reveal that said respondent is a result of an agreement between Government of India and Government of Denmark to establish a Tool Room & Training Centre at Delhi. The agreement envisages that the respondent would be a society registered under the Societies Registration Act, 1860.

2. In the year 1981, a writ petition being CW No. 2354/1981 G. Chandrasekharan v. Tool Room & Training Centre was filed by an employee pertaining to his removal from service. A preliminary objection was raised by the respondents that it was not a "State" within the meaning of Article 12 of the Constitution of India. Issue was deliberated by a learned single Judge of this Court. Vide Judgment and order dated July 8, 1982, it was held that respondent No. 2 is not a "State" within the meaning of Article 12 of the Constitution of India and hence would not be amenable to the writ jurisdiction of this Court pertaining to a dispute predicated on a service condition of its employees. The said decision is reported as 1982 FLR 200.

3. While deciding the said view, learned single Judge of this Court applied the six guidelines formulated by the Supreme Court in its decision *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, . Applying the tests as laid down in *Ajay Hasia*'s case, the learned single Judge held as under:

"Now applying the aforesaid test (sic), it is clear that the entire funds of the society do not come from the government and there is no indication as to the extent of financial assistance of the State. Therefore, tests 1 and 2 do not cover the case of the present society. It is not the case of the petitioner that the society enjoys any monopoly status and as such test No. 3 would also not apply. The functions of the society may be said to be of public importance but cannot be said to be closely related to governmental functions. It is true that the Government of India/Delhi Administration has some control over the society but the Government of Denmark is equally interested. The entire administration of the society vests in the Governing Council and the Government has no right or privilege to interfere with the management of the society. The society is neither a department of the Government nor is connected with any specific Ministry. The Governing Council is completely responsible for the management of all the affairs and funds of the society. It has the authority to do all acts, matters, things and deeds which may be necessary or expedient for the purpose of the society. The power to appoint officers and other staff for conducting the affairs of the society also vests in the Government council."

4. Learned counsel for the petitioner contends that in light of the judgment of the Supreme Court reported as 2002 (3) SLT 202 *Pradeep Kumar bids was v. Indian Institute of Chemical Biology*, the decision of the learned single Judge referred to above is no longer a good law.

5. A perusal of the decision of the Supreme Court in *Pradeep Kumar Biswas*" case (supra) would reveal that while summing up the conclusion only held:

"40. 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 hypothesis, 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".

6. In view of the position noted above, since the learned single Judge of this Court while deciding CW No. 2354/1981 applied the principles laid down in *Ajay Hasia*'s case (supra) and said principles have been held in *Pradeep Kumar Biswas*" case (supra) as determinative of the issue as explained, it is held that the present writ petition, pertaining to a dispute relating to a service condition of

the employees of respondent No. 1 would not be maintainable.

7. The writ petition is accordingly dismissed as not maintainable.