

CASE COMMENTARY**TEKRAJ VASUNDI VS. UNION OF INDIA & ORS.***Jayant Jain*

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Facts of the Case

The present appeal was filed vide special leave calls in question the judgment of a Division Bench of the Delhi High Court in a Letters Patent Appeal upholding the decision of a learned Single Judge rejecting the writ petition of the appellant. The appellant was an employee of the Institute of Constitutional and Parliamentary Studies (hereafter referred to as ICPS for short) and in a disciplinary action he was dismissed from service by order dated 17th November, 1982. When he assailed the order in a writ petition before the High Court, the question whether ICPS was 'State' within the meaning of Art. 12 of the Constitution came for consideration as the major issue arising in the matter. The learned Single Judge dismissed the writ petition by holding that the employer was neither an agency nor an instrumentality of the Government and did not constitute 'State' within the meaning of Art. 12 and, therefore, was not subject to the writ jurisdiction of the High Court. The appeal against the judgment of the learned Single Judge was dismissed on 1st November, 1983.

Major Premise

Here, Article 12 of Constitution of India was used which deals with “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

The 'State' includes

- Government and Parliament of India i.e the Executive and Legislature of the Union
- Government and Legislature of each State i.e the Executive and Legislature of the various States of India
- All local or other authorities within the territory of India
- All local and other authorities who are under the control of the Government of India
- The meaning of the three terms are different - Authorities, Local Authorities, Other Authorities

Analysis

Long of encountering of the interest Dr. Anand Prakash showing up for ICPS genuinely expressed that if the Institute be 'State' or maybe not inside the importance of Art. 12 of the Constitution, the organization was sorted out to give a fresh out of the box new opportunity to the appealing party to meet the charges to have the capacity to disperse from his mind the feeling that he hasn't been given sensible probability to ensure himself. The fundamental issue for thought is whether ICPS is 'State'. Art. 12 of the Constitution offers a comprehensive meaning of the word 'State' by saying: "In this segment, unless the circumstance generally needs, 'the State' includes the Government and Parliament of India and the Government and the State Legislature of the considerable number of States and all neighborhood or different experts inside the property of India or underneath the take a few to get back some composure on of the Government of India." Demonstrably ICPS may become 'State' just when it is observed to be a power inside the property of India or underneath the take a few to get back some composure on of the Government of India. ICPS is a general public enlisted underneath the Societies Registration Act, 1860, and was enrolled on ninth March, 1965. As would show up from their Memorandum of Association, the building piece individuals were 19 in number-13 being individuals other than a Leader and five Vice-Presidents. The principal Leader of the Society was the then Audio of the Lok Sabha. The five Vice-Presidents were the then Minister of Railways, Minister of Law and Cultural Security Minister of Interaction and Parliamentary Affairs, a previous (Chief Justice of India and a previous Attorney General of India. Dr. L.N. Singhvi, then a man in the Lok Sabha, was their Government Chairman. The Public Trustee in the Office of Company Affairs and Insurance in the Ministry of Money was the Manager and a man in the Lok Sabha was the Society's Treasurer. The then Minister of Cultural Affairs in the Ministry of Education close by three individuals of the Lok Sabha, an Elderly Advocate of the Great Court, a man in the Rajya Sabha, the then Vice-Chancellor of Rajasthan University. the individual Secretaries of the Lok Sabha and the Rajya Sabha Secretariat and the Assistant in the Ministry of Law were their Members. The enrolled office of the Society was fundamentally found inside the Parliament House however was later moved to the Vithal bhai Patel House, Rafi Marg, New Delhi. The Memorandum allowed the Society to simply acknowledge blessings, gifts and levy of cash and securities and of any property at times mobile or unfaltering. The rule characterizes the general population under brains like Founder Members, Living Members, Honorary Members, customary Members, Corporate Members and Relate Members. customary record, in accordance with the Principles, would increment to Members of Parliament or of any State Legislature or the individuals who have been or are individuals of the Judiciary or promoters of the Great Court or the High Courts or people connected out in the open zones organization or people required in instructing of look at of social sciences particularly of Political Technology, Law or points associated thereto. In the sounding Honorary Members were the Leader, the Vice-President and the Primary Minister of India. In spite of the fact that the Memorandum allowed conveyance of blessings and gifts from outside, it is maybe not risky that the primary supply of wage of the way of life has been the yearly

Central Government concede. In *Sabhajit Tewary v. Union of India and Ors.* What's more, *Sukhdev Singh and Ors v. Bhagatram Sardar Singh Raghuvanshi and Anr.*, the genuine demonstrating of Art. 12 of the Constitution succumbed to thought. *Sabhajit Tewary's* occasion was one where in truth the position of the Council of Medical and Industrial Research was analyzed. That Court paid heed to the way that the Council was a general public enrolled underneath the Societies Registration Act. Under Concept 3, the Primary Minister of India was the ex-officio Leader of the Society and under Concept 30 the administering body contained people named by the Government of India speaking to the authoritative service under that the Council of Medical and Industrial Research is incorporated and the Ministry of Finance. The Court additionally paid heed to the way in which the issues of the Society including subsidizing were led. The rate of *Praga Methods Corporation v. C.A. Imanual and Ors.* has been totally checked upon by the High Court in rejecting the condition of the litigant. In *Sukhdev Singh's* occasion, two issues succumbed to thought whether a request of. expulsion from organization in spite of Rules would help the laborer to an attestation from the statutory association of continuation in organization or would it bring about state for wounds just and if the specialist of a statutory association is qualified to state barrier of Arts. 14 and 16 from the Corporation. The Court, in this manner, straight went into the issue in the matter of whether statutory enterprises were experts inside the importance of Art. 12. As a verifiable truth, three organizations being the oil and Organic Gasoline Commission, the Living Insurance Corporation and the Industrial Money Corporation were before the Court and every one of them had been set up under a one of a kind statute. At that point comes the occasion of *Ramana Dayaram Shetty v. The International Airport Authority of India and Ors.* The issue preceding the Court was if the International Airport Authority of India was 'State' within the importance of Art. 12 to have the capacity to be harassed by authorization of key rights against it.

Conclusion

Having given our anxious consideration to the facts of this case, the Court held that ICPS is either an agency or instrumentality of the State so as to come within the purview of 'other authorities' in Art. 12 of the Constitution. It also said that ICPS is a case of its type- typical in many ways and the normal tests may perhaps not properly apply to test its character.