

2026:PHHC:051576



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CWP-4729-2026**

**SALINDER KUMAR**

**...PETITIONER**

**VERSUS**

**CYGNUS SUPERSPECIALITY HOSPITAL, KAITHAL & ORS.**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.**

Present: Mr. S.K. Garg Narwana, Sr. Advocate with  
Mr. Nitin Sachdeva, Advocate and  
Mr. Lakshay Lather, Advocate for the petitioner(s)

Mr. Anshul Jain, Advocate for respondent no. 1,2 and 3.

Mr. Gaurav Jain, Advocate for respondent no. 4.

1.	The date when the judgment is reserved	27.02.2026
2.	The date when the judgment is pronounced	06.04.2026
3.	The date when the judgment is uploaded	06.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

**SANDEEP MOUDGIL, J**

**Prayer**

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the impugned transfer order dated 14.11.2025 (Annexure P-13) whereby the petitioner was transferred from Kaithal to Ujala Cygnus Kashmir Super Specialty Hospital, Srinagar and the impugned termination order dated

22.12.2025 (Annexure P-24) whereby the services of the petitioner were terminated by respondent No.2.

**The Conspectus Of Facts**

2. The petitioner was appointed as Marketing Executive vide Letter of Intent dated 25.08.2016 and was promoted as Marketing Manager vide letter dated 01.09.2016. His services were confirmed on 01.03.2017. Thereafter, he was promoted to the post of GM (Operations & Business Development) w.e.f. 01.03.2018, vide order dated 24.04.2019, and continued to serve at Kaithal.

3. On 14.11.2025, the petitioner was transferred from Kaithal to Ujala Cygnus Kashmir Super Speciality Hospital, Srinagar. The petitioner submitted representations, including email dated 21.11.2025 and subsequent communications, seeking reconsideration of the transfer on personal grounds. However, vide communications dated 27.11.2025 and 09.12.2025, he was directed to join at Srinagar and to report at the corporate office on 15.12.2025.

4. The petitioner did not join at Srinagar, and was treated as absent from duty w.e.f. 16.12.2025. Consequently, his services were terminated vide order dated 22.12.2025.

5. The petitioner filed a civil suit challenging the transfer order dated 14.11.2025. Vide order dated 29.12.2025, the learned Civil Judge (Junior Division)-cum-Vacation Judge, Kaithal declined ad-interim injunction. Subsequently, on 19.02.2026, the petitioner made a statement before the Lok Adalat and withdrew the suit, which was accordingly dismissed as withdrawn.

6. Hence, this petition.

**Contentions**

**On behalf of Petitioners**

7. Learned counsel for the petitioner contends that the impugned transfer order dated 14.11.2025 is arbitrary, malafide and actuated by

extraneous considerations, having been issued not in administrative exigency but due to personal vendetta arising out of an incident dated 12.11.2025 involving one Dr. Gaurav Jain. It is submitted that no allegation whatsoever was levelled against the petitioner, yet he has been singled out and penalised by way of transfer to a far-off place.

8. It is further contended that the petitioner had an unblemished service record since his appointment in 2016 and had been promoted to a responsible position of GM (Operations & Business Development), which itself reflects the confidence reposed in him by the management. The sudden transfer, therefore, is not based on any service requirement but is punitive in nature.

9. Learned counsel submits that the petitioner had promptly submitted representations dated 21.11.2025 and thereafter, clearly bringing to the notice of the respondents his compelling personal circumstances, including that his father is a cancer patient undergoing treatment at PGI Chandigarh, his mother is also under medical treatment, and his minor children are in the midst of their academic session. Despite this, the respondents failed to consider his case in a fair and reasonable manner.

10. It is argued that the action of treating the petitioner as absent and terminating his services vide order dated 22.12.2025 is wholly illegal, as the petitioner had never wilfully abstained from duty and had duly intimated the respondents regarding his inability to join at Srinagar. The termination, thus, is in violation of principles of natural justice, having been passed without affording any opportunity of hearing.

**On behalf of Respondents**

11. Learned counsel for the respondents, have at the outset, objected towards the maintainability of the present writ petition, claiming the the

respondent hospital is not an instrumentality of the State and the transfer orders cannot be interfered with by this Court under the writ jurisdiction.

12. Learned counsel for the respondents contends that the impugned transfer order dated 14.11.2025 is a routine administrative decision passed in exigencies of service and in terms of the conditions of appointment. It is submitted that the appointment letter dated 01.09.2016 specifically contains a clause permitting transfer of the petitioner to any unit or establishment of the management, and therefore, the petitioner has no vested right to remain posted at a particular place.

13. It is further contended that despite clear directions issued vide communications dated 27.11.2025 and 09.12.2025, the petitioner failed to comply and did not join at Srinagar. Instead, he remained absent from duty w.e.f. 16.12.2025 without prior approval, thereby committing misconduct under the service conditions.

14. Learned counsel submits that the respondents afforded sufficient opportunity to the petitioner to comply with the transfer order and even directed him to report at the corporate office on 15.12.2025, however, the petitioner failed to join duties at the transferred place. Consequently, the respondents were constrained to terminate his services vide order dated 22.12.2025 on account of unauthorized absence.

15. Arguments were heard and the judgement was kept reserved on 28.01.2026.

#### **Analysis**

16. The present writ petition calls into question the transfer order dated 14.11.2025 and the consequential termination dated 22.12.2025 passed by the respondent-hospital. At the threshold, the issue of maintainability as a

preliminary objection raised by the respondent, need to be dealt with by this court before going into the merits of the case.

**The Core Issue**

***Whether the respondent–hospital can be regarded as “State” or “other authority” within the meaning of Article 12 of the Constitution of India, so as to make the present writ petition maintainable.***

17. At the outset, it is pertinent to mention that the interpretative journey of Article 12 of the Constitution of India reflects a conscious judicial effort to balance constitutional accountability with institutional autonomy. The early decision in **Rajasthan Electricity Board v. Mohan Lal AIR 1967 SC 1857** marked a departure from a narrow, *ejusdem generis* reading, holding that “other authorities” would include bodies created by statute and vested with power to affect rights, while observing that,

*5. The meaning of the word "authority" given in Webster's Third New International Dictionary, which can be applicable, is "a public administrative agency or corporation having quasi-governmental powers and authorised to administer a revenue-producing public enterprise." This dictionary meaning of the word "authority" is clearly wide enough to include all bodies created by a statute on which powers are conferred to carry out governmental or quasi-Governmental functions. The expression "other authorities" is wide enough to include within it every authority created by a statute and functioning within the territory of India, or under the control of the Government of India; and we do not see any reason to narrow down this meaning in the context in which the words "other authorities" are used in Article [12](#) of the Constitution.*

18. However, the decisive shift from form to substance emerged in **R.D. Shetty v. International Airport Authority of India, (1979) 3 SCC 489**, where it was articulated that the inquiry must focus on whether the body is an

instrumentality or agency of the State, regardless of its juristic form. Relevant extract of R.D Shetty (supra) is as under:

*“So far as India is concerned the genesis of the emergence of corporations as instrumentalities or agencies of Government is to be found in the Government of India Resolution on Industrial Policy dated 6th April, 1948 where it was stated inter alia that "management of State enterprises will as a rule be through the medium of public corporation under the statutory control of the Central Government who will assume such powers as may be necessary to ensure this," It was in pursuance of the policy envisaged in this and subsequent resolutions on Industrial policy that corporations were created by Government for setting up and management of public enterprises and carrying out other public functions. Ordinarily these functions could have been carried out by Government departmentally through its service personnel but the instrumentality or agency of the corporation was resorted to in these cases having regard to the nature of the task to be performed. The corporations acting as instrumentality or agency of Government would obviously be subject to the same limitations in the field of constitutional and administrative law as Government itself, though in the eye of the law, they would be distinct and independent legal entities. If Government acting through its officers is subject to certain constitutional and public law limitations, it must follow a fortiori that Government acting through the instrumentality or agency of corporations should equally be subject to the same limitations.”*

xx    xx            xx            xx            xx

*"A corporation may be created in one of two ways. It may be either established by statute or incorporated under a law such as the Companies Act, 1956 or the Societies Registration Act, 1860. Where a Corporation is wholly controlled by Government not only in its Policy making but also in carrying out the functions entrusted to it by the law establishing it or by the Charter of its incorporation, there can be no doubt that it would be an instrumentality or agency of Government. But ordinarily where a corporation is established*

*by statute, it is autonomous in its working, subject only to a provision, often times made, that it shall be bound by any directions that may be issued from time to time by Government in respect of policy matters.'* So also a corporation incorporated under law is managed by a board of directors or committee of management in accordance with the provisions of the statute under which it is incorporated. When does such a corporation become an instrumentality or agency of Government ? Is the holding of the entire share capital of the Corporation by Government enough or is it necessary that in addition there should be a certain amount of direct control exercised by Government and, if so, what should be the nature of such control ? Should the functions which the corporation is charged to carry out possess any particular characteristic or feature, or is the nature of the functions immaterial ? Now, 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. But, as is quite often the case, a corporation established by statute may have no shares or shareholders, in which case it would be a relevant factor to consider whether the administration is in the hands of a board of directors appointed by Government though this consideration also may not be determinative, because even where the directors are appointed by Government, they may be completely free from governmental control in the discharge of their functions. What then are the tests to determine whether a corporation established by statute or incorporated under law is an instrumentality or agency of Government. It is not possible to formulate an inclusive or exhaustive which would adequately answer this question. There is no cut and dried -formula, which would provide the correct division of corporations into those which are instrumentalities or agencies of Government and those which are not."

*The Court then proceeded to indicate the different tests, apart from ownership of the entire share capital:*

*"..... if extensive and unusual financial assistance is given and the purpose of the Government in giving such assistance coincides*

*with the purpose for which the corporation is expected to use the assistance and such purpose is of public character, it may be a relevant circumstances supporting an inference that the corporation is an instrumentality or agency of Government ..... It may therefore be possible to say that 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 ..... But a finding of State financial support plus an unusual degree of control over the management and policies might lead one to characterise an operation as State action - Vide **Sukhdev v. Bhagatram (1975) 3 SCR 619 at 658**. So also the existence of deep and pervasive State control may afford an indication that the Corporation is a agency or instrumentality. It may also be a relevant factor to whether the corporation enjoys monopoly status which is State conferred or State protected. There can be little doubt that conferred or State protected monopoly status would be highly relevant in assessing the aggregate weight of the corporation's ties to the State."*

*"There is also another factor which may be regarded as having a bearing on this issue and it is whether the corporation is an important public function. It has been held in the United States in a number of cases that the concept of private action must yield to a conception of State action where public functions are being performed - Vide Arthur S. Miller : "The Constitutional Law of the Security State" (10 Stanford Law Review 620 at 664)"*

*"It may be noted that besides"the socalled traditional functions, the modern State operates a multitude of public enterprises and discharges a host of other public functions. 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. This is precisely what was pointed out by Mathew, J., in Sukhdev v. Bhagatram (supra) where the learned Judge said that "institutions engaged in matters of high public interest of performing public functions are by virtue of the nature of the functions performed government agencies. Activities which are too fundamental to the*

*society are by definition, too important not to be considered government functions."*

*The court however proceeded to point out with reference to the last functional test :*

*"..... the decisions show that even this test of public or governmental character of the function is not easy of application and does not invariably lead to the correct inference because the range of governmental activity is broad and varied and merely because an activity may be such as may legitimately be carried on by Government, it does not mean that a corporation, which is otherwise a private entity, would be an instrumentality or agency of Government by reason of carrying on such activity. In fact, it is difficult to distinguish between governmental functions and non-governmental functions. Perhaps the distinction between governmental and non-governmental functions is not valid any more, in a social welfare State where the laissez faire is an outmoded concept and Herbert Spencer's social statics has no place. The contrast is rather between governmental activities which are private and private activities which are governmental. (Mathew, J. in Sukhdev v. Bhagatram (supra) at p. 652). But the public nature of the function, if impregnated with governmental character or "tied or entwined with Government" or fortified by some other additional factor, may render the corporation an instrumentality or agency of Government. Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of the inference."*

19. This principle matured in **Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722**, which laid down the now-classic indicia—financial, functional, and administrative control,

*9. The tests for determining as to when a corporation can be said to be an instrumentality or agency of Government may now be culled out from the judgment in the International Airport Authority's case . These tests are not conclusive or clinching, but they are merely indicative indicia which have to be used with care and caution, because while stressing the necessity of a wide meaning to be placed on the expression "other authorities", it must be realised that*

*it should not be stretched so far as to bring in every autonomous body which has some nexus with the Government with the sweep of the expression. A wide enlargement of the meaning must be tempered by a wise limitation. We may summarise the relevant tests gathered from the decision in the International Airport Authority's case as follows :*

*(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 the 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 Govt. 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".*

*If on a consideration of these relevant factors it is found that the corporation is an instrumentality or agency of government, it would, as pointed out in the International Airport Authority's case, be an 'authority' and, therefore, 'State' within the meaning of the expression in Article 12.*

Crucially, the Court clarified that these tests are not rigid compartments but probative factors to determine the real character of the body.

20. These principles were authoritatively reaffirmed by a Constitution Bench in **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology, (2002) 5 SCC 111**, wherein it was held:

*“67. It will be useful to understand what the terms - instrumentality, agency and authorities mean before embarking upon a review of judicial decisions dealing with the principal issue which arises for our consideration.*

68. *Black's Law Dictionary (Seventh Edition)* defines 'instrumentality' to mean "a means or agency through which a function of another entity is accomplished, such as a branch of a governing body". 'Agency' is defined as "a fiduciary relationship created by express or implied contract or by law, in which one party (the agent) may act on behalf of another party (the principal) and bind that other party by words or actions". Thus instrumentality and agency are the two terms which to some extent overlap in their meaning; 'instrumentality' includes 'means' also, which 'agency' does not, in its meaning. 'Quasi-Governmental agency' is "a government-sponsored enterprise or Corporation (sometimes called a Government-controlled corporation)". Authority, as *Webster Comprehensive Dictionary (International Edition)* defines, is "the person or persons in whom Government or command is vested; often in the plural". The applicable meaning of the word "authority" given in *Webster's Third New International Dictionary*, is 'a public administrative agency or corporation having quasi-Governmental powers and authorised to administer a revenue-producing public enterprise'. This was quoted with approval by Constitution Bench in RSEB's case (*infra*) wherein the Bench held - "This dictionary meaning of the word "authority" is clearly wide enough to include all bodies created by a statute on which powers are conferred to carry out Governmental or quasi-Governmental functions. The expression 'other authorities' is wide enough to include within it every authority created by a statute and functioning within the territory of India, or under the control of the Government of India; and we do not see any reason to narrow down this meaning in the context in which the words "other authorities" are used in Article 12 of the Constitution". (Emphasis supplied)"

**Tests for Determining "State" under Article 12**

1. Whether the entire or substantially the whole share capital of the body is held by the Government.
2. Whether the financial assistance provided by the State is so extensive as to meet almost the entire expenditure of the body.
3. Whether the body enjoys a monopoly status which is either conferred or protected by the State.
4. Whether there exists deep and pervasive State control over the management, policies, and functioning of the body.
5. Whether the functions performed by the body are of public importance

and are closely related to or in the nature of governmental functions.

6. Whether a department of the Government has been transferred to the body, indicating that it is a continuation of the Government in another form.

21. Having noticed the settled legal position as laid down in R.D. Shetty (supra), Ajay Hasia (supra) and reaffirmed by the Constitution Bench in Pradeep Kumar Biswas (supra) this Court now proceeds to examine whether the respondent hospital in the present case satisfies the indicia of being an instrumentality or agency of the State under Article 12 of the constitution of india.

22. The Supreme Court in Ajay Hasia (supra) has categorically held that the tests are not to be applied mechanically, but the cumulative effect of the factors must be considered. Examined on that anvil, lets see whether the present case fulfills each of the parameters laid down.

### **Application to the Present Case**

**I      *The first and foundational test is whether the body is created by statute.***

23. Bodies which owe their very existence to a statutory enactment, and are entrusted with statutory powers and duties, ordinarily fall within the expression “other authorities”. In the present case, the respondent hospital is admittedly not a creature of any statute. It is a private body brought into existence through contractual arrangements, primarily for carrying on medical services on a commercial or voluntary basis. Its existence is not traceable to any legislative enactment, nor does it derive its powers from statute. Applying the aforesaid principles, it is evident that the respondent entity, not being a statutory creation and lacking any legislative genesis, fails to satisfy the first

and foundational test. Accordingly, this Court holds that **the first test stands not satisfied.**

**II            *The second test relates to financial dependence on the State.***

24.            Under this test, the focus is on whether the State provides substantial and dominant financial support to the body, such that it effectively dictates or sustains its operations. As clarified in *Ajay Hasia (supra)*, complete funding is not necessary; what matters is whether the financial assistance is so extensive that it meets almost the entire expenditure, indicating a degree of governmental character.

25.            In the present case, however, the respondent hospital finances its operations including employee salaries, infrastructure costs, and implementation of welfare schemes entirely from private sources. There is no substantial or dominant financial support from the Government, nor any indication that its budget or expenditures are controlled or determined by the State. Further, no concessions, grants, or allotments of land have been made by the State in favour of the respondent hospital. The absence of such financial or material dependence demonstrates that the hospital operates independently of governmental patronage. Accordingly, the second test is not satisfied.

**III            *The third test pertains to whether the body enjoys a monopoly status which is either conferred or protected by the State.***

26.            This test, though seemingly narrow, carries significant constitutional weight. A State-conferred or State-protected monopoly is often indicative of a delegation of exclusive privilege, suggesting that the entity is not merely a participant in the market, but a chosen instrument through which the State operates in a particular field.

27. Applying the aforesaid principle to the present case, it is evident that the respondent hospital does not enjoy any monopoly, either de jure or de facto. The field of healthcare, especially in the private sector, is marked by the presence of numerous hospitals and medical institutions operating independently. There is nothing on record to suggest that the respondent has been granted any exclusive right by the Government to provide medical services, nor is there any statutory or executive protection insulating it from competition. It functions in an open market, subject to the same regulatory framework applicable to other similarly placed private entities.

28. In the absence of any State-conferred exclusivity or protected dominance, the respondent cannot be said to possess the monopoly character contemplated under this test. The lack of such a distinguishing feature reinforces the conclusion that it operates as an ordinary private body rather than as an instrumentality of the State. Accordingly, this Court holds that **the third test also remains unsatisfied.**

IV *The fourth test is the existence of deep and pervasive State control.*

29. This test strikes at the very heart of the enquiry under Article 12. Control, in its ordinary regulatory sense, is ubiquitous in a modern welfare State; but constitutional doctrine demands something more, control that is deep, pervasive, and all-encompassing, such that the body in question is, in effect, subject to the command and direction of the Government.

30. In the present case, there is no material to suggest that the Government has any role in appointing the governing body of the hospital, issuing binding directions in its day-to-day affairs, or dictating its policies. The autonomy of the respondent in its internal administration remains intact,

untrammelled by any deep or pervasive State interference.

31. In such circumstances, the control exercised by the State is merely regulatory and not functional or pervasive. The respondent, therefore, cannot be said to be under such dominating governmental influence as to lose its independent character and assume the mantle of a State agency. Accordingly, this Court holds that the fourth test also stands not satisfied.

*V The fifth and most significant test is the nature of functions discharged.*

32. In applying this test, one must proceed with doctrinal caution. It is no doubt true that the provision of healthcare is a matter of profound public importance. The right to health has been judicially recognized as an integral facet of the right to life under Article 21, as expounded in decision of the apex court in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal 1996 (4) SCC 37*. Hospitals, therefore, perform a function that is socially vital and closely connected with constitutional values.

33. Applying these principles, this Court finds that although the respondent hospital renders medical services, an activity imbued with public significance it does so as a private healthcare provider. Its operations are not shown to be undertaken on behalf of the Government, nor pursuant to any statutory mandate.

34. As poignantly observed in *Pradeep Kumar Biswas case*, the question is one of substance, not form—whether, in reality, the body is so impregnated with governmental character as to become its alter ego. Tested on this anvil, the respondent hospital does not shed its essential character as a private body merely because it serves a public need.

35. The Supreme Court in *Ramakrishna Mission & Anr. v. Kago*

**Kunya & Ors. 2019 (2) SCT 512** observed that merely performing socially significant or charitable functions does not make a private hospital “State” under Article 12 or amenable to writ jurisdiction under Article 226. The Court held that unless an entity’s functions are statutory, governmental, or closely entwined with State machinery, it cannot be treated as an instrumentality of the State. Relevant extract is as under:

*31. Before an organisation can be held to discharge a public function, the function must be of a character that is closely related to functions which are performed by the State in its sovereign capacity. There is nothing on record to indicate that the hospital performs functions which are akin to those solely performed by State authorities. Medical services are provided by private as well as State entities. The character of the organisation as a public authority is dependent on the circumstances of the case. In setting up the hospital, the Mission cannot be construed as having assumed a public function. The hospital has no monopoly status conferred or mandated by law. That it was the first in the State to provide service of a particular dispensation does not make it an 'authority' within the meaning of Article 226. State governments provide concessional terms to a variety of organisations in order to attract them to set up establishments within the territorial jurisdiction of the State. The State may encourage them as an adjunct of its social policy or the imperatives of economic development. The mere fact that land had been provided on a concessional basis to the hospital would not by itself result in the conclusion that the hospital performs a public function. In the present case, the absence of state control in the management of the hospital has a significant bearing on our coming to the conclusion that the hospital does not come within the ambit of a public authority.*

36. Accordingly, while the function performed by the respondent is undoubtedly of public importance, it cannot be said to be so intrinsically governmental in nature, or so entwined with State action, as to satisfy the fifth test. The said parameter, therefore, also stands not fulfilled.

**VI        *The sixth test is whether a department of the Government has been transferred to the body, indicating that it is a continuation of the Government in another form.***

37. This test examines whether the entity is effectively a reincarnation of a governmental department, such that it inherits the State's powers, duties, or personnel. As observed in *R.D. Shetty (supra)* and *Ajay Hasia (supra)*, the mere performance of public functions does not suffice, there must be continuity or absorption of State machinery into the entity.

38. Guided by the above, there is no material to show that any governmental department, employees, or statutory functions have been transferred to the respondent hospital. It was created independently, through private arrangements, and retains its own management, staff, and operational policies. There is no indicia of the Government delegating its powers or restructuring a State department into this body. Accordingly, the sixth test is **clearly not satisfied**, reinforcing that the respondent hospital **does not qualify as an instrumentality or agency of the State.**

39. It also noted that, a necessary limiting principle was introduced in *M/s. Zee Telefilms Ltd. v. Union of India 2005(4) SCC 649*, where the Court cautioned against over-expansion, holding that even a body discharging functions of public importance would not fall within Article 12 in the absence of deep State control, while observing that,

*"It is to be noted that in the meantime the socio-economic policy of the Government of India has changed [See Balco Employees' Union (Regd.) v. Union of India and others (2002)2 SCC 333] and the State is today distancing itself from commercial activities and concentrating on governance rather than on business. Therefore, the situation prevailing at the time of Sukhdev Singh (supra) is not in existence at least for the time being, hence, there seems to be no need to further expand the scope of "other authorities" in Article 12 by judicial interpretation at least for the time being. It should also be borne in mind that as noticed above, in a democracy there is a dividing line between a State enterprise and a non-State enterprise,*

*which is distinct and the judiciary should not be an instrument to erase the said dividing line unless, of course, the circumstances of the day require it to do so.*

40. Thus, the trajectory of Article 12 jurisprudence reveals a two-fold discipline: expansion to prevent State evasion, and restraint to preserve the boundary between public and private law.

41. In view of the above, this Court finds a conspicuous absence of the constitutional markers necessary to bring it within Article 12 of the Constitution. To extend Article 12 to such an entity would be to obliterate the carefully maintained boundary between public law and private law, and to transform every regulated private body into a constitutional authority—an outcome consistently rejected by the Apex Court. It is evident that the respondent hospital is a private entity, created through contractual arrangements, funded entirely from private sources, functioning independently, and not subject to deep or pervasive control by the State.

42. It is further relevant to note that the petitioner's relationship with the respondent hospital arises solely from a **private contract of service**, governed by the terms of appointment, service rules, and internal policies of the hospital. The transfer order dated 14.11.2025 and termination order dated 22.12.2025 emanate entirely from this private contractual relationship. There is no statutory provision, governmental directive, or public law obligation involved in the employment of the petitioner. The employment dispute, therefore, lies within the domain of civil law and appropriate civil forums, and not before this Court under extraordinary constitutional jurisdiction.

**Conclusion**

43. Consequently, the respondent cannot be regarded as “State” or “other authority” within the meaning of Article 12, and therefore, the present writ petition under Article 226 seeking relief against the transfer and termination orders is not maintainable in this Court.

44. In view of the above, the writ petition is dismissed at the threshold for lack of jurisdiction.

45. Pending application(s), if any shall be disposed off, accordingly.

**(SANDEEP MOUDGIL)  
JUDGE**

**06.04.2026**

*Meenu*

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*