2026 INSC 1202

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 14369 OF 2015

THE CHAIRMAN
NATIONAL BOOK TRUST, INDIA AND ANOTHER ... APPELLANT(S)

VERSUS

A.R. ABDUL GAFFAR AND OTHERS ... RESPONDENT(S)

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Shorn of any unnecessary factual matrix, the only question that arises for our consideration is whether the National Book Trust[1] is a 'State' or not within the meaning of Article 12 of the Constitution of India.

2. While answering this question in reference, the Full Bench of High Court of Delhi[2] examined the Trust independently on the principles laid down by this Court in ***Ramana Dayaram Shetty vs. International Airport Authority of India and Others***[3], ***Ajay Hasia and Others vs. Khalid Mujib Sehravardi and Others***[4] and, principally, ***Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology and Others***[5]. It proceeded on the basis that the inquiry was not to be determined by any single factor but by considering, cumulatively, whether the body was financially, functionally and

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[1] For short, 'the Trust'
[2] For short, 'High Court'
[3] (1979) 3 SCC 489 (3-Judge Bench)
[4] (1981) 1 SC 722 (5-Judge Bench)
[5] (2002) 5 SCC 111 (7-Judge Bench)

administratively dominated by, or under the control of, the Government, and whether such control was of a pervasive nature, in order to bring it under the ambit of Article 12 of the Constitution.

3. In examining the Trust against these parameters, the Full Bench took note of the following:

a) The Trust had been brought into existence pursuant to Government resolutions dated 15.06.1957 and 28.09.1962. The scheme of its Rules indicated substantial governmental involvement in its constitution, composition, administration and financial affairs.

b) Chairman of the Trust was appointed by the Government and held office at its pleasure; the Trust and its Executive Committee contained several Government nominees, including representatives of the concerned Ministries; and important aspects of the functioning of the Trust, including its rule-making framework, financial administration, accounts and audit, remained subject to governmental involvement or approval.

c) The nature and objects of the Trust, which principally involved the production, publication and dissemination of literature and knowledge at moderate prices, including publication and translation of Indian and foreign works.

The Full Bench was of the view that these functions had to be considered alongside the manner in which the Trust had been constituted, funded and administered, rather than in isolation from the governmental control exercised over it.

4. On a cumulative consideration of these circumstances, the Full Bench *vide* its judgment dated 01.06.2012 concluded that the Government exercised deep and pervasive control over the Trust. It held that the Trust was, in substance, an instrumentality or alter ego of the Government and consequently fell within the expression 'other authorities' in Article 12 of the Constitution.

5. We have heard the learned counsel for the parties as well as the learned *Amicus Curiae* Shri Sanjay Jain, learned senior counsel assisted by Ms. Harshita Sukhija, learned counsel. We have carefully perused the judgment rendered in reference by the Full Bench, the material placed before us and the note tendered by the learned *Amicus*.

6. Before examining the status of the Trust, it is necessary to keep in view the evolution of law under Article 12 of the Constitution. The expression 'State' in Article 12 is an inclusive definition and extends beyond the Government and the legislatures to 'all local or other authorities' within the territory of India or under the control of the Government of India or the State Government. The expression was deliberately cast in wide terms so that constitutional obligations attaching to the State could not be avoided merely by transferring the performance of governmental or public functions to a separate legal form.[6] This Court in catena of decisions[7] has progressively recognised that the constitutional conception of State could not be confined

[6] ***Ajay Hasia*** *(supra)* at Para 7.
[7] Rajasthan State Electricity Board, Jaipur vs. Mohan Lal and Others, 1967 SCC OnLine SC 18; Sukhdev Singh and Others vs. Bhagatram Sardar Singh Raghuvanshi and Another, (1975) 1 SCC 421; and ***Ramana Dayaram Shetty*** *(supra)*

to bodies which were formally departments of Government or created by statute. The constitutional obligation under Part III of the Constitution cannot depend merely upon the form in which governmental power or functions are organised.

7. In ***Ajay Hasia*** *(supra)*, this Court made it clear that even a society registered under the Societies Registration Act, 1860 could, depending upon the facts, constitute an instrumentality or agency of Government and consequently fall within Article 12. The form of incorporation was thus not treated as determinative. Placing reliance on the decision in ***Ramana Dayaram Shetty*** *(supra)*, this Court in ***Ajay Hasia*** *(supra)* had documented some tests to determine as to when a corporation or authority can be regarded as an instrumentality of a State. The relevant observations are reproduced herein below:

> "**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 case [(1979) 3 SCC 489] . **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 within 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 case [(1979) 3 SCC 489] as follows:
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> > **"(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. (SCC p. 507, para 14)**
> >
> > **(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. (SCC p. 508, para 15)

(3) It may also be a relevant factor ... whether the corporation enjoys monopoly status which is State conferred or State protected. (SCC p. 508, para 15)

(4) Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality. (SCC p. 508, para 15)

(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. (SCC p. 509, para 16)

(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." (SCC p. 510, para 18)

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 case [(1979) 3 SCC 489] , be an "authority" and, therefore, 'State' within the meaning of the expression in Article 12."

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11. We may point out that it is immaterial for this purpose whether the corporation is created by a statute or under a statute. **The test is whether it is an instrumentality or agency of the Government and not as to how it is created. The inquiry has to be not as to how the juristic person is born but why it has been brought into existence. The corporation may be a statutory corporation created by a statute or it may be a government Company or a Company formed under the Companies Act, 1956 or it may be a society registered under the Societies. Registration Act, 1860 or any other similar statute. Whatever be its genetical origin, it would be an "authority" within the meaning of Article 12 if it is an instrumentality or agency of the Government and that would have to be decided on a proper assessment of the facts in the light of the relevant factors. The concept of instrumentality or agency of the Government is not limited to a corporation created by a statute but is equally applicable to a Company or society and in a given case it would have to be decided, on a consideration of the relevant factors, whether the Company or society is an instrumentality or agency of the Government so as to come within the meaning of the expression "authority" in Article 12."**

(emphasis supplied)

8. The tests laid out in ***Ajay Hasia*** *(supa)* were later considered by this Court in ***Pradeep Kumar Biswas*** *(supra),* wherein this Court explained that these tests are not rigid set of principles or mechanical checklist. In ***Pradeep Kumar Biswas*** *(supra),* the real inquiry is whether, having regard to the cumulative facts, the body is financially, functionally and administratively dominated by or under the control of the Government, and whether such control is particular to the body and pervasive. Conversely, where the Government exercises merely regulatory control of the kind ordinarily exercised over autonomous bodies, such control would not bring the body within Article 12 of the Constitution. The relevant observations are reproduced hereinbelow:

> "**40. The picture that ultimately emerges is that the tests formulated in Ajay Hasia [Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722 : 1981 SCC (L&S) 258] 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."**
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> (emphasis supplied)

9. The above decisions of this Court bring to fore the liberal interpretation afforded to the phrases of 'State' and 'other authorities' under Article 12 of the Constitution for over the years. The inquiry essentially centres on the nature and degree of control exercised by the State over the authority in question, as well as the nature of the functions discharged by it. For an authority to fall within the ambit of Article 12, the State's control must be sufficiently deep

and pervasive so as to establish that the authority is, in substance, an instrumentality or agency of the State, with its autonomy substantially circumscribed by such control.

10. Reverting to the case at hand, the Trust before us has argued that it is a society/trust and is not a juristic person in the same manner as a statutory corporation. We find no substance in this submission as the decision of this Court in ***Ajay Hasia*** *(supra)* itself establishes that registration as a society does not place a body mandatorily beyond Article 12 of the Constitution.[8] More so, it is trite that the State may act through a corporation incorporated under the Companies Act, 2013 or a society formed under the Societies Registration Act, 1860. The constitutional inquiry is therefore directed at the substance of the relationship between the body and the Government, and not at the nomenclature or legal form adopted for carrying on its activities.

11. In this regard, the material relating to the Trust has to be examined. the Trust was brought into existence pursuant to a Government of India resolution dated 15.06.1957 and was thereafter reorganised by another Government resolution dated 28.09.1962. Its very creation was thus attributable to the Government. The objects for which it was established were not the consequence of an independent private initiative subsequently subjected to governmental regulation, rather, the Trust was conceived and structured by the Government to pursue an identified national objective relating to the production and dissemination of literature at moderate prices.[9]

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[8] ***Ajay Hasia*** *(supra)* at Para 11.
[9] Introduction of the Trust
See official website: https://www.nbtindia.gov.in/aboutus__5__history.nbt

12. Moreover, the administrative structure (under the Rules[10]) of the Trust is particularly significant. Rule 3 provides for the appointment of its Chairman by the Government of India and places representatives of the Ministries of Education, Finance and Information and Broadcasting in its governing body. The Government is further empowered to nominate other members. More so, members appointed by the Government hold office for a prescribed term of 3 years and the Chairman holds office at the pleasure of the Government.[11] The Chairman is the chief executive officer of the Trust and exercises the powers necessary for its day-to-day functioning.[12]

13. This is not merely a case where a Government officer happens to be associated with an otherwise independent organisation. The governing structure of the Trust itself places governmental representatives at the heart of the decision-making process. Rule 26 itself provides for the Executive Committee, which is entrusted with the administration, direction and control of the affairs of the Trust, includes representatives of the Ministries of Education, Finance and Information and Broadcasting, with the Finance Ministry representative also functioning as the Financial Adviser. Other non-official members of the Executive Committee are also nominated by the Government. The Executive Committee exercises the principal managerial powers of the Trust, while its regulatory power is itself subject to the previous approval of the Government of India.[13]

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[10] Memorandum of Association and Rules of the National Book Trust, India
See Rules: https://www.nbtindia.gov.in/writereaddata/attachment/wednesday-may-27-20264-51-07-pmannexure-iii-memorandum-of-association-rules.pdf
[11] Rules 7 and 13.
[12] Rules 48 and 50.
[13] Rule 42.

14. The extent of governmental involvement becomes even more apparent from the provisions governing the financial and institutional framework of the Trust. Financial matters are required to be placed before the Financial Adviser as per Rule 57; in specified cases of disagreement, the matter may travel to the Ministers of Education and Finance.[14] The annual report and audited accounts are required to be submitted to the Government under Rule 59. More so, the accounts are to be maintained in the form prescribed by the Government in consultation with the Comptroller and Auditor-General of India[15], and the CAG or a person authorised by it is empowered to audit the accounts with powers analogous to those available in the audit of Government accounts.[16] The governing framework further requires governmental approval under Rule 60 for specified alterations to the rules and purposes of the Trust.

15. These provisions cannot, in our view, be characterised as isolated instances of ordinary regulatory supervision. They operate cumulatively as the Government participates in the constitution of the body; determines a substantial part of its governing composition; appoints its Chairman; retains control over the tenure of that office; participates in its financial administration; exercises oversight through the audit mechanism; receives its annual reports and accounts; and retains a measure of control over alteration of the very framework within which the Trust functions. When these features are viewed together, they disclose a relationship substantially different from

[14] Rule 51
[15] For short, 'CAG'
[16] Rule 58

that which exists between the Government and an ordinary private society subject merely to regulatory legislation.

16. We are conscious that financial assistance is an important, but not an exclusive, factor in the inquiry under Article 12 of the Constitution. The Trust has emphasised that Government grants constitute only one of its sources of income and that, for certain years, its own receipts constituted a substantial part of its total income. It has been argued that the Full Bench of the High Court was therefore not justified in treating the mere receipt of Government grants as conclusive. But according to us, neither does the fact that the Trust generates income from the sale of its publications answer the constitutional question in its favour. There has to be a cumulative understanding i.e., financial autonomy in one aspect cannot be isolated from the statutory or regulatory structure governing the body, its composition, management and governmental supervision.[17]

17. The material placed by the learned Amicus is relevant in this regard. The Amicus has correctly approached the question not by asking whether Government funding constitutes the entirety of the Trust's income, but by examining its financial, functional and administrative relationship with the Government cumulatively. The rules concerning the Trust's accounts and the audit by the CAG further demonstrate that Government involvement in its financial affairs is structurally embedded and is not confined merely to imposing conditions upon an occasional grant. The fact that the Trust earns

[17] ***Pradeep Kumar Biswas*** *(supra)* at Para 40.

revenue from its publications therefore does not, by itself, displace the pervasive governmental control disclosed by its governing framework.

18. We do not proceed on the basis that publication of books, by itself, is a sovereign or exclusively governmental function. Nor do we accept the proposition that every activity having educational or public utility necessarily converts the body undertaking it into 'State'. This Court in ***Zee Telefilms Ltd. and Another vs. Union of India and Others***[18], made it clear that the existence of a public function, in isolation, is insufficient; what is required is the cumulative satisfaction of the test under Article 12 of the Constitution.

19. The relevance of the Trust's functions lies in their character when considered alongside its creation and governmental control. Its objects include production and promotion of good literature, making such literature available to the public at moderate prices, publication of classical Indian literature, translation of important Indian and foreign works, dissemination of knowledge, book exhibitions and seminars, and measures directed towards making books accessible to the public. These functions are not merely incidental activities of a private commercial publisher, rather they reflect the very public and national purposes for which the Trust was established by the Government.

20. The subsequent material placed by the learned Amicus reinforces, rather than creates, this functional character. The Trust has continued to undertake programmes connected with the dissemination of educational

[18] (2005) 4 SCC 649 at Para 22 to 24.

material, promotion of Indian languages and reading culture, and implementation of governmental initiatives such as the PM-YUVA (Young Authors Mentorship Scheme).[19] We do not rest our conclusion upon developments occurring after the Full Bench judgment, however, they are relevant only as corroborative material demonstrating that the governmental purpose underlying the Trust's creation and functioning has not been merely formal or historical.

21. The learned Amicus has also drawn our attention to various decisions of this Court where societies and other non-statutory bodies were brought within the ambit of Article 12 of the Constitution on an examination of their actual relationship with the Government. Conversely, several other decisions have been placed before us which demonstrate that registration as a society and association with Government are not, by themselves, sufficient. The lesson from this line of decisions establish that a society is not automatically "State" merely because it is associated with the Government; the Court must examine how it is constituted and how far the Government controls its functioning.

22. We may also clarify an aspect which appears to have weighed with the appellant before the Full Bench and has been reiterated before us. The declaration that the Trust is 'State' under Article 12 of the Constitution does not convert the Trust into a department of the Government of India, nor does it make every employee of the Trust a civil servant or confer upon such

[19] Ministry of Education, 'Government Launches YUVA – Prime Minister's Scheme for Mentoring Young Authors' (PIB, 29.05.2021-Press Release)
See: https://www.pib.gov.in/PressReleasePage.aspx?PRID=1722644&reg=48&lang=2

employees all constitutional protections available to Government servants under Part XIV of the Constitution. Article 12 of the Constitution performs a distinct constitutional function for the purposes of Part III of the Constitution, and has no automatic consequence under Articles 309, 310 or 311 of the Constitution.[20]

23. There will be, consequently, no merit in the submission that recognising the Trust as 'State' would necessarily lead to all consequences associated with Government employment. The question before us is narrower extending to whether the Trust is sufficiently an instrumentality of the Government so as to attract the constitutional discipline of Part III of the Constitution. On that question, the cumulative features of the Trust's constitution and functioning point in only one direction.

24. We, therefore, find that the Full Bench of the High Court was correct in placing emphasis not upon any one individual factor but upon the cumulative effect of the Government's control over the Trust. The Government's role begins with the creation of the Trust, extends to its governing composition and appointment of its principal functionary, permeates its executive and financial administration, and continues through audit, reporting and governmental approval over aspects of its governing framework. This is not the limited or general regulatory supervision which can be excluded from the ambit of Article 12 of the Constitution.

[20] ***Ajay Hasia*** *(supra)* at Para 12; ***Pradeep Kumar Biswas*** *(supra)* at Para 20.

25. In our considered view, the Trust accordingly satisfies the test of being financially, functionally and administratively dominated by or under the control of the Government, with that control being particular to the Trust and pervasive in character. Its registration as a society, or the fact that it generates part of its income independently cannot displace the cumulative constitutional character of the institution.

26. We therefore uphold the conclusion of the Full Bench of the High Court that National Book Trust is an 'other authority' within the meaning of Article 12 of the Constitution and is consequently a 'State' for that purpose.

27. Therefore, no interference is called for. The Appeal is, accordingly, ***dismissed.***

28. We place on record our sincere appreciation for the valuable assistance rendered by Shri Sanjay Jain, learned senior counsel, as A*micus Curiae* to this Court.

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
NOVEMBER 06, 2026.