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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Reserved on: 07.02.2025
Pronounced on: 25.02.2025

Sr. No.	Case No.	Title of the case
1.	CWP-29952-2018	COMPUTER TEACHERS WELFARE SOCIETY(REGD) Vs STATE OF PUNJAB AND ORS
2.	CWP-11774-2019	HARCHARAN SINGH AND OTHERS Vs STATE OF PUNJAB AND OTHERS
3.	CWP-29504-2019	KIRTI BHARDWAJ Vs STATE OF PUNJAB AND OTHERS
4.	CWP-25530-2017	NAVJOT SINGH AND ORS Vs STATE OF PUNJAB AND ANR.
5.	LPA-1660-2023	DHARMINDER SINGH AND OTHERS Vs STATE OF PUNJAB AND OTHERS
6.	LPA-1675-2023	LAKHWINDER SINGH AND OTHERS Vs STATE OF PUNJAB AND OTHERS
7.	LPA-1680-2023	MANPREET SINGH AND OTHERS Vs STATE OF PUNJAB AND OTHERS
8.	LPA-1641-2023	COMPUTER FACULTY ASSOCIATION, AND OTHERS Vs STATE OF PUNJAB AND OTHERS
9.	LPA-1947-2023	HONEY GARG AND OTHERS Vs STATE OF PUNJAB AND OTHERS
10.	LPA-1275-2023	PAWANPREET KAUR AND OTHERS Vs STATE OF PUNJAB AND OTHERS
11.	CWP-9885-2024	KASHMIR SINGH AND ORS Vs STATE OF PUNJAB AND OTHERS
12.	CWP-13562-2024	NARDEEP SHARMA AND OTHERS Vs STATE OF PUNJAB AND OTHERS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI

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Argued by: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Brijesh Khosla, Advocate
Ms. Shreya Kaushik, Advocate and
Mr. Sumbhav Parmar, Advocate
for the petitioner (in CWP-29952-2018).

Mr. D.S.Patwalia, Senior Advocate with
Mr. Ayush Gupta, Advocate and
Mr. Kannan Malik, Advocate
for the petitioners (in CWP-25530-2017).

Mr. P.K.Mutneja, Senior Advocate with
Mr. Viranjeet Singh Mahal, Advocate
Mr. Suverna Mutneja, Advocate
Mr. Akshay Goel, Advocate and
Mr. Vishesh Bhatia, Advocate
for the petitioners (in CWP-13562-2024).

Mr. Gaurav Chopra, Senior Advocate with
Ms. Darika Sikka, Advocate
for the appellants (in LPA-1641-2023).

Mr. Vikas Chatrath, Advocate
Mr. Akshat Kalia, Advocate
Mr. Girender Singh, Advocate
Mr. Abhishek Singla, Advocate &
Ms. Tanya Sehgal, Advocate for petitioners
(in CWP-11774-2019 and CWP-29504-2023) and
for appellants (in LPA-1947-2023).

Mr. Harish Goyal, Advocate
for the appellants (in LPAs No.1641, 1660, 1675 and
1680 of 2023).

Mr. Navdeep Chhabra, Advocate
for the petitioners (in CWP-9885-2024).

Mr. Dharaminder Singh Lamba, DAG, Punjab

Ms. Anu Chatrath, Advocate
Mr. Shourya Mehra, Advocate
for respondent – S.S.A.

Mr. Ankush Aggarwal, Advocate
for respondents No.2 and 3 (in LPA-1641-2023).

Mr. Harpal Preet Singh Chopra, Advocate
for respondent No.3 (in CWP-13562-2024).

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Mr. Ankur Sharma, Advocate
for respondents No.4 and 5 (in CWP-9885-2024).

Ms. Deepika Bagri, Advocate and
Mr. Anupal Singla, Advocate
for respondents No.2 and 3 (in CWP-29504-2019).

Mr. Bir Singh Mann, Advocate
for respondents No.2 and 3 (in LPA-1660-2023)
for respondent No.3 (in LPA-1675-2023) and
for respondent No.2 (in LPA-1680-2023).

Ms. Neetu Singh, Advocate for
Mr. Shekhar Verma, Advocate
for respondent No.2 (in CWP-25530-2017).

Mr. Sanjay Kaushal, Advocate
Ms. Ojaswini Gagneja, Advocate
for respondents No.4 and 5 (in CWP-29952-2018).

SURESHWAR THAKUR, J.

Factual Backdrop of the case.

1. The Director General School Education, Punjab Government, invited applications for recruitment of 1324 computer faculty and 1640 computer teachers, to be appointed on contractual basis under the Information and Communication Technology (ICT) Project. The last date for submission of the applications was 10.06.2004.
2. Thereafter, in the year 2005, the Director General School Education, Punjab advertised 500 posts of computer faculty, to be manned by contractual appointees. The last date for submission of applications was 09.03.2005.

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3. In the meantime, a society nomenclatured as the Punjab Information and Communication Education Society (PICTES) came into existence on 17.02.2005.

4. Further, in the year 2006, the Department concerned advertised 2200 posts for Computer Faculty. The last date for submission of applications was 11.12.2006.

5. Pursuant to the afore public notices, becoming published respectively in the year 2004, 2005 and in the year 2006, the petitioner(s) became appointed as Computer Faculty/Computer Teachers and continued to serve as employees of PICTES.

6. On 12.11.2010, a meeting was held under the Chairmanship of Chief Minister, Punjab and a decision was taken to regularize Computer Teachers who became appointed on a contractual basis with PICTES and who had completed two and a half years service as on 01.07.2011 and who were in possession of BCA degree or equivalent or higher academic qualification as approved by the Board of Governors of PICTES.

7. Pursuant to the aforesaid decision taken in the meeting held under the Chairmanship of Chief Minister, Punjab, an order was issued by the Governor of Punjab and a communication vide memo number 01/49/2009-2E/9141-9184 dated 02.12.2010 (21.12.2010) Annexure P-8, to that effect was further issued to the Director General School Education, Punjab, Chandigarh. The relevant contents of the said letter is extracted hereinafter.

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“2. The Governor of Punjab is pleased to order the regularization of service of the computer teachers w.e.f. dated 1.7.2011, who were appointed on contract basis in the PICTES Societies constituted under Education Department subject to the following conditions:-

A. Computer teachers will be regularized in the PICTES only.

B. Only those computer teachers will be regularized who have completed the two and half years service till dated 1.7.2011 and their work and performance is found satisfactory. Apart from that, there should not be any departmental disciplinary proceedings pending against them.

C. These teachers shall be given the basic scale of Rs.10,790/- at par with the vocational masters. From 1.7.2011, computer teachers will be governed by the rules framed under Punjab Civil Services and their appointing authority shall be Director General School Education.

D. These teachers shall not be given any benefit of the services rendered by them on contract basis prior to their regularization.”

8. Thereafter, vide memo No. 4/1-ICT/2010-11/Salary/11651-670 dated 23.11.2011, issued by the Director General School Education, Punjab I.C.T. Education Society, Chandigarh, it was clarified that regularized computer faculty would be given all allowances payable, as given to vocational masters.

9. Moreover, the matter was put before the Cabinet of the Punjab Government, and, vide memorandum dated 16.10.2011, an approval was granted for the regularization and grant of pay scale and allowances to the Computer Teachers, however, with an amendment that they be given different pay scale of Rs.10,300-34800+5000 grade pay and they should not be linked with Vocational Lecturers.

10. Moreover, the Department of Finance vide communication dated 27.02.2023, has expressed its dissent to implement the Punjab

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Civil Services Rules to the regular Computer Teachers working under the PICTES society, as, prior thereto, the Department of Personnel vide communication dated 27.12.2017, thus observed that the instructions regarding ACP are applicable to the Government employees, whereas, the Computer Teachers being employees of the society are not entitled for the said scales.

11. One of such matters travelled to this Court in **CWP No.12745 of 2019 titled as ‘Tania Makkar vs. State of Punjab and another’**. The petitioner therein applied for Child Care Leave on account of illness of her child which was rejected claiming that:-

“Computer Faulty are the employees of PICTES Society and there is no provision for Child Care leave under PICTES Society.”

12. The said writ petition was disposed of by this Court vide order dated 20.02.2023, relevant portion whereof becomes extracted hereinafter.

The Stand of the respondents is beyond comprehension. Both the respondents admit that there is no Rule, as of today framed by the Corporation to govern the service condition of the employees yet repeated reference is being made to the Rules which are in the process of being framed.

In the considered opinion of this Court, once the appointment letter of the petitioner specifically provided that her right to leave shall be governed by the provisions of PCS Rules and there is no other Rule in vogue as on today, the only inevitable conclusion that can be reached is that the claim of the petitioner has to be processed in terms of PCS Rules.

Resultantly, the impugned order Annexure P-6 which other wise also this Court finds to be cryptic and bereft of any reason cannot be sustained and is hereby ordered to be

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quashed. Respondents are directed to consider the claim of the petitioner in terms of the provisions as contained in PCS Rules within a period of one month from the date of receipt of certified copy of this order.

Ordered accordingly.”

13. Thereafter, a **Civil Writ Petition bearing No. 15366 of 2012 and connected cases** became filed by the employees of the Punjab Information & Communication Technology (ICT) Educational Society (hereinafter for short called as the Society). In the said writ petition, the hereinafter extracted reliefs were asked for.

I) Directions be issued to the respondents to grant the pay scale payable to the Vocational Masters working in the Education Department to the petitioners; And

II) To grant all the admissible benefits as provided under the Punjab Civil Services Rules Volume I, II and II, such as grant of proficiency step up, assured career progression scheme, different kinds of leaves (earned/medical), medical reimbursement, groups insurance scheme, interim relief of 5% (as given to the other employees of the State Government).

14. Further, the learned Single Judge, made the hereinafter extracted issues for consideration.

i) Whether the employees of the Society are appointed on the civil posts?

ii) If the answer to issue No.(i) is affirmative, then, whether the petitioners are entitled to the directions to pay them the same pay scale as paid to the Vocational Masters in the different subjects employed by the State Government and to award them the same benefits including the benefit of proficiency step up, assured career progression scheme, different kinds of leaves (earned/medical), medical reimbursement, groups insurance scheme, interim relief of 5% (as is paid to the other employees of the State Government)?

15. To the said framed issues, the relevant portions of the answers rendered thereto are extracted hereinafter.

Issue No. (i)

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*An autonomous instrumentality, though regarded as instrumentality of the State and thus, fall under the scope of the authorities under Article 12 of the Constitution of India, yet it has its own distinct personality separate from the government. **In view of the aforesaid***

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discussion, the petitioners are not the employees working under the State. Thus, the answer to issue No.(i) is answered in negative.

Issue No. (ii)

6. Now, let us shift our focus to issue No.(ii). The petitioners claim that though they have been employed by the society, however, they are working as Computer Faculty in the government schools. Hence, they pray for grant of pay scale which is equivalent to the pay scale of Vocational Masters in different subjects working under the Punjab Government. The Council of Ministers has taken a conscious decision not to treat them equivalent to the Vocational Masters and their pay scales have not been equated with that of the Vocational Masters.

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9. As regards the prayer of the petitioners that they should be granted all the benefits which are payable to the government employees and the Punjab Civil Services Rules should be made applicable upon them, it would be noted that the said rules are notified by the government in the exercise of the powers under the proviso to Article 309 of the Constitution of India. The aforesaid rules are applicable upon all the government employees belonging to the categories specified therein. Rule 1.2 of the Punjab Civil Services Rules Volume I reads as under:

“1.2. (1) Except as otherwise provided in rule 1.4 infra or in any other rule or rules these rules shall apply to all Government employees belonging to the categories mentioned below, who are under the administrative control of the Punjab Government and whose pay is debitable to the Consolidated Fund of the State of Punjab:

- (1) Members of State Services, Group “A” and Group “B”;
- (2) Members of State Services, Group “C”;
- (3) Members of State Services, Group “D”;
- (4) Holders of Special Posts; and
- (5) any other Government employee or class of Government employees to whom the competent authority may, by general or special order, make them applicable:

Provided that the rules in Part I-Pensions and the Punjab General Provident Fund Rules contained in Volume-II of these rules called the Punjab Civil Services Rules, Volume-II shall not apply to the Government employees who are appointed to the posts mentioned in categories (1) to (5) above on or after the 1st January, 2004. They shall be covered by new “Defined Contributory Pension Scheme” to be notified by the State Government.

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10. From the reading of Rule 1.2 of the Punjab Civil Services Rules Volume I, it is evident that these rules are applicable to the government employees, whereas, the petitioners are the employees under the Society and not the government. In the absence of any conscious decision taken by the Society to make the said rules applicable upon its employees, this Court does not find it appropriate to issue such directions.

11. Moreover, now, the Society has already framed the independent rules to regulate the service conditions of its employees. It is only waiting for the sanction of the said rules by the government.

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17. Though, issue No. (ii) is no longer required to be answered in view of discussion on issue No.(i), however, for the sake of clarity, the same is answered in negative.

16. Thereafter, an another writ petition bearing No. CWP-29952-2018 was filed before this Court agitating a similar relief, as was raised by the writ petitioner(s), in Civil Writ Petition bearing No.15366 of 2012. The relevant prayer clause in CWP-29952-2018 become extracted hereinafter.

These three writ petitions involve common question of law and facts. One of the writ petitions i.e. CWP-29952-2018 is at the behest of Computer Teachers Welfare Society – A Society registered under Societies Registration Act stated to be formed by Computer Faculty appointed by the respondents from time to time. For the sake of convenience, facts are being taken from the same. By petitioner, I mean the members of the petitioner-society and the petitioners in other CWP.

2. The petitioners seek writ in the nature of mandamus directing the respondents to extend the statutory benefits as contained in Punjab Civil Service Rules including ACP, New Pension Scheme, CPF Deduction, Leave and Allowances etc. Further writ in the nature of mandamus has been prayed for in the form of directions to the respondents to frame seniority list of the petitioners by treating them to be the confirmed employees and to refix the grade pay of the petitioners at par with the Vocational Masters in terms of decision dated 02.12.20210 (Annexure P-8), 05.07.2011 (Annexure P-10), 24.10.2011 (Annexure P-11 colly.) and 23.11.2021 (Annexure P-12). Further prayer is for issuance of a writ in the nature of ceriorari quashing order dated 19.12.2011 (Annexure P-13).

17. Thereins, the learned Single Judge in the said writ petition framed the hereinafter extracted issues for consideration.

16. In the considered opinion of this Court, following questions arise for the consideration:-

- (i) Whether the petitioners are Government employees and thus governed by PCS Rules?**
- (ii) Whether the PICTES which is a society owned and financed by the Government has its independent status?**
- (iii) Whether the petitioners would be governed by PCS Rules in the facts and circumstances of the present case?**
- (iv) Whether the petitioners are entitled for the same benefits as are being paid to the other Government employees?**
- (v) What is the effect of judgment passed by the Coordinate Bench?**

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18. After making a detailed discussion on the issues framed above, the learned Single Judge in paragraphs No. 43 to 45 of the said verdict gave answers to the same. The said paragraph is extracted hereinafter.

43. Mere fact that the society has framed rules and the same are pending before the Government for approval cannot have an effect of rewriting the terms and conditions of appointment letters issued by the society to the Computer Teachers/Computer Faculty. Thus, the issues as culled out in para 16 of this judgment are answered as under:-

(i) The petitioners are not Government employees and thus cannot be axiomatically held to be governed by PCS Rules.

(ii) The PICTES being a society registered under the Society Registration Act, 1860 is a separate entity other than Government of Punjab. It has its separate status. Since it is in the control and is funded by Government, it falls within the definition of instrumentality of State as enumerated under Article 12, but is not Government of Punjab.

(iii) As per the appointment letters issued to the petitioners and the decision taken in the meeting headed by Chief Minister, Punjab and the notification issued by Governor of the State, the PCS Rules are applicable and the petitioners would be governed by the same as the society implemented the orders issued by Government.

(iv) The petitioners are entitled to the parity with Vocational Masters vis-a-vis pay scales. However, the other allowances being paid to the employees working as Vocational Masters, who happen to be employees of Government of Punjab will be payable to the petitioners only if the society adopts the same or the Government decides. Though, the allowances admissible under the PCS Rules will be given.

44. Coming on the effect of the judgment, this Court cannot be oblivious of the fact that having two views on the same question would complex the issue further instead of concluding it. Thus, it will be in the interest of justice that a situation be avoided where there are two different views. Questions involved be referred to Larger Bench.

*45. In view of the above, having placed respectful disagreement with the judgment rendered by a Coordinate Bench in **CWP No.15366 of 2012** and other connected cases, Registry is directed to place the file of this case before Hon'ble the Chief Justice for constituting a Larger Bench so that the issue involved in this lis is concluded as there are two divergent views.*

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19. In view of the above made orders by the learned Single Judge, the instant larger Bench has been constituted under the orders of Hon'ble the Chief Justice, thus for rendering an answer to the hereinabove formulated substantial question of law.

20. Further, a perusal of the records reveals that the 26th meeting of the Board of Governors (BoG) of the Punjab ICT Education Society (PICTES), thus was held on 19.11.2024, wherein, “**The Punjab ICT Education Society Service Rules, 2024**” (hereinafter for short called as the Service Rules, 2024) became approved and all the employees (computer faculties and administrative staff) were declared to become governed under the said Rules. The said rules were stated to come into force w.e.f. 19.11.2024.

Common submissions of the learned counsel for the petitioner(s)/appellant(s).

21. (i) The petitioners perform identical functions and duties as government employees in government schools, yet are subjected to differential treatment. The said action of the State Government is in direct violation of Articles 13(2), 13(3), and 14 of the Constitution of India. Moreover, the distinction created by the respondents between government employees and the petitioners is both arbitrary and discriminatory, thus lacking any reasonable justification.

(ii) The applicability of the Punjab Civil Services Rules to the petitioners was a conscious decision taken by the Council of Ministers, as can be seen from the orders of regularisation.

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(iii) The stand of the State Government with regard to the applicability of the Punjab Civil Services Rules, only to the government employees, thus is completely fallible. The petitioners are admittedly recruited for teaching computer education in government schools, besides have been regularised by orders of the Governor of Punjab and are paid by the State. Moreover, since they are serving in connection with affairs of the State of Punjab, therebys, the Punjab Civil Services Rules are fully applicable qua them in respect of ACP, Pension, PF, CPF, Gratuity, Compassionate Appointment, Seniority List, Channel of Promotion, Confirmation in Service, Grade Pay, at par with Vocational Masters, Medical Reimbursement and other benefits.

(iv) Though, PICTES is a society, yet it is fully owned and controlled by the State Government. Moreover, though PICTES has framed Service Rules in the year 2024, yet they cannot affect the rights of the petitioners inter alia on the following grounds :

a. The framing of the said Rules, cannot take away the rights which are vested in the petitioners by virtue of application of the Punjab Civil Service Rules qua them.

b. The terms and conditions contained in the appointment order cannot be annulled unilaterally by the respondents.

c. PICTES is funded through the State Government. The petitioners draw their salary from the consolidated Funds. They cannot be denied the benefits which are being provided to the other similarly situated persons/counterparts holding analogous civil posts.

(v) The Punjab Civil Services Rules are applicable to other Government Corporations where their own regulations are silent such

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as the PUDA. Moreover, there is no bar for application of the Punjab Civil Service Rules.

(vi) An artificial distinction, thus through mothering of a registered society named PICTES, has been created by the State Government between the teachers recruited for 'Computer Subject' and other conventional subjects like “English, Mathematics etc.” In support of their arguments, the learned counsel for the petitioners have placed reliance upon a judgment rendered by the Apex Court in case titled as **State of Punjab and Others Vs. Senior Vocational Staff Masters Association and Others**, reported in **2017 (3) Apex Court Judgments (SC) 733**. The relevant paragraph as occur in the said judgment is extracted hereinafter.

18) We are conscious of the fact that a differential scale on the basis of educational qualifications and the nature of duties is permissible. However, it is equally clear to us that if two categories of employees are treated as equal initially, they should continue to be so treated unless a different treatment is justified by some cogent reasons. In a case where the nature of duties is drastically altered, a differential scale of pay may be justified. Similarly, if a higher qualification is prescribed for a particular post, a higher scale of pay may be granted. However, if the basic qualifications and the job requirements continued to be identical as they were initially laid down, then the Court shall be reluctant to accept the action of the authority in according a differential treatment unless some good reasons are disclosed. Thus, the decisions relied upon by learned senior counsel are clearly distinguishable and are not applicable to the facts of the present case.

(vii) The scope of Article 12 of the Constitution of India, vis-a-vis the instrumentalities of State has been dealt with by the Hon'ble Supreme Court in case **Mr. Ajay Hasia Vs. Khalid Mujib Sehravardi and others** reported in **1981 AIR SC 487**. The relevant paragraphs as occur in the said judgment are extracted hereinafter.

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*It is undoubtedly true that the corporation is a distinct juristic entity with a corporate structure of its own and it carries on its functions on business principles with a certain amount of autonomy which is necessary as well as useful from the point of view of effective business management, but behind the formal ownership which is cast in the corporate mould, the reality is very much the deeply pervasive presence of the Government. It is really the Government which acts through the instrumentality or agency of the corporation and the juristic veil of corporate personality worn for the purpose of convenience of management and administration cannot be allowed to obliterate the true nature of the reality behind which is the Government. Now it is obvious that if a corporation is 'an instrumentality or agency of the Government, it must be subject to the same limitations in the field of constitutional law as the Government itself, though in the eye of the law it would be a distinct and independent legal entity. If the Government acting through its officers is subject to certain constitutional limitations, it must follow a fortiori that the Government acting through the instrumentality or agency of a corporation should equally be subject to the same limitations. If such a corporation were to be free from the basic obligation to obey the Fundamental Rights, it would lead to considerable erosion of the efficiency of the Fundamental Rights, for in that event the Government would be enabled to override the Fundamental Rights by adopting the stratagem of carrying out its functions through the instrumentality or agency of a corporation, while retaining control over it. The Fundamental Rights would then be reduced to little more than an idle dream or a promise of unreality. **It must be remembered that the Fundamental Rights are constitutional guarantees given to the people of India and are not merely paper hopes or fleeting promises and so long as they find a place in the Constitution, they should not be allowed to be emasculated in their application by a narrow and constricted judicial interpretation. The courts should be anxious to enlarge the scope and width of the Fundamental Rights by bringing within their sweep every authority which is an instrumentality or agency of the Government or through the corporate personality of which the Government is acting, so as to subject the Government in all its myriad activities, whether through natural persons or through corporate entities, to the basic obligation of the Fundamental Rights.***

The constitutional philosophy of a democratic socialist republic requires the Government to undertake a multitude of socio-economic operations and the Government, having regard to the practical advantages of functioning through the legal device of a corporation embarks on myriad commercial and economic activities by resorting to the instrumentality or agency of a corporation, but this contrivance of carrying on such activities through a corporation cannot exonerate the Government from implicit obedience to the Fundamental Rights. To use the corporate methodology is not to liberate the Government from its basic obligation to respect the Fundamental Rights and not to override them. The mantle of a corporation may be adopted in order to free the Government from the inevitable constraints of red-tapism and slow motion but by doing so, the Government cannot be allowed to play truant with the basic human rights. Otherwise it would be the easiest thing for the Government to assign to a plurality of corporations almost every State business such as Post and Telegraph. TV and Radio, Rail Road and Telephone in short every economic activity and thereby cheat the people of India out of the Fundamental Rights

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*guaranteed to them. That would be a mockery of the Constitution and nothing short of treachery and breach of faith with the people of India, because, though apparently the corporation will be carrying out these functions it will in truth and reality be the Government which will be controlling the corporation and carrying out these functions through the instrumentality or agency of the corporation. We cannot by a process of judicial construction allow the Fundamental Rights to be rendered futile and meaningless and thereby wipe out Chapter III from the Constitution. That would be contrary to the constitutional faith of the post-Menaka Gandhi era. It is the Fundamental Rights which along with the Directive Principles constitute the life force of the Constitution and they must be quickened into effective action by meaningful and purposive interpretation. If a corporation is found to be a mere agency or surrogate of the Government, "in fact owned by the Government, in truth controlled by the Government and in effect an incarnation of the government," the court must not allow the enforcement of Fundamental Rights to be frustrated by taking the view that it is not the Government and therefore not subject to the constitutional limitations. **We are clearly of the view that where a corporation is an instrumentality or agency of the government, it must be held to be an 'authority' within the meaning of Article 12 and hence subject to the same basic obligation to obey the Fundamental Rights as the government.***

22. A similar view has been taken by the Apex Court in case titled as **Ramana Dayaram Shetty Vs. International Airport Authority of India**, reported in 1979 AIR SC 1628.

Submissions of the learned counsel for the respondent.

23. On the other hand, the learned counsel for the respondent submits that respondent No. 3 is a society registered under the Societies Registration Act, 1860. Earlier all the employees of the respondent-Society were appointed on contract basis, however, vide notification dated 02.12.2010, the services of Computer Faculties have been regularized under PICTES, who had completed 2 ½ years of service on 01.07.2011. Since earlier all the employees of the respondent-Society were appointed on a contract basis, therefore, their service conditions were governed under the terms and conditions of their respective contracts. Hence, there were no service regulations of the respondent-

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society. Resultantly, when it was decided to regularize the services of the Computer Faculties, as there were no service regulations of the respondent-society, therefore, vide notification dated 02.12.2010 (Annexure P-5), it was mentioned that the Punjab Civil Services Rules will be applicable to the Computer Faculties whose services are regularized within PICTES.

24. **A perusal of notification dated 02.12.2010 makes it clear that the services of Computer Faculties were regularized in the Society i.e. respondent no. 3 and the petitioners were never made regular employees of the Government.** The applicability of the Punjab Civil Services Rules was mentioned in the notification dated 02.12.2010 only for regularizing the services of the Computer Faculties because there were no service regulations in the respondent-Society.

25. Further, in pursuance to the decision taken by the Government, the 26th meeting of the Board of Governors (BoG) of the Punjab ICT Education Society (PICTES) was held on 19.11.2024, wherein **"The Punjab ICT Education Society Services Rules, 2024"** have been approved. All the employees (computer faculties and administrative staff) will be governed under **"The Punjab ICT Education Society Services Rules, 2024,"** These rules have come into force w.e.f. 19.11.2024 and have been circulated vide No. 5/3-ICT/2024/E794234/310724 dated 02.12.2024.

26. **Moreover, when a meeting of the Council of Ministers was held on 17.12.2011, therein a conscious decision was taken that**

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the Computer Faculties will be given separate pay scale of Rs. 10300-34800+5000 grade pay and it was also decided that the Computer Faculties will not be linked to the Vocational Lecturers.

27. In addition, the petitioners are working as Computer Faculties under the respondent society, whereas, the vocational masters are working under the Education Department of the State of Punjab. Hence there is no comparison between the Computer Faculties and Vocational Master/Lecturer and the Computer Faculties have no concern with the Vocational Masters. The decision of the Cabinet taken on 17.12.2011 circulated on 19.12.2011 is a conscious decision, which is strictly within the domain of the Government. The petitioners have never challenged the said decision of the State of Government.

Inferences of this Court.

28. The learned Single Bench of this Court while passing a decision upon **CWP-12745-2019** had maneuvered itself to adopt a view that the prima donna plank for determining the service conditions of the petitioner therein, was the one, as stated in the appointment letter. Since in the appointment letter issued to the petitioner thereins, it was stated that her right to avail leave, thus shall be governed by the provisions incorporated in the Punjab Civil Service Rules and since there were no other rules in vogue on the said date, therebys, it was concluded that the claim of the petitioner for leave being granted to her, was to be processed in terms of the Punjab Civil Service Rules. As such, the impugned therein order, wherebys, the leave of the petitioner therein

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became rejected, thus was declared to be cryptic and bereft of any reason. Resultantly the said order was quashed and set aside.

29. However, another **CWP-15366 of 2012** became instituted before this Court, and, as stated (*supra*) the reliefs claimed therein are re-extracted hereinafter.

I) Directions be issued to the respondents to grant the pay scale payable to the Vocational Masters working in the Education Department to the petitioners; And

II) To grant all the admissible benefits as provided under the Punjab Civil Services Rules Volume I, II and II, such as grant of proficiency step up, assured career progression scheme, different kinds of leaves (earned/medical), medical reimbursement, groups insurance scheme, interim relief of 5% (as given to the other employees of the State Government).

30. However, the questions which become formulated therein and the answer meted theretos though are extracted hereinabove but for the sake of re-calibrating, both the questions formulated therein and the answers thereto become re-extracted hereinafter.

i) Whether the employees of the Society are appointed on the civil posts?

ii) If the answer to issue No.(i) is affirmative, then, whether the petitioners are entitled to the directions to pay them the same pay scale as paid to the Vocational Masters in the different subjects employed by the State Government and to award them the same benefits including the benefit of proficiency step up, assured career progression scheme, different kinds of leaves (earned/medical), medical reimbursement, groups insurance scheme, interim relief of 5% (as is paid to the other employees of the State Government)?

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31. On the said framed issues, the relevant portions of the answers rendered thereto are extracted hereinafter.

Issue No. (i)

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*An autonomous instrumentality, though regarded as instrumentality of the State and thus, fall under the scope of the authorities under Article 12 of the Constitution of India, yet it has its own distinct personality separate from the government. **In view of the aforesaid discussion, the petitioners are not the employees working under the State.** Thus, the answer to issue No.(i) is answered in negative.*

Issue No. (ii)

6. Now, let us shift our focus to issue No.(ii). The petitioners claim that though they have been employed by the society, however, they are working as Computer Faculty in the government schools. Hence, they pray for grant of pay scale which is equivalent to the pay scale of Vocational Masters in different subjects working under the Punjab Government. The Council of Ministers has taken a conscious decision not to treat them equivalent to the Vocational Masters and their pay scales have not been equated with that of the Vocational Masters.

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9. As regards the prayer of the petitioners that they should be granted all the benefits which are payable to the government employees and the Punjab Civil Services Rules should be made applicable upon them, it would be noted that the said rules are notified by the government in the exercise of the powers under the proviso to Article 309 of the Constitution of India. The aforesaid rules are applicable upon all the government employees belonging to the categories specified therein. Rule 1.2 of the Punjab Civil Services Rules Volume I reads as under:

“1.2. (1) Except as otherwise provided in rule 1.4 infra or in any other rule or rules these rules shall apply to all Government

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employees belonging to the categories mentioned below, who are under the administrative control of the Punjab Government and whose pay is debitable to the Consolidated Fund of the State of Punjab:

(1) Members of State Services, Group “A” and Group “B”;

(2) Members of State Services, Group “C”;

(3) Members of State Services, Group “D”;

(4) Holders of Special Posts; and

(5) any other Government employee or class of Government employees to whom the competent authority may, by general or special order, make them applicable:

Provided that the rules in Part I-Pensions and the Punjab General Provident Fund Rules contained in Volume-II of these rules called the Punjab Civil Services Rules, Volume-II shall not apply to the Government employees who are appointed to the posts mentioned in categories (1) to (5) above on or after the 1st January, 2004. They shall be covered by new “Defined Contributory Pension Scheme’ to be notified by the State Government.

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10. From the reading of Rule 1.2 of the Punjab Civil Services Rules Volume I, it is evident that these rules are applicable to the government employees, whereas, the petitioners are the employees under the Society and not the government. In the absence of any conscious decision taken by the Society to make the said rules applicable upon its employees, this Court does not find it appropriate to issue such directions.

11. Moreover, now, the Society has already framed the independent rules to regulate the service conditions of its employees. It is only waiting for the sanction of the said rules by the government.

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17. Though, issue No. (ii) is no longer required to be answered in view of discussion on issue No.(i), however, for the sake of clarity, the same is answered in negative.

32. In-so-far as, the answer to issue No. 1 is concerned, the learned Single Bench of this Court, though declared that PICTES society, though becomes covered within the definition of State, as stated in Article 12 of the Constitution. However yet, it was stated that the PICTES Society, has a personality and character different, from the Government and as such, it was said that the employees of the Society are not working under the Government of Punjab. **As a consequence to the supra meted answer to question No. 1, the learned Single Judge after referring to Rule 1.2 of the Punjab Civil Service Rules, thus garnered a conclusion that the said Rules are applicable to the Government employees, and, as such since the petitioners are not employees of the Government, but are employees under the PICTES Society, therebys, the PCS Rules are not applicable to the employees of the Society, unless, the society makes a conscious decision to make the said Rules applicable vis-a-vis its employees.**

33. Moreover, it was also stated that since the society has formulated its own rules, thus governing the service conditions of the employees under the PICTES society, and that when only sanction thereto is awaited by the Government, therebys, the relevant Rules as embodied in the Punjab Civil Service Rules are inapplicable qua the employees serving under the PICTES Society.

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34. Another Single Bench of this Court, while being seized with CWP-29952-2018, wherein, relief of mandamus was espoused, to the extent that directions be issued upon the respondents to bestow the statutory benefits, as contained in the Punjab Civil Service Rules, vis-a-vis the employees under the PICTES Society, thus proceeded to formulate the above extracted questions of law, and, which are re-extracted hereinafter.

(i) Whether the petitioners are Government employees and thus governed by PCS Rules?

(ii) Whether the PICTES which is a society owned and financed by the Government has its independent status?

(iii) Whether the petitioners would be governed by PCS Rules in the facts and circumstances of the present case?

(iv) Whether the petitioners are entitled for the same benefits as are being paid to the other Government employees?

(v) What is the effect of judgment passed by the Coordinate Bench?

35. The answers meted to the said formulated questions of law are re-extracted hereinafter.

(i) The petitioners are not Government employees and thus cannot be axiomatically held to be governed by PCS Rules.

(ii) The PICTES being a society registered under the Society Registration Act, 1860 is a separate entity other than Government of Punjab. It has its separate status. Since it is in the control and is funded by Government, it falls within the definition of instrumentality of State as enumerated under Article 12, but is not Government of Punjab.

(iii) As per the appointment letters issued to the petitioners and the decision taken in the meeting headed by Chief Minister, Punjab and the notification issued by Governor of the State, the PCS Rules are applicable and the petitioners would be

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governed by the same as the society implemented the orders issued by Government.

(iv) The petitioners are entitled to the parity with Vocational Masters vis-a-vis pay scales. However, the other allowances being paid to the employees working as Vocational Masters, who happen to be employees of Government of Punjab will be payable to the petitioners only if the society adopts the same or the Government decides. Though, the allowances admissible under the PCS Rules will be given.

36. **The underpinnings of the answers thereto, are that, since the PICTES Society under whom the petitioners are serving as employees, thus, is registered under the Societies Registration Act, thereby, it has an entity separate and distinct from the State of Punjab, but irrespective of the factum that the said Society is under the control of the Government, and also is an instrumentality of the State, in terms of Article 12 of the Constitution, wherefrom it ultimately concluded that the Society rather is not the Government of Punjab, and, as such to the said extent, the Punjab Civil Service Rules are not applicable qua the employees under the PICTES Society.**

37. The supra expressed view by the learned Single Bench of this Court upon being seized with **CWP-15366-2012**, became concurred with by the subsequent Single Bench of this Court while becoming seized with **CWP-29952-2018**.

38. Nonetheless, since the subsequent Single Bench of this Court, upon being seized with **CWP-29952-2018**, granted parity of pay scales to the petitioners vis-a-vis the vocational masters working in the

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Department of Education, Government of Punjab, therebys, there was an open dis-agreement with the earlier view adopted by the other Single Bench of this Court in **CWP-15366-2012**.

39. This Court is required to be reconciling the conundrum which besets this Court, and, as relates to

a) whether when un-controvertedly, the Society under whom the petitioners are serving as employees, is a society registered under the Societies Registration Act, whereby though the said Society becomes concurrently declared by both the Single Benches of this Court, to be an instrumentality or agency of the State, but yet both the Single Benches, thus declaring that the PICTES Society, to be holding a character and entity different from the character and entity of the Government of Punjab. Moreover, what are the further legal incidences therefrom.

b) As to whether, the impartings to the PICTES Society, a character and entity different from the Government of Punjab, thus, is in complete dichotomy with the statement made by both the learned Single Benches of this Court, that the Society is an instrumentality and agency of the State.

40. Though, initially both the Single Benches of this Court, are in unanimity with respect to the PICTES Society becoming covered within the definition of the State, as becomes encapsulated in Article 12 of the Constitution of India.

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41. Moreover, though both the Single Benches of this Court, in the apposite decisions respectively made on 28.02.2023, upon, **CWP-15366 of 2012**, and, upon, **CWP-29952-2018**, do with utmost candour and clarity, declare that irrespective of PICTES Society, being an instrumentality or agency of the State, yet, with the Society rather adorning a character and complexion different from the State of Punjab, qua therebys, PCS Rules are inapplicable to the employees of the Society.

42. On the other hand, both the Single Benches of this Court though declare that the employees of the PICTES Society, are not government employees, and, though declared that they cannot be held to be governed by PCS Rules. However, yet abiding by the appointment letters issued to the petitioner(s), by the Governor of the State of Punjab, wherebys, the PCS Rules were made applicable to the employees of the PICTES Society, resultantly, the subsequent Single Bench of this Court (**in CWP-29952-2018**), stated that the service conditions governing the petitioners would be those, as becomes stated in the appointment letters, as became issued to the employees of the PICTES Society. Moreover, it was also declared that the petitioners were entitled to parity with the vocational masters vis-a-vis the pay scales. Nonetheless, the other allowances paid to the employees working as vocational masters, in the Government of Punjab, were stated to be payable to the petitioners, only if the society adopts the same or the Government decides.

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43. For the reasons to be assigned hereinafter, this Court partially accepts the view taken by the subsequent Single Bench of this Court rendered (in CWP-29952-2018), to the extent, that the subsequent Single Bench of this Court, has made the service conditions of the employees of the PICTES Society, to become subjected to the ones as becomes embodied in their respectively issued appointment letters, inasmuch as, therein it becomes stated that the PCS Rules are applicable to the employees of the PICTES Society.

44. **Moreover, this Court also concurs with the view taken by the subsequent Single Bench of this Court (in CWP-29952-2018), to the extent, that it granted parity to the employees of the PICTES Society, vis-a-vis the pay scales, as endowed to the vocational masters serving in the Government of Punjab. However, this Court partially dis-concurs with the view taken by the subsequent Single Bench, inasmuch as, it has in diametrical opposition to the said granted relief, to the petitioners, yet had taken the view that since the PICTES society, is a society registered under the Societies Registration Act, therebys, though it is an instrumentality and agency of the State, as defined in Article 12 of the Constitution, but since it has a different complexion and character, than the one adorned by the Government of Punjab, therebys, the petitioners are not to be construed to be government employees nor but obviously they are to be deemed to be holding civil posts nor the other allowances payable to the vocational masters rather being**

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endowable to the present petitioner, as the said allowances, were required to be adopted by the Society or were to be declared to be applicable to the present petitioner.

45. The present petitioners were recruited through an advertisement becoming issued by the Director General School Education, Punjab. Initially, they were engaged on a contractual basis but subsequently through an approval becoming granted by the Government of Punjab, vide memorandum number 01/49/2009-2E/9141-9184 dated 02.12.2010, their services were regularised. Now the letter of appointment which became issued to the petitioners, is drawn in the name of the Governor of Punjab, contents whereof become extracted hereinafter.

“Order No: 5/3-ICT-2011/Regular-CF/3032 Dated: 03.05.2012

Govt. of Punjab, Department of School Education, (Education Division - 7), vide Memo No. 1/49/2009 - 2E7/9141-9184 dated 02.12.2010, according to which, while declaring the services of the below stated computer faculty equal to those of the vocational masters, the grade pay band Rs. 10,300-34,800+ grade pay Rs. 3,800 (starting salary Rs. 10,790 + grade pay 3800 = Rs. 14,590/-) along with the allowances payable by Govt. of Punjab, is regularized on the basis of the below stated terms and conditions. And according to notification memo no, 1/49/2009-2E7/5320-62 dated 20.12.2011, pay scale of Rs. 10,300-34,800+5,000 will be given from 01.01.2012 onwards, and their monthly pay will be Rs. 18,450/-. All employees will be regularized under Punjab Information and Technology Education Society (PICTES) and Director GENERAL, School Education will be their appointing authority.

Terms and Conditions:

xx xx

13. Employees will be entitled to casual leave and other leave according to Punjab Civil Service Rules.

xx xx

19. The service of the employee will be governed by Punjab Civil Service Rules.”

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46. Consequently, when a studied perusal of the contents of the appointment letter (supra), makes unequivocal voicings that they were to be governed by the PCS Rules. Resultantly therebys, the conscious decision taken in the name of the Governor of the State of Punjab, was to be abided with, than any reverence being meted to the dissent thereto, as made by the Finance Department of the Government of Punjab. Moreover also, since the appointment letters issued to the petitioners, thus were in the name of the Governor of Punjab, with categorical conditions borne therein, wherebys, their employment was deemed to be under the Government of Punjab, but irrespective, of a society being created, thus nomenclatured as ***the Punjab Information and Technology Education Society*** (PICTES), and, which became registered under the Societies Registration Act, besides was concomitantly to be taken to be governed by the PCS Rules. Apparently therebys too, the Society became admitted to be an entity or wing of the Government of Punjab. In other words, therebys, the Government of Punjab admitted the PICTES Society, to be an entity and wing or being its auxiliary to perform such functions, which are otherwise also performed by the Government of Punjab.

47. Also wherebys, it is deemed to be an instrumentality or agency of the State, as the purpose for which the Society has been established, thus is a purpose or a function which otherwise the Government of Punjab performs, inasmuch as, the employees of the

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PICTES Society serving the cause of education, inasmuch as, theirs being appointed as Computer Teachers in Government Schools.

48. On the date of issuance of the advertisements, in the year 2004 and 2005, which became issued under the name and seal of the Director General School Education, Punjab, Chandigarh, the society was not in existence but the said Society came into existence but subsequent to the issuance of the subject advertisements. Therefore initially, the Government of Punjab, had chosen to recruit the present petitioners, as faculty teachers in the various government schools, but subsequently to ensure that the present petitioners are controlled by a Society, therebys, the Society nomenclatured as Punjab Information and Technology Education Society (hereinafter for short called as PICTES) came into existence, through the same becoming registered under the Societies Registration Act. Needless to say that the creation of the Society subsequent to the issuance of the subject advertisement, but only was to ensure hence the assumption of administrative control over the services of the present petitioners, thus by the Society, wherein, visibly the Government of Punjab has a deep pervasive and entrenched control.

49. However, since the conferment of administrative control over the present petitioners vis-a-vis the Society, but does not either decimate nor reduces the deep pervasive control, of the Government of Punjab, thus over the Society. The reason being that the composition of the Society, thus is of Government employees, as a substantial number

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of the members of the Governing Body of the Society are Government employees, wherebys, but naturally the Government has continued to retain an entrenched administrative control over the service conditions of the petitioners. As such, therebys, the creation of the Society that too post the issuance of the subject advertisement, is merely to mother a micro entity/ specific agency, for only administratively regulating besides streamlining or to effectively ensure the functionings of the present petitioners, than to disrobe the Government of Punjab, from retaining control of either the Society or of the present petitioners who are the employees of the Society. Naturally therebys there could not be any distinction inter-se the Government and the Society, which but is naturally is an agency or an auxiliary of the Government of Punjab.

50. Now, if a conscious decision was taken by the Government of Punjab, to ensure the recruitment of computer teachers, through the making of publication of the subject advertisements under the seal and signatures of the Director General School Education, Punjab, therebys, the clear intent of the Government, was to ensure that the recruitment as made thereunders of the present petitioners, was in the service of the State of Punjab.

51. Resultantly therebys, besides when it became stated in the appositely issued letters of appointment, which became drawn in the name of the Governor of Punjab, qua the service conditions of the petitioner becoming governed by the PCS Rules.

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52. In sequel, it becomes necessary to extract the provisions of Article 309 of the Constitution of India, thus for determining whether in terms of the supra conditions carried in the letters of appointment, issued to the present petitioners, in name of the Governor of Punjab, qua therebys, in terms of the proviso to Article 309 of the Constitution of India, thus empowering the Governor of a State or such authority, to make Rules regulating the recruitment and the conditions of service of persons appointed, to such services and posts, until a provision in that regard is made by or under an Act of the appropriate legislature, does get attracted vis-a-vis the present petitioners and/or whether therebys the service of the present petitioners is to be deemed to be an appointment to services and posts in connection with the affairs of the Union, and for the Governor of a State.

309. Recruitment and conditions of service of persons serving the Union or a State

Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State.

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

53. Since the Punjab Civil Service Rules were already on the statute book, when the subject advertisement became issued, hence under the seal and signatures of the Director General School Education, Punjab, naturally therebys and, when subsequent thereto, thus the

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appointment letters became issued in the name of the Governor of Punjab, stating therein, that the service conditions of the present petitioners would be governed by the PCS Rules. As such, when the then in vogue PCS Rules, were strikingly made applicable to the present petitioners. Now, since the appointment letter(s) with the supra stated condition therein, become evidently issued in the name of the Governor of Punjab, whereby, the respective appointment(s), as made thereby vis-a-vis the present petitioners, thus are deemed to be made to public services or to posts in connection with the affairs of the State of Punjab. Therefore, the further effect thereof, is that, the PICTES Society, which became created subsequently, thus became so created only as a wing or instrumentality of the State, as defined in Article 12 of the Constitution of India. Moreover, the said rather is only an auxiliary of the Government of Punjab, on account of the fact that :

a) The creation of the said Society is subsequent to the issuance of the advertisement. Moreover, when this Court has concluded that the petitioners are appointed to public services and/or to posts in connection with the affairs of the State of Punjab.

b) Additionally thereby, with this Court has in terms of the provisions of Article 309 of the Constitution of India, thus declared the present petitioners to be holders of civil posts, thus enabling the drawing of disciplinary proceedings, in terms of the relevant regulatory regimen. Moreover, when this Court has stated (supra), that there is deep pervasive administrative and financial control

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over the Society, by the State of Punjab. Resultantly, with their being a pervasive deep and entrenched control of the Government of Punjab, over the PICTES Society.

54. Predominantly also when all the apposite fundings of the PICTES Society, becomes sourced from the Treasury, pursuant to the sanctioned budgetary provisions becoming made.

55. Therefore, an irresistible conclusion is to be made, that not only the Society, is an instrumentality or agency of the Government of Punjab, but also its personality has coalesced and commingled with the personality of the Government of Punjab, nor their being any distinction in the personality of the Society, and of the Government of Punjab, which only has mothered the Society and also is completely controlling the same. The said coalescence is insegregable whereby all the service conditions applicable to the employees serving under the Government of Punjab are also to be made applicable to the present petitioners, who are serving under an auxiliary of the Government of Punjab.

56. Though therebys, as stated (*supra*), the PICTES Society, is performing functions and duties alike the ones, which are performed by the Government of Punjab. Moreover, since the PICTES Society is a wing or Department, of the Government of Punjab, thus created only for achieving the constitutional goal of imparting education to the students, who are undertaking education in the Government schools concerned. However, yet the Single Benches of this Court, seized with

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the respective writ petition(s), have taken a conclusion, that despite the PICTES Society, being an instrumentality, of the State, but since it has a different persona and character from the Government of Punjab, therebys, its employees are not deemed to be employees of the Government of Punjab. The said for all the above stated reasons, is not the correctly stated position of law, in-so-far as the facts in the instant case, are unfolded.

57. Moreover, in the said taken view, both the learned Single Benches of this Court, have remained unmindful to the decision recorded by the Hon'ble Apex Court, in case titled as ***Mr. Ajay Hasia Vs. Khalid Mujib Sehravardi and Others (supra)***, wherein, in the relevant paragraph extracted above, it has been expostulated, that when the Government engages itself in multitudinous socio-economic operations, and, wherebys for imparting a meaningful functionality to the various activities, as are required to be undertaken by the Government, the latter leans to the devise of creating corporate entities, which but therebys become agencies and instrumentalities of the State, thus for maneuvering the constitutional goal concerned.

58. Resultantly, when it is further expounded therein, that such adoptions by the Government, to engage itself in various activities, to further the constitutional goals, but would not make such corporate entities, which are otherwise instrumentalities or agencies of the State, to become immune from the chapter relating to the endowment of fundamental rights to its citizens.

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59. Moreover, it has been expostulated in the said judgment, that if such corporate entities or societies which are instrumentalities, or agency(ies) of the State, and, are also evidently controlled by the Government, wherebys, they are in fact a body incarnate of the Government itself or an icon of the Government. Resultantly therebys, when there is coalescing of the personality of the State Government with the personality of such created corporations or societies, therebys, there cannot be endowment of any separate and distinct personalities either to the Government, and/or, to such societies and corporations, which are owned and controlled by the Government.

60. The adoption of the Service Rules, 2024 or non adoption thereof, is in consequential, in the wake of the fact, that the letters of appointment, do visibly mandate, that the service conditions of the employees would be governed by the PCS Rules. Moreover, reiteratedly since the letters of appointment have been issued in the name of the Governor of Punjab, therebys, there cannot be any subsequent thereto alteration in service conditions, as may be becomes envisaged in the Service Rules, 2024. If the said is done, it would be breaching the terms and conditions of the appointment letter, which would be grossly impermissible, as therebys the inviolable contract of employment would become breached.

61. Moreover, when in terms of the letter of appointment, this Court, has declared that the provisions of Article 309 of the Constitution of India, do become pinpointedly favourably attracted vis-

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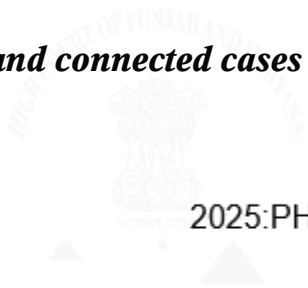


a-vis the present petitioners, inasmuch as, therebys, they are deemed to be not only occupiers of civil posts but also are deemed to be appointed to public services and posts in connection with the affairs of the Government of Punjab.

62. Therefore, if this Court has hereinabove concluded that on the basis of the letter of appointment issued to the present petitioners, wherebys, they became substantively appointed against substantive posts under the Government of Punjab, wherefrom a further conclusion has been drawn, that the disciplinary actions, to be undertaken against the present petitioners would be drawn in terms of the relevant/apposite regimen. Therefore, the natural corollary thereof, but is that, in the event of the petitioners becoming suspended or dismissed from service, thus therebys, when the availed remedy but requires the arrayings apart from the managing body of the PICTES, wherein becomes enlisted the serving employees of the Government of Punjab, thus also the Education Department of the Government of Punjab.

63. As such, the effect of the supra but, is that, the Society completely merging itself into the personality of the Government of Punjab.

64. In aftermath, the supra answer is rendered to the supra reference. List the cases, as per roster for deciding the same on merits.



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65. Any observation(s) devolving upon the merits of the *lis*, are meant only for deciding the instant reference, thus it/they be not construed to be binding upon the roster Bench concerned.
66. A photocopy of this order be placed on the files of other connected cases.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

25.02.2025
kavneet singh

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