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Supreme Court holds that an entity being subject to regulatory guidelines under a statute does not automatically make it amenable to writ jurisdiction

A recent judgment of the Hon'ble Supreme Court of India ("**Supreme Court**") has held in *S. Shobha vs. Muthoot Finance Ltd.*¹, that a body, public or private, should not be categorised as being amenable to writ jurisdiction simply because it is governed by the rules and regulations framed by a statutory regulatory authority. Relying on various legal precedents, the Supreme Court held that the most important and vital consideration while determining the maintainability of a writ application is the 'function' test.

Brief facts

1. Muthoot Finance Limited ("**Respondent**"), is a company registered under the Companies Act, 1956, regulated by the Reserve Bank of India ("**RBI**"). The Respondent company is a private financier.
2. The brief facts giving rise to the dispute are that S. Shobha ("**Petitioner**") availed of a loan from the Respondent by pledging gold. Notably, the loan agreement between the parties contained an arbitration clause.
3. Disputes arose between the parties, and the Petitioner invoked the writ jurisdiction of the High Court of Karnataka at Bengaluru ("**Karnataka HC**"). The Learned Single Judge entertained the writ petition, despite noting that the Respondent did not have the status of 'State' under Article 12 of the Constitution of India ("**Constitution**"), since the Respondent had acted contrary to an interim order.
4. In appeal, the Division Bench of the Karnataka HC held that the writ petition is not maintainable on, *inter alia*, the following grounds:
 - a) the definition of 'State' within the meaning of Article 12 of the Constitution, has not been satisfied in the present case;
 - b) the transaction of loan by pledging of gold by the Petitioner with the Respondent, could not be held to be involving any public function or being in the public realm; and
 - c) the Respondent company is not discharging any public function.
5. Aggrieved, the Petitioner preferred a special leave petition before the Supreme Court.

¹ 2025 INSC 117 (judgment dated 24 January 2025)

Issue

Whether the Respondent company, a private financier, although regulated by a statutory regulator, being the RBI, can be said to be amenable to writ jurisdiction?

Key findings of Supreme Court

1. After appreciating the submissions advanced by the parties as well as legal precedents, the Supreme Court held that on applying the 'function' test, the Respondent cannot be called a public body; it has no duty towards the public; it has no power to take any action or pass any order affecting the rights of the members of the public. Therefore, in the absence of any public duty or public function, the Respondent cannot be said to be amenable to writ jurisdiction.
2. In support of the above conclusion, the Supreme Court observed that the duty of the Respondent is towards its account holders, which may include the borrowers who have availed of any loan facility. The binding nature of its orders and actions is confined to its account holders, borrowers and to its employees. The Supreme Court summed up the legal position as regards the amenability to writ jurisdiction as follows:
 - a) **Instrumentality or agency of State:** For issuing writ against a legal entity, it would have to be an instrumentality or agency of a State or should have been entrusted with such functions as are Governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence Governmental.
 - b) **Statutory function:** A writ petition under Article 226 of the Constitution may be maintainable against (i) the State Government; (ii) authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.
 - c) **Mere subjection to regulation by statutory body not enough to invoke writ jurisdiction:** Although a non-banking finance company is duty bound to follow and abide by the guidelines provided by the RBI for smooth conduct of its affairs in carrying on its business, yet those are in the nature of regulatory measures to keep a check and provide guideline and not a participatory dominance or control over the affairs of the company.
 - d) **Private company/scheduled bank not carrying on public function/duty:** A private company carrying on banking business as a Scheduled bank cannot be termed as a company carrying on any public function or public duty.
 - e) **Private body performing public duty:** Normally, mandamus is issued to a public body or authority to compel it to perform some public duty cast upon it by some statute or statutory rule. In exceptional cases a writ of mandamus or a writ in the nature of mandamus may issue to a private body, but only where a public duty is cast upon such private body by a statute or statutory rule and only to compel such body to perform its public duty.
 - f) If a private body is discharging a public function and the denial of any rights is in connection with the public duty imposed on such body, the public law remedy can be enforced. The duty cast on the public body may be either statutory or otherwise and the source of such power is immaterial but, nevertheless, there must be the public law element in such action.
 - g) **Mere statutory force not sufficient to attract writ jurisdiction:** Merely because a statute or a rule having the force of a statute requires a company or some other body to do a particular thing, it does not possess the attribute of a statutory body.
 - h) **No general definition of public authority or public action:** There cannot be any general definition of public authority or public action. Each case must be decided on its own facts.

Conclusion

This judgment reinforces the settled principles as regards the invocation of writ jurisdiction. Invocation of writ jurisdiction with respect to a private entity not discharging any public function or public duty cannot be proceeded against in writ jurisdiction. There are other civil remedies available to an aggrieved party in such cases, for instance, filing a civil suit or invocation of arbitration clause, if available in the agreement/arrangement between the parties.

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