


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 3116/2000

1. Ghisa Lal Sharma S/o. Shri Jagdish Prasad Sharma, (Since Deceased)

1/1. Ratni Devi Sharma W/o. Late Shri of Ghisalal Sharma, Resident of Panchayat Mohalla, Hasteda, Jaipur (Raj.)

1/2. Rajendra Prasad Sharma S/o. Late Shri Ghisalal Sharma, Resident of Panchayat Mohalla, Hasteda, Jaipur. (Raj.)

1/3. Sourabh Kumar Sharma S/o. Late Shri Ghisalal Sharma, Resident of Panchayat Mohalla, Hasteda, Jaipur (Raj.)

1/4. Mukesh Sharma S/o. Late Shri Ghisalal Sharma, Resident of Panchayat Mohalla, Hasteda, Jaipur (Raj.)

1/5. Neetu Sharma W/o. Hari Kumar D/o. Late Shri Ghisalal, Resident of Panchayat Mohalla, Hasteda, (Raj.) Jaipur

2. Prahlad Narayan Soni S/o Shri Gopi Lal Soni, aged about 44 years, (Since Deceased)

Both are working as Ayurved Salesman, Ayurved Branch, CONFED, Jaipur.

2/1. Kamla Devi W/o. Late Prahlad Narayan, aged 64 years, Resident of 263/19, 20 Sector-26, Pratap Nagar, Sanganer, Jaipur (Raj.)

2/2. Vishnu Kumar Soni S/o. Late Shri Prahlad Narayan Soni, aged 45 years, 263/19-20 Sector-26, of Resident Pratap Nagar, Sanganer, Jaipur (Raj.)

2/3. Raj Kumar Soni S/o. Late Shri Prahlad Narayan Soni, aged about 43 years, Resident of 263/19-20 Sector-26, Pratap Nagar, Sanganer, Jaipur (Raj.)

2/4. Sunita (daughter) W/o Pradeep Kumar, aged about 44 years, R/o 15, Shyam Colony, Goner Road, Looniyawas, Jaipur (Raj.)

-----Petitioners

Versus

Rajasthan State Co-Operative Consumers Federation Ltd. CONFED through its Managing Director, Nehru Sahakar Bhawan, Bhawani Singh Road, Jaipur.

-----Respondent

For Petitioner(s) : Mr. Rajendra Vaish, Adv.
For Respondent(s) : Mr. Anurag Agrawal, Adv. with
Mr. Satish Pareek, Adv.

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Judgment

- | | |
|--|--------------------------|
| 1. Date of conclusion of arguments | <u>25/02/2026</u> |
| 2. Date on which the judgment was reserved | <u>25/02/2026</u> |
| 3. Whether the full judgment or only the operative part is pronounced | Full Judgment |
| 4. Date of pronouncement | <u>16/03/2026</u> |

1. The petitioners have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking parity in pay scales with certain other salesmen employed in the services of the respondent society i.e., Rajasthan State Co-Operative Consumers Federation Ltd. (CONFED), Jaipur. The grievance essentially relates to fixation of pay and alleged discrimination in extending higher pay scales granted to other employees.

2. A preliminary objection has been raised by the respondents regarding the maintainability of the present writ petition. The said issue, being foundational, is required to be considered at the threshold.

3. Learned counsel for the respondents submits that the sole respondent is a registered cooperative society governed by its own service rules and administrative framework. It is contended that the Society is neither created by a statute nor is subject to deep and pervasive governmental control and therefore does not fall

within the ambit of 'State' as defined under Article 12 of the Constitution of India.

4. It is further argued that the mere performance of certain public functions or engagement in activities beneficial to the public at large does not *ipso facto* render a cooperative society amenable to writ jurisdiction.

5. It is also contended that the dispute raised by the petitioners pertains to service conditions and pay fixation governed by internal service rules of the Society and in case of any alleged breach of such rules, the petitioners have alternative remedies available in accordance with law. Therefore, the present writ petition be dismissed on the ground of maintainability.

6. Per contra, learned counsel for the petitioners submits that the respondent-Society discharges public functions and is engaged in activities having public character. It is contended that the High Court while discharging jurisdiction under Article 226, possesses wide powers to issue writs not only for enforcement of fundamental rights but also '*for any other purpose*' against any person or authority performing public duties.

7. This Court has considered the rival submissions and perused the material available on record.

8. The Hon'ble Apex Court in the case **Army Welfare Education Society v. Sunil Kumar Sharma & Ors., 2024 INSC 501**, on similar facts, framed the following issues and observed as under:-

"6. The following two questions of law fall for our consideration:-

a. Whether the appellant Army Welfare Education Society is a "State" within Article 12 of the Constitution of India so as to make a writ petition under Article 226 of the Constitution maintainable against it? **In other words, whether a service dispute in the private realm involving a private educational institution and its employees can be adjudicated upon in a writ petition filed under Article 226 of the Constitution?**

b. Even if it is **assumed that the appellant Army Welfare Education Society is a body performing public duty** amenable to writ jurisdiction, **whether all its decisions are subject to judicial review or only those decisions which have public law element therein can be judicially reviewed under the writ jurisdiction?**

42. In view of the aforesaid, nothing more is required to be discussed in the present appeals. We are of the view that the High Court committed an egregious error in entertaining the writ petition filed by the respondents herein holding that the appellant society is a "State" within Article 12 of the Constitution. Undoubtedly, the school run by the Appellant Society imparts education. Imparting education involves public duty and therefore public law element could also be said to be involved. However, the relationship between the respondents herein and the appellant society is that of an employee and a private employer arising out of a private contract. If there is a breach of a covenant of a private contract, the same does not touch any public law element. The school cannot be said to be discharging any public duty in connection with the employment of the respondents."

9. Similarly, the Hon'ble Apex Court in the case of **St. Mary's Education Society & Anr. v. Rajendra Prasad Bhargava & Ors., (2023) 4 SCC 498**, held as under:-

"75.3. It must be consequently held that **while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a constitutional court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions.** An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, **the actions or decisions taken**

solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution...

(Emphasis Supplied)

10. In view of the authoritative pronouncements of the Hon'ble Apex Court in the case of **Army Welfare Education Society (supra)** and **St. Mary's Education Society (supra)**, this Court is of the considered opinion that the present writ petition pertains to a claim of parity in pay scales with other employees, which squarely falls within the domain of service conditions governed by the internal service rules of the respondent-Society. The controversy arises purely out of the employer-employee relationship between the parties and does not involve enforcement of any statutory provision or infringement of any public law right.

11. Accordingly, the instant writ petition is dismissed in limine on the ground of maintainability.

12. All pending application(s), if any, also stand disposed of. There shall be no order as to costs.

(PRAVEER BHATNAGAR),J