2026:MHC:3140

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.07.2026

Pronounced: 29.07.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA Nos. 3735 and 110 of 2025

WA.No.3735 of 2025:

K. Karthikesan

..Appellant(s)

Vs

1. ICICI Bank Limited
   Rep. by its The Managing Director and
   Executive Officer, ICICI Towers Ambattur
   Industrial Estate, Ambattur – 058.

2. The Regional Manager
   ICICI Bank Limited, 7/A, Reynolds Road,
   Cantonment, Trichy-1

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent issuing writ of mandamus to set aside the order passed in W.P. No. 38804 of 2015 dated 31.01.2024.

WA No. 110 of 2025:

T.V.Chakrapani

..Appellant(s)

Vs

3. Lakshmi Vilas Bank Ltd
   Rep. by its Chairman and Managing Director,
   Corporate Office, No.4, Sardar Patel Road,

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Guindy, Chennai-32.

4. The General Manager
HR Department, Lakshmi Vilas Bank Ltd,
Corporate Office, No.4, Sardar Patel Road,
Guindy, Chennai-32.

5. Lakshmi Vilas Bank Pension
Trust, Rep. by its Managing Trustee, No.4,
Sardar Patel Road, Guindy, Chennai-32.

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent to allow the above Writ Appeal and set aside the order passed by the learned judge in WP No.40701 of 2015 dated 19.06.2024.

In Both Writ Appeals

For Appellant(s): Mr.V.Prakash
Senior Counsel
for K.Krishnamoorthy

For Respondent(s): Mr.AL.Somayaji
Senior Counsel for Mr.Anand Gopalan
for M/s.Advit Law Chambers & Advocates

COMMON JUDGMENT

[Judgment of the Court was delivered by **S.M.Subramaniam J.]**

The present intra-court appeals have been instituted challenging the orders passed in W.P. No. 38804 of 2015 dated 31.01.2024 and WP No.40701 of 2015 dated 19.06.2024..

2. The question of maintainability is the common issue arisen in both the writ appeals. It is brought to the notice of this Court that respondent banks in both the writ appeals are private sector banks. It is well settled proposition of

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law that no writ would lie against private banks/companies. Since the common issue of maintainability has been arisen in both writ appeals, cases are taken up together and common order is passed.

BRIEF FACTS IN WA.NO.3735 OF 2025:

3. The Appellant submitted that he joined the Bank of Madura as a Clerk on 13.07.1981. The Bank of Madura was later amalgamated with ICICI Bank Limited by the scheme of amalgamation and the employees of the Bank of Madura stood transferred to the ICICI Bank limited, protecting the service conditions of the employees of the Bank of Madura. On 19.07.2012, due to severe health issues requiring bypass surgery, the Appellant applied for Early Retirement Option (ERO). The Respondent Bank relieved him from service on 20.03.2013 with retrospective effect from 02.08.2012. The Appellant's request for pension benefits was denied on 15.02.2013 on the ground that he resigned. The Appellant submitted that the Bank's online system did not provide an option for ERO forcing the Appellant to choose the resignation option.

BRIEF FACTS IN WA.NO.110 OF 2025:

4. The Appellant submitted that he had joined the respondent bank as a Clerk on 07.11.1990. The respondent bank introduced the Pension Scheme on 01.07.1994, which came into effect from 01.11.1993, which was accepted and adopted by its Board on 21.06.1994, as per settlement signed between

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between Indian Banks' Association (IBA) and various All India Unions/Association. Those who did not opt for the Pension Scheme were given another opportunity through the Bipartite Settlement of 2011. The appellant opted for the scheme on 23.02.2011, paid 2.8 times his basic pay on 29.03.2011, and repaid the employer's contribution to the Provident Fund on 31.03.2011. The appellant intended to retire voluntarily due to personal difficulties and submitted his application for voluntary retirement, on completing 20 years of qualifying service and by giving 3 months notice to the appointing authority. Despite meeting the conditions for voluntary retirement under Regulation 29 of the Pension Regulations, the respondent bank did not entertain voluntary retirement applications at the relevant time, forcing the appellant to submit application for voluntary retirement in the name of resignation on 24.05.2012 with three months' salary in lieu of notice for such voluntary retirement. The appellant was relieved from service on 24.07.2012, with retrospective effect from 31.05.2012. The request by the appellant seeking pension was rejected as the resignation was treated as a disqualifying act under Regulation 22 and not as voluntary retirement under Regulation 29. Writ Petition was also dismissed on the same ground.

5. However, the learned Senior Counsel for the Appellants vehemently argued that, by virtue of interpretations accorded by the Hon'ble Supreme Court of India as well as various other High courts, it can be deduced that Article 226 of the Constitution of India is not only confined to statutory

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authorities and instrumentalities of State, but may cover any other person or body performing public duties. So it was submitted that the public function doctrine must be applied to the instant case. Reliance was placed on the decision of the Hon'ble Supreme Court of India in ***Andi Mukta S.M.V.S.S.J.M.S Trust Vs V.R.Rudani and Others***[1]. The Supreme Court, having noticed the word *"any person or authority"* used in Article 226 of the Constitution, held that a "Writ" be not confined only to statutory authorities and instrumentalities of the State, but they may also cover any other person or body performing public duties. The form of the body concerned is not very much relevant. What is relevant is the nature of duty imposed on the body. Writ of Mandamus can be issued against a person or body to carry out the duties placed on them by the statutes, even though they are not public officials or statutory bodies.

6. However, the respondent banks relied on the decision of the Division Bench of the Madras High Court in ***ICICI Bank Limited, Corporate Office Vs Lakshminarayanan***[2]. This case deals with an employee of Bank of Madura later merged with ICICI Bank and the maintainability of the writ against the private bank was discussed. It is pertinent to note that certain degree of factual and legal similarities can be seen between the ***Lakshminarayanan's*** *case* and the present case. In ***Lakshminarayanan's*** *case,* the Division Bench of this Court placed impetus on the decision rendered by the Hon'ble Supreme

[1] (1989) 2 SCC 691
[2] 2009 (1) CTC 22

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Court in ***Praga Tools Corporation Vs C.V.Immanuel and Others***[3]**,** wherein the following observations were made;

> *"7. The Company being a non-statutory body and one incorporated under the Companies Act there was neither a statutory nor a public duty imposed on it by a statute in respect of which enforcement could be sought by means of a mandamus, nor was there in its workmen any corresponding legal right for enforcement of any such statutory or public duty. The High Court, therefore, was right in holding that no Writ Petition for a mandamus or an order in the nature of mandamus could lie against the company."*
>
> *….*
>
> *"9. ..... In our view once the Writ Petition was held to be misconceived on the ground that it could not lie against a company which was neither a statutory Company nor one having public duties or responsibilities imposed on it by a statute, no relief by way of a declaration as to invalidity of an impugned agreement between it and its employees could be granted. The High Court in these circumstances ought to have left the workmen to resort to the remedy available to them under the Industrial Disputes Act by raising an industrial dispute thereunder. The only course left open to the High Court was therefore to dismiss it. No such declaration against a Company registered under the Companies Act and not set up under any statute or having any public duties and responsibilities to*

[3] AIR 1969 SC 1306

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perform under such a statute could be issued in Writ proceedings in respect of an agreement which was essentially of a private character between it and its workmen. The High Court, therefore, was in error in granting the said declaration."

7. Hence the Hon'ble Division Bench of this Court in ***Lakshminarayanan's*** *case* answered the question of maintainability of a writ petition against the private bank as follows:

> *"17. In the present case also, as the appellant-Bank of Madura Ltd., is a Private Company, carrying on private banking business and not carrying on any statutory or public duty, no "Writ Petition" under Article 226 of the Constitution of India is maintainable against the appellant-Bank of Madura Ltd. Merely because the Bank has made provisions to grant "pension" on VRS, under the relevant Pension Scheme, the same cannot be a ground to hold that the Bank is performing a public duty or public function. Hence, the first question is answered in the negative against the respondent-Writ Petitioner and in favour of the appellant-Bank of Madura Ltd. (now ICICI Bank Ltd.)"*

8. The respondent banks placed further reliance on the decision of the Hon'ble Supreme Court in ***Federal Bank Limited Vs. Sagar Thomas***[4]. Similar question on the amenability of writ petition against private bank was

[4] (2003) 10 SCC 733

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discussed, and it was observed that Article 226 of the Constitution of India may be maintained against a private body discharging public duty or positive obligation of public nature but mere regulation of the Reserve Bank of India over banking industries does not affirm it as public duty. The following observations from the ***Sagar Thomas*** case provides a perspective on the said issue:

> *"26. A company registered under the Companies Act for the purposes of carrying on any trade or business is a private enterprise to earn livelihood and to make profits out of such activities. Banking is also a kind of profession and a commercial activity, the primary motive behind it can well be said to earn returns and profits. Since time immemorial, such activities have been carried on by individuals generally. It is a private affair of the company though the case of nationalized banks stands on a different footing: There may well be companies, in which majority of the share capital may be contributed out of the State funds and in that view of the matter there may be more participation or dominant participation of the State in managing the affairs of the company. But in the present case we are concerned with a banking company which has its own resources to raise its funds without any contribution or shareholding by the State. It has its own Board of Directors elected by its shareholders. It works like any other private company in the banking business having no monopoly status at all. Any*

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company carrying on banking business with a capital of five lakhs will become a scheduled bank. All the same, banking activity as a whole carried on by various banks undoubtedly has an impact and effect on the economy of the country in general. Money of the shareholders and the depositors is with such companies, carrying on banking activity. The banks finance the borrowers on any given rate of interest at a particular time. They advance loans as against securities. Therefore, it is obviously necessary to have regulatory check over such activities in the interest of the company itself, the shareholders, the depositors as well as to maintain the proper financial equilibrium of the national economy. The banking companies have not been set up for the purposes of building the economy of the State; on the other hand such private companies have been voluntarily established for their own purposes and interest but their activities are kept under check so that their activities may not go wayward and harm the economy in general. A private banking company with all freedom that it has, has to act in a manner that it may not be in conflict with or against the fiscal policies of the State and for such purposes, guidelines are provided by Reserve Bank so that a proper fiscal discipline, to conduct its affairs in carrying on its business, is maintained. So as to ensure adherence to such fiscal discipline, if need be, at times even the management of the company can be taken over. Nonetheless, as observed earlier, these are all regulatory measures to keep a check

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and provide guidelines and not a participatory dominance or control over the affairs of the company…..

27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all.Other remedies,

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as may be available, may have to be resorted to.

….

31. The other case which has been heavily relied upon is Andi Mukta (1989) 2 SCC 691. It is no doubt held that a mandamus can be issued to any person or authority performing public duty, owing positive obligation to the affected party. The writ petition was held to be maintainable since the teacher whose services were terminated by the institution was affiliated to the university and was governed by the ordinances, casting certain obligations which it owed to that petitioner. But it is not the case here. Our attention has been drawn by the learned counsel for the appellant to paras 12, 13 and 21 of the decision (Andi Mukta) to indicate that even according to this case no writ would lie against the private body except where it has some obligation to discharge which is statutory or of public character.

32. Merely because Reserve Bank of India lays the banking policy in the interest of the banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5(c)(a) of the Banking Regulation Act does not meanthat the private companies carrying on the business or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial activity in banking and these companies are to act according to these provisions failing which

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certain consequences follow as indicated in the Act itself. As to the provision regarding acquisition of a banking company by the Government, it may be pointed out that any private property can be acquired by the Government in public interest. It is now a judicially accepted norm that private interest has to give way to the public interest. If a private property is acquired in public interest it does not mean that the party whose property is acquired is performing or discharging any function or duty of public character though it would be so for the acquiring authority.

33. For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or a company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor put any such obligation upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. The respondent's service with

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the Bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank. That being the position, the appeal deserves to be allowed."

9. It is also pertinent to note that the decision in ***Federal bank's*** *case* cited supra was followed by the Division Bench of this Court in ***S. Sundaram Vs ICICI Bank Limited [W.A.No.480 of 2007],*** wherein the Court concluded as follows:

"19.As far as we are concerned we are bound to follow Federal Bank's case and not Bharat Overseas Bank's case. We are also bound by the Full Bench decision in Anantha Sayanan's case wherein it clearly stated that against every order of termination or revision of pay, the employee cannot contend that his right under Article 21 of the Constitution of India is violated and move the Court under Article 226 of the Constitution of India.The earlier Division Bench in Lakshmi Narayanan's case held that a writ was not maintainable against the same Bank.In the above referred judgment of the Supreme Court in VSNL's case the Supreme Court held that no mandamus can be issued to compel payment of dearness allowance. Therefore, we hold that the writ is not maintainable and the writ appeal is dismissed. However there will be no order as to costs."

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10. Further, the respondents placed reliance on a decision rendered by the Division Bench of the Bombay High Court in ***Chanda Deepak Kochhar Vs ICICI Bank Limited and Another***[5]**,** whereby it was clearly held that ICICI Bank being a private body does not come under the purview of the writ jurisdiction. The relevant paragraph from the judgement is reproduced below:

> *"23. ICICI is a private body. It is not an instrumentality of the State.*
> *It receives no public funding. Service conditions of the petitioner are not governed by any statute. The dispute raised in this petition arises from a contract of personal service. The termination of the petitioner is in the realm of contractual relationship. Since section 35B(1)(b) does not regulate service conditions, approval for termination under it does not adjudicate the rights of the petitioner as an employee. Though section 35B(1)(b) postulates that the termination would not come into effect if there is no prior approval of the Reserve Bank, the cause of action for the petitioner is the termination by ICICI. For the petitioner, the legal implications of the grant of approval, non-grant of approval or post-facto approval, as the case may be, would be grounds and arguments in the contractual dispute. Thus merely because the approval under section 35B(1)(b) is questioned, that cannot infuse a public law element in this dispute, which remains a contractual dispute. For the contractual remedies, the petitioner will have*

[5] 2020 SCC OnLine Com 374

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to approach the appropriate forum and not writ jurisdiction.

24. As a result, we uphold the preliminary objection raised by the respondents. The writ petition is dismissed as not maintainable."

11. It is also to be noted that the SLP arising from the afore mentioned judgement was dismissed by the Hon'ble Supreme Court in ***Chanda Deepak Kochhar Vs ICICI Bank Limited and Another***[6] with an observation that the issue would fall within *'the realm of contractual relationship between the petitioner and the private bank'.*

12. Hence in the light of the discussions and reliance placed on the judgements rendered by the Hon'ble Supreme Court, this Court has arrived at a conclusion that mere regulation of Banks by statutory bodies like RBI does not make private sector banks pass the 'public function' test.

13. Pertinently, in the instant cases, there is no case of public function involved. It is purely a dispute between an employer and employee over payment of pension, which by virtue of the employer being a private company/bank should be settled before an appropriate forum/Civil Court. Article 226 of the Constitution of India cannot be employed against a private company, and moreover, the present cases does not qualify the public function test.

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[6] (2021) 14 SCC 643

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14. Maintainability of the writ petition under Article 226 of the Constitution of India being the preliminary issue raised in the writ petitions, factual findings on merits, if any, would potentially cause prejudice to the cases of the Appellants in the event of approaching the forum having jurisdiction. If the writ is held as not maintainable, the High court is expected to exercise restraint in adjudicating the disputed issues on merits.

15. In view of the legal position, this Court has no hesitation in arriving at a conclusion that the writ petitions are not maintainable under Article 226 of the Constitution of India. Thus, the appellants are at liberty to approach the competent forum for adjudication for redressal of their grievance. In the event of any such approach, the Court concerned may decide the issues independently on merits and in accordance with law and uninfluenced by orders passed in the writ petitions and writ appeals.

16. In view of the discussions made above, writ petitions under Article 226 of the Constitution of India are not maintainable and consequently, the writ appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (N.S.,J.)
29 -07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.

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Pre-Delivery Judgment
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29-07-2026

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