

Constitutional Writ

Present:

The Hon'ble Mr. Justice Syamal Kanti Chakrabarti

Judgment on 06.09.2010

W. P. No. 7493(W) of 2009

Subhash Chaudhuri

Vs

Indian Association For the Cultivation of Science & Ors.

Points:

Scope of Writ- The claim interest and other financial reliefs for the alleged negligence of the respondent whether can be decided by writ court.-
Constitution of India Art.226

Facts:

Sister of the petitioner was an employee of Indian Association for the Cultivation of Science and died on May 10, 2007 while in service. In course of her employment she availed of a Housing Loan from the State Bank of India, Jadavpur University Branch. She deposited her Title Deeds by way of mortgage in respect of her old residential house and certain gold ornaments by way of collateral security and executed one irrevocable letter of authority dated 21.4.2003 in favour of respondent no. 1/Association empowering them to liquidate the loan amount by making payment out of any amount payable to her including terminal benefits like Provident Fund and Gratuity in case of her death/retirement/resignation or discontinuing the service. The contention of the petitioner that a sum of Rs.3,36,892.26 paise has been unnecessarily charged in excess from the death benefits of the deceased employee in respect of her housing loan account on the ground that at the

time of death of the employee on 10.5.2007 the outstanding amount in housing loan account as on 17.5.2007 was Rs.6,59,397.74 paise and by virtue of the aforesaid irrevocable letter of authority dated 21.4.2003 it was incumbent for the respondent/Association to take steps for immediate settlement of the housing loan account by adjusting the same from the terminal benefits of the deceased employee. The respondent/Association negligently remained silent and did not take effective steps for a period of almost two years unnecessarily and allowed the amount to increase upto Rs.9,96,290/- as on 26.3.2009 and, thereafter, took steps to deduct the same for adjustment of house building loan and release of mortgaged property. The writ petitioner has now demanded that out of total outstanding housing loan amount of Rs.9,96,290/- the sum of Rs.6,59,397.74 paise should be deducted from the terminal death benefits of his deceased sister and the remaining sum of Rs.3,36,892.26 paise should be paid by the respondent/Association for their failure and negligence to settle the terminal benefits of the deceased for two years. He has filed the writ petition praying for release the mortgaged property and valuables kept to them as collateral security forthwith and to release the balance loan amount of Rs.3,36,892.26 paise from the respondent nos. 1 to 3 along with interest accrued thereon till date.

Held:

The writ petitioner is unable to place on record further advancement or activities of the association controlled or managed by the Central Government or the State Government as the case may be so as to come within the fold of Article 12 or Article 226 of the Constitution of India in enforcing the private right of the writ petitioner.

Para 20

He has also claimed certain interest and declaration of certain financial reliefs which can only be agitated before the civil court in regular suits. The reliefs claimed in the instant writ petition are in fact, reliefs which can only be claimed in money suit with prayer for rendition of accounts. The writ court cannot adjudicate the exact amount of terminal benefit accrued in favour of deceased employee of the association and, it can also not fix the responsibility of paying the outstanding dues of the State Bank of India to liquidate the house building loan standing in the name of the deceased employee. It also cannot decide and declare that the person or authority responsible for dealing with the obligation for settlement of terminal benefits are negligent for two years resulting in sufficient financial loss which should not be deducted from the terminal benefit of the deceased sister of the writ petitioner. The petitioner has claimed that for such negligent conduct the respondent association should meet the liability and they cannot lawfully deduct the extra amount of interest claimed by the bank for non-payment of the dues after death of the employee concerned for two years. In fact this is a claim for determination of the quantum of damage to be awarded to a party upon proof of the negligent conduct of their officials which is also beyond the purview of the writ Court. Para 21

Cases cited:

1992(1) CLJ 319 (Director, Indian Association for the Cultivation of Science, Jadavpur and others Versus Ashoke Kumar Roy and others); (2002)5 SCC 111 (Pradeep Kumar Biswas Versus Indian Institute of Chemical Biology and others), (2005)1 SCC 149 (Virendra Kumar Srivastava Versus U. P. Rajya Karmachari Kalyan Nigam and others); (2005)4 SCC 649 (Zee Telefilms Limited and another Versus Union of India and others)

For the Petitioner : Mr. Shibaji Kumar Das.

For the Respondents : Mr. Aryak Dutt,

Ms. Sonalee Ray.

Syamal Kanti Chakrabarti, J.:

The writ petitioner claims that Dr. Subhadra Chaudhuri, his sister, was an employee of Indian Association for the Cultivation of Science and died on May 10, 2007 while in service at the age of 56 years. In course of her employment she availed of a Housing Loan under Old Account No. 01593023168 subsequently renumbered as New Housing Loan Account No. 11080193234 from the State Bank of India, Jadavpur University Branch. She deposited her Title Deeds by way of mortgage in respect of her old residential house and certain gold ornaments by way of collateral security and executed one irrevocable letter of authority dated 21.4.2003 in favour of respondent no. 1/Association empowering them to liquidate the loan amount by making payment out of any amount payable to her including terminal benefits like Provident Fund and Gratuity in case of her death/retirement/resignation or discontinuing the service.

2. After her death on 10.5.2007 the petitioner being full blooded brother of the deceased employee intended to pay the dues of his deceased sister in respect of above house building loan and wrote a letter to this effect on 14.2.2008. In response in letter no. 49/480 dated 23.02.2008 the respondent no. 4 supplied the detailed statement of accounts of deceased employee from which it will appear that the outstanding dues as on 17.5.2007 was Rs.6,59,397.74 paise and on 16/2/2008 an amount of Rs.7,02,074.74 paise. Then the petitioner through his advocate's letter dated 3.4.2008 requested the respondent no. 1/Association to liquidate the said house building loan of

his deceased sister at the earliest under intimation to him and for releasing the Title Deeds and other valuables mortgaged by his sister with the respondent/bank. But the respondent/Association insisted for establishing his claim as a legal heir of the deceased in their letter dated 12.5.2008. Moreover, in his advocate's letter dated 22.5.2008 he also requested them to disclose the total amount of actual death benefits payable to her sister, the deceased employee, so that he may file a petition for grant of succession certificate and take steps for liquidating the loan amount as per letter of authority dated 21.4.2003 of the deceased.

3. Thereafter, on 14.8.2008 the petitioner received a letter from respondent no. 2 intimating that since the petitioner had failed to produce any document to prove his relationship with the deceased employee, no further correspondence will be entertained in this regard by the Association in future.

4. In response he submitted several documents through his advocate's letter dated 3.9.2008 to prove his sanguinary relation with the deceased. As the respondent/Association remained silent the petitioner filed a writ petition being W. P. No. 27178 (W)/ of 2008 which was disposed of by this Hon'ble Court on 12.3.2009 with the observation that the information relating to the dues of the deceased employee will be made available to the writ petitioner by the respondents within two weeks from date. From letter no. 1.2/766 dated 26.3.2009 received from the learned advocate for the respondent/Association the petitioner came to know that the State Bank of India, Jadavpur University Branch in their letter dated 26.3.2009 has requested the respondent/Association to recover a sum of Rs.9,96,290/- against the terminal benefits payable to the deceased employee being the outstanding amount in her housing loan account as on date and accordingly,

the respondent/Association deducted the said sum from the death benefits of the deceased employee for adjustment of the outstanding house building loan account in terms of irrevocable letter of authority dated 21.4.2003 executed by the employee in their favour.

5. It is the contention of the petitioner that a sum of Rs.3,36,892.26 paise has been unnecessarily charged in excess from the death benefits of the deceased employee in respect of her housing loan account on the ground that at the time of death of the employee on 10.5.2007 the outstanding amount in housing loan account as on 17.5.2007 was Rs.6,59,397.74 paise and by virtue of the aforesaid irrevocable letter of authority dated 21.4.2003 it was incumbent for the respondent/Association to take steps for immediate settlement of the housing loan account by adjusting the same from the terminal benefits of the deceased employee. The respondent/Association negligently remained silent and did not take effective steps for a period of almost two years unnecessarily and allowed the amount to increase upto Rs.9,96,290/- as on 26.3.2009 and, thereafter, took steps to deduct the same for adjustment of house building loan and release of mortgaged property. Even after such deduction of the amount of Rs.9,96,290/- as outstanding loan amount from the terminal benefits of the deceased employee the respondent/ Association did not deposit the amount with the respondent/Bank and take steps to settle loan amount and release the Title Deeds and other valuables.

6. The writ petitioner has now demanded that out of total outstanding housing loan amount of Rs.9,96,290/- the sum of Rs.6,59,397.74 paise should be deducted from the terminal death benefits of his deceased sister and the remaining sum of Rs.3,36,892.26 paise should be paid by the respondent/Association for their failure and negligence to settle the terminal benefits of the deceased for two years. Accordingly, he has filed instant writ

petition praying for issuing a writ of mandamus commanding the respondent nos. 1 to 3 to make payment of Rs.6,59,397.74 paise from the death/terminal benefits of the deceased employee for settlement of her housing loan amount in favour of respondent nos. 4 and 5 within a specified period of time and the remaining sum of Rs.3,36,892.26 paise should be paid by the respondent nos. 1 to 3 from out of their own fund for their gross negligence, illegal and arbitrary acts, withholding the terminal benefits of his deceased sister for almost 2 years and to make payment of the interest accrued on day to day basis of Rs.9,96,290/- till date and to direct respondent nos. 4 and 5 to accept sum of Rs.6,59,397.74 paise as the outstanding amount in respect of old housing loan account of the deceased employee and release the mortgaged property and valuables kept to them as collateral security forthwith and to realise the balance loan amount of Rs.3,36,892.26 paise from the respondent nos. 1 to 3 along with interest accrued thereon till date.

7. In his supplementary affidavit the writ petitioner has further claimed that on 24.2.2010 he came to know that the respondent/Association is a registered society under the Act XXI of 1860 and the West Bengal State Registration Act, 1961 having a Governing Council with 13 elected or nominated members and the Registrar of the Association is a non member Secretary, who assists the Director in his function, but in charge of all administrative function including finance and accounts and assisted by the Deputy Registrar (Finance and Accounts). The finance is provided by the Govt. of India and the Govt. of Wet Bengal on a matching share basis and as such the respondent/Association is an autonomous institution under the Department of Science and Technology, Govt. of India. It is, further, contended that the Indian Association for the Cultivation of Science is a

“State” within the meaning of Article 12 of the Constitution of India and amenable to writ jurisdiction as the said Association is under the pervasive control of the Govt. of India and the Govt. of West Bengal and the accounts of the said Association are audited by the Director of Audits, Scientific Department, Govt. of India.

8. The respondent/Association in their affidavit-in-opposition has, however, claimed that a Division Bench of this Hon’ble Court in 1992(1) CLJ 319 (Director, Indian Association for the Cultivation of Science, Jadavpur and others Versus Ashoke Kumar Roy and others) has already decided that the respondent/Association does not perform any public duty or responsibility and as such is not a authority under Article 226 of the Constitution of India and not a “State” within the meaning of Article 12 of the Constitution of India.

9. The learned advocate for the petitioner, on the contrary, has relied upon the cases reported in (2002)5 SCC 111 (Pradeep Kumar Biswas Versus Indian Institute of Chemical Biology and others), (2005)1 SCC 149 (Virendra Kumar Srivastava Versus U. P. Rajya Karmachari Kalyan Nigam and others) and (2005)4 SCC 649 (Zee Telefilms Limited and another Versus Union of India and others) to prove that the petitioner is a State within the meaning of Article 12 of the Constitution of India.

10. The learned advocate for the petitioner has, further, contended that the aforesaid ruling of the Division Bench of this Hon’ble Court is not applicable at present due to change of circumstances. It is contended that while the Hon’ble Division Bench of this Court decided the case it was relied upon that the society was registered under the Society Registration Act, 1860 and under the Articles of Association the affairs of the Association are administered, directed and controlled by an executive

council and the composition of such council is dominated by private persons and not by persons appointed or nominated by the Central Govt. or State Govt. The money required for running the said institution is not provided by the Central Govt. or State Govt. but from various other sources and the council may or may not accept such grants given by the Government. There is no provision that the society can accept money only with the approval of the Central Government and the Central Government have no manner of control over the receipts and the disbursement of money by the society. The accounts of the society are not to be submitted to the government for their scrutiny and/or approval. Only in respect of grants received from the Central Government the account has to be audited by the Auditor and Comptroller General. An audit report has to be sent for information of the government. There is no provision that the society have to comply with such direction as may be issued by Central Government on this behalf and as such the Hon'ble Division Bench was pleased to observe that the respondent authority is not an 'authority' within the meaning of Article 12 but it is an 'autonomous body' and it is independent to carry out its affairs and that for the aforesaid reasons the society is not an 'authority', amenable to the writ jurisdiction but an autonomous body.

11. The ratio in (2002) 5 SCC 111 (Pradeep Kumar Biswas –Vs.- Indian Institute of Chemical Biology and Ors.) per majority has postulated yardstick of determining an organisation as "State". The same are quoted below :

“ *The picture that emerges from the case-law is that the tests formulated in Ajay Hasia case (1981) 1 SCC 722 for determining as to when a corporation can be said to be an instrumentality or agency of the Government are not a rigid set of principles so that if a body falls within any*

one of them it must, ex hypothesi, be considered to be a State within the meaning of Article 12. The question in each case would be – whether in the light of the cumulative facts as established, the body is financially, functionally and administratively dominated by or under the control of the Government. Such control must be particular to the body in question and must be pervasive. If this is found then the body is a State within Article 12. On the other hand, when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body a State.”

12. The concept as regards “other authorities” contemplated under Article 12 of the Constitution” has been further expounded by the Hon’ble Apex Court in (2005) 4 SCC 649 (Zee Telefilms Ltd. & Anr. –Vs.- Union of India & Ors.). It has deduced four guidelines laid down in Pradeep Kumar Biswas case for a body to be a part of the State under Article 12 are:

“(1) Principles laid down in Ajay Hasia, (1981) 1 SCC 722 are not a rigid set of principles so that if a body falls within any one of them it must ex hypothesi, be considered to be a State within the meaning of Article 12.

(2) The question in each case will have to be considered on the basis of facts available as to whether in the light of the cumulative facts as established, the body is financially, functionally, administratively dominated, by or under the control of the Government.

(3) Such control must be particular to body in question and must be pervasive.

(4) Mere regulatory control whether under statute or otherwise would not serve to make a body a part of the State. ”

13. The Hon’ble Apex Court was reluctant to expound the four guidelines laid down in Pradeep Kumar Biswas case any more and observed, inter alia,

“There can be no two views about the fact that the Constitution of this country is a living organism and it is the duty of courts to interpret the same to fulfil the needs and aspirations of the people depending on the needs of the time. In Article 12 the term “other authorities” was introduced at the time of framing of the Constitution with a limited objective of granting judicial review of actions of such authorities which are created under statute and which discharge State functions. However, because of the need of the day the Supreme Court in Rajasthan SEB, (1967) 3 SCR 377 and Sukdev Singh, (1975) 1 SCC 421 noticing the socio-economic policy of the country thought it fit to expand the definition of the term “other authorities” to include bodies other than statutory bodies. This development of law by judicial interpretation culminated in the judgment of the seven-Judge Bench in the case of Pradeep Kumar Biswas, (2002) 5 SCC 111. It is to be noted that in the meantime the socio-economic policy of the Government of India has changed and the State is today distancing itself from commercial activities and concentrating on governance rather than on business. Therefore, the situation prevailing at the time of Sukhdev Singh is not in existence at least for the time being. Hence, there seems to be no need to further expand the scope of “other authorities” in Article 12 by judicial interpretation at least for the time being.”

14. But the application of the ratio in Pradeep Kumar Biswas case in different facets will be reflected from the observation of the Hon’ble Apex Court in dealing with the case of Virendra Kumar Srivastava –Vs.- U. P. Rajya Karmachari Kalyan Nigam & Anr. which is quoted below:

“The multiple test which is to be applied to ascertain the character of a body as falling within Article 12 or outside as laid down by the majority view in Pradeep Kumar Biswas case, (2002) 5 SCC 111 is to ascertain the nature of

financial, functional and administrative control fo the State over it and whether it is dominated by the State Government and the control can be said to be so deep and pervasive as described in the minority view in Pradeep Kumar Biswas case so as to satisfy the court “of brooding presence of the Government” on the activities of the Corporation.

[Ed. See also Art. 12, “(e)(2) Tests for determining ‘other authorities’” and “(e)(3) Application of tests determining ‘other authorities’ and specific cases” in Complete Digest of Supreme Court Cases, Vol. 4, pp. 591 and pp. 612 et seq. Respectively.]

In minority view in Pradeep Kumar Biswas case, (2002) 5 SCC 111, different tests are required to be applied in each particular case. The claim of a body based on the principles propounded in the case of Ajay Hasia, (1981) 1 SCC 722, that it si an “instrumentality or agency” of the State. In the opinion of the minority, the tests laid down in the case of Ajayu Hasia are relevant only for the purpose of determining whether an entity is “an instrumentality or an agency of the State.”

15. On the backdrop of the above principles laid down by the Hon’ble Apex Court now the present case of the petitioner is to be examined. In their supplementary affidavit they have claimed that the association is an ‘authority’ within the meaning of Article 12 of the Constitution as the same is under the pervasive control of the Government of India and the Government of West Bengal and the accounts of the association are audited by the Director of Audits, Scientific Department, Government of India.

16. It has already been pointed out that a Division Bench of This Hon’ble Court in 1992 after careful examination of all the facts and circumstances has held that the respondent no. 1 is an autonomous body and no writ of Mandamus can be issued to enforce private duties and obligation against a

private autonomous body like it. From a perusal of the aforesaid findings of the Hon'ble Division Bench it will appear that the Hon'ble Division Bench identified the association as autonomous on the following tests:

“a) whether it is an instrumentality or agency of the Government and not irrespective of its inception/ establishment by a statute or under a statute;

b) The enquiry is to be made not as to how the juristic person is born but why it has been brought into existence;

c) Thereafter by its genetical origin, it would be an authority within the meaning of Article 12 of the Constitution after it is an instrumentality or agency of the Government and that would have to be decided on a proper assessment of the facts in the light of relevant factors.”

17. From the yardstick of said tests, Hon'ble Division Bench held that it is an autonomous body and independent to carry out its affairs as it likes. So it is neither an 'authority' within the meaning of Article 12 nor a State within the meaning of Article 226 of the Constitution of India.

18. In deciding the matter in 1992 Their Lordships were pleased to place on record the relevant findings of facts as quoted below:

“3. Indian Association for the Cultivation of Science is a society registered under the Societies Registration Act (Act XXI of 1860) 1860. The objects of the Society are to (1) cultivate science in all its departments both with a view to its advancement by original research and to its varied applications to the arts and comforts of life (2) found, equip and maintain scientific laboratories and library or reading room for general use among the members or the students of the Association (3) establish and maintain collections of Natural History, Mechanical, Scientific and Philosophical inventions, instruments or designs and (4) take all proper and necessary steps for diffusion and cultivation of science in all departments. There are

four categories of members constituting the said Association, namely (a) Ordinary members, (b) Life member, (c) Honorary fellows and (4) Ordinary fellows. Under the Articles of the Association the affairs of the said Association are administered, directed and controlled by an Executive Council. The said Council consists of 13 members out of which only four are Government nominees and representatives. Out of four, two members are nominated by the Ministry concerned of the Government of India and the two by the Secretary to the Government of West Bengal. Out of 13 members 7 members of the Council forms quorum for holding meeting. Under bye-law 28 all members of the staff including the Registrar and the Heads of Departments, shall be under the administrative control of the Director. Under bye-law 33(ii) it is provided that as long as the Association continues to receive grant-in-aid from the Government, the accounts of the Association shall be audited annually by the Comptroller and Auditor General of India or by any person authorised by him in this behalf and any expenditure incurred in connection with such audit shall be payable by the Association to the Comptroller and Auditor General of India. Bye-law 33(iv) provides that the results of audit shall be communicated by the Auditor to the Council of the Indian Association for the Cultivation of Science, Calcutta who shall submit a copy of the Audit Report along with observations to the Government of India and to the Association. The Auditor shall also forward a copy of the report direct to the Government of India. Under Bye-law 34 the Council is entitled to borrow money from time to time from any source and under clause (a) of Bye-law 34 the Council is entitled from time to time to accept loans from the Central or any State Government and/or from the University Grant Commission etc. Under Bye law 40(b) the Finance Committee shall have the function to prepare an estimate of the income to be

accepted during the next financial year from the properties and investments of the Association, and from Government grants and income from other sources.

4. The composition of the Council is dominated by private persons and not by person appointed or nominated by the Central Government or State Government. The money required for running the said Institution is not provided by the Central Government or State Government, but from various other sources and the Council may or may not accept such grants given by the Government. There is no provision that the Society can accept money only with the approval of Central Government and Central Government had no manner of Control over the receipts and disbursement of the money by the society. The accounts of the society are not to be submitted to the Government for their scrutiny and/or approval. Only in respect of grants received from the Central Government the account has to be audited by the Auditor and Comptroller General and audit report has to be sent for information of the Government. There is no provision that the Society has to comply with all such directions as may be issued by the Central Government in this behalf.

7. In the instant case the Indian Association for the cultivation of Science, Jadavpur is an association registered under the societies Registration Act and is dominated by private persons. It was free to accept grants from the Governments and is only answerable to the Governments in respect of the grants received from the Governments and that so long the Association continues to receive grants from the Government the accounts were required to be audited by the comptroller and Auditor General of India. It is also free to apply its income and property towards the promotion of its objectives and implementation of its programmes. It was pointed out by the learned

Advocate appearing for the respondents relying on various documents that the society received much grants from the Central Government. But receiving of grants is not the sole test for determining whether it is an 'authority' under Article 12 or not. There is no provision that the society has to comply with all directions as may be issued by the Central Government in this behalf. It is true that the Association is free to dispose of its moveable and immovable properties and obtain loans but from this it is clear that there was no absolute control of the Central Government over the affairs of the society. It cannot be said by any stretch of imagination that it is the Central Government who is functioning through the said society and that if the veil is lifted, it could not be seemed that though it is a body registered under the societies Registration Act really the Central Government is running its affairs through a society. It is not controlled by the Government in any manner whatsoever. The word 'state' or instrumentality of the State means that the Government is functioning though it in the form of a society or a cooperative society or a company and this is a decisive factor for the purpose of determining whether it is an 'authority' under Article 12 of the Constitution or not."

19. The Hon'ble Division Bench was also reluctant to hold the respondent association as an 'authority' within the meaning of Article 226 of the Constitution of India on the following grounds:

"..... The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owned by the person or authority to the affected party. No matter by what means the duty is imposed. If a positive obligation exists mandamus cannot be denied. "In this case the Supreme Court referred to the observations of Professor De Smity that" To

be enforceable by mandamus a public duty does not necessarily have to be one imposed by statute. It may be sufficient for the duty to have been imposed by charter, common law, custom or even contract.” (Judicial Review of Administrative Act, 4th Ed p. 540). The ratio of the Judgement is that whatever may be the form of the body concerned, what is relevant is nature of the duty imposed. If the duty imposed upon such authority is of public nature or in other words a mandamus would lie for the purpose of fulfilling public duties and/or responsibilities. It is a firmly established principles that a mandamus would not lie to enforce private duties and/or private obligations.”

20. Now it is the duty of the writ petitioner to place on record the further development and activities of the association after 1992 for which it can now be considered as a ‘State’ or ‘Authority’ as claimed. The argument advanced before me are nothing but repetition and the submissions made before the Hon’ble Division Bench in 1992. Therefore, prima facie, I hold that the writ petitioner is unable to place on record further advancement or activities of the association controlled or managed by the Central Government or the State Government as the case may be so as to come within the fold of Article 12 or Article 226 of the Constitution of India in enforcing the private right of the writ petitioner. Moreover, if the writ petitioner is aware that the association is a ‘State’ within the meaning of the aforesaid provisions they could implead the State of West Bengal or the Government of India through Department of Science and Technology who are actually controlling the affairs of the association. But the research projects undertaken by the association are only personal in nature which is neither directly controlled by the State nor the appointment and conditions of its service of its Director, Registrar and other employees are controlled and regulated by the said

authorities. The same conditions are prevailing for which the Division Bench of this Hon'ble Court identified it as an autonomous body in 1992. From the examination of the subsequent facts claimed by the writ petitioner, I hold that he has miserably failed to prove that the status of the association from autonomous has transcended its barrier by lapse of time on account of subsequent control of its activities by the State or Central Government.

21. For another significant reason I am also reluctant to hold that the instant writ petition is maintainable in law. From a plain reading of the writ petition it will appear that all along the writ petitioner in his private capacity, as descendant of his deceased sister, has claimed certain financial benefits arising out of her sister's sudden death in harness. He has also claimed certain interest and declaration of certain financial reliefs which can only be agitated before the civil court in regular suits. The reliefs claimed in the instant writ petition are in fact, reliefs which can only be claimed in money suit with prayer for rendition of accounts. The writ court cannot adjudicate the exact amount of terminal benefit accrued in favour of deceased employee of the association and, it can also not fix the responsibility of paying the outstanding dues of the State Bank of India to liquidate the house building loan standing in the name of the deceased employee. It also cannot decide and declare that the person or authority responsible for dealing with the obligation for settlement of terminal benefits are negligent for two years resulting in sufficient financial loss which should not be deducted from the terminal benefit of the deceased sister of the writ petitioner. The petitioner has claimed that for such negligent conduct the respondent association should meet the liability and they cannot lawfully deduct the extra amount of interest claimed by the bank for non-payment of the dues after death of the employee concerned for two years. In fact this is a claim for determination

of the quantum of damage to be awarded to a party upon proof of the negligent conduct of their officials which is also beyond the purview of the writ Court. Therefore, considering both these aspects I hold that the instant writ petition is not maintainable in law and as such the same is dismissed.

22. There will be no order as to costs.

23. Urgent photostat certified copy of this order, if applied for, be given to all the parties upon compliance of all necessary formalities.

(Syamal Kanti Chakrabarti, J.)