APHC010527532025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3575]**
(Special Original Jurisdiction)

WRIT APPEAL NO: 1294 OF 2025

Between:

1. V RADHA KRISHNA MURTHY, S/O LATE V.B. LAKSHMINARAYANAPPA, AGED ABOUT 72 YEARS, FORMERLY BRANCH MANAGER, THE VYSYA BANK LTD., MADANAPALLE, CHITTOOR DISTRICT.

...APPELLANT

AND

1. THE MANAGING DIRECTOR AND CHAIRMAN, Kotak Mahindra Bank Limited, 27 BKC, C-27, G Block, Bandra Kurla Complex Bandra East, Mumbai - Maharashtra.

...RESPONDENT

CORAM:- THE HONOURABLE Mrs. JUSTICE LISA GILL

THE HONOURABLE Mr.JUSTICE NINALA JAYASURYA

DATE:- 22nd April, 2026.

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PRESENT: Mr.G.N.V.Pulla Rao, Advocate for Appellant

Mr.G.V.S.Ganesh, Advocate for Respondent.

The Court made the following Judgment : *(Per Hon'ble Mr.Justice Ninala Jayasurya)*

Aggrieved by order of dismissal of Writ Petition No.19697 of 2014, the present Writ Appeal has been preferred.

2. Appellant / writ petitioner, an employee of The Vysya Bank Ltd., was dismissed from service *vide* Order No.HRD/ER/C-514/93-94, dated 23.08.1993. He preferred an appeal against said order of dismissal. The Executive Director (CRR) and Appellate Authority of The Vysya Bank Ltd., vide order in HRD:ER:C:1231:99-2000, Dated 29.10.1999, in exercise of powers vested in him modified the order of dismissal to compulsory retirement from service of the said Bank.

3. Nearly after about 4 years, appellant submitted representation dated 13.09.2013 to the Head, Employees Relations, ING Vysya Bank Ltd., Hyderabad, with a request to the said Bank to pay back wages from the date of his initial suspension and pension on the premise that he was acquitted in the criminal case. In reply to said representation, M/s. ING Vysya Bank Limited, vide communication dated 24.09.2013 informed the appellant that he is not eligible for pension under applicable Pension Regulations, since punishment of compulsory retirement was imposed with effect from 23.08.1993, which is prior to the cut-off date 01.11.1993.

4. Under the said circumstances, the appellant / writ petitioner filed W.P.No.19697 of 2014 seeking setting aside of order dated 23.08.1993 and order dated 29.10.1999 of the appellate authority referred to above by impleading Managing Director and CEO of ING Vysya Bank Limited (Formerly

The Vysya Bank Ltd.,) as party respondent. Subsequently, cause title in the Writ Petition was amended in respect of the respondents vide Order dated 06.09.2024 in I.A.No.1 of 2024 and Managing Director and Chairman, Kotak Mahindra Bank Limited was made as party respondent.

5. M/s.Kotak Mahindra Bank Limited filed a detailed counter-affidavit raising preliminary objection with regard to maintainability of Writ Petition on the premise that respondent Bank is a private sector bank and not amenable to writ jurisdiction under Article 226 of Constitution of India. It also relied on the decision of Hon'ble Supreme Court in ***Federal Bank Ltd., Vs. Sagar Thomas***[1] to buttress the said contention. That apart, plea with regard to the scope of judicial review under Article 226 of Constitution of India was also raised.

6. Learned Single Judge after considering the submissions made on both sides, though not specifically dealing with the contention about maintainability of Writ Petition against a private bank, dismissed the Writ Petition opining that the petitioner failed to make out a case for judicial review of punishment imposed by the disciplinary authority. Reliance was placed on the decision of Hon'ble Supreme Court in ***Central Council for Research in Ayurvedic Sciences and Another Vs Bikartan***[2].

7. Learned counsel for appellant / writ petitioner made submissions to impress upon this Court that the Order of learned Single Judge is erroneous, contrary to law and not sustainable. It is his contention that learned Single

[1] (2003) 10 SCC 733
[2] 2023 11 SCR 731

Judge erred in not appreciating the contention that in view of order of acquittal of Appellant / Writ Petitioner dated 05.07.2013 in C.C.No.17 of 1997, which was registered on the same allegations forming the basis of departmental proceedings, orders impugned in the writ petition are liable to be set aside. He also urged that judgments subsequent to the decision in ***Federal Bank*** case (1 supra) clarified that even private entities performing functions effecting public rights are amenable to writ jurisdiction, but no precedent is cited.

8. Learned counsel for the respondent Bank made submissions to sustain the order of learned Single Judge by referring to various averments / contentions in the counter affidavit, to which no rebuttal / reply appears to have been filed. Be that as it may.

9. This Court has considered the submissions made and perused the material on record.

10. At the outset, it is pertinent to note and there is no dispute that appellant / writ petitioner originally was an employee of a private bank viz., M/s. The Vysya Bank Ltd. He suffered an order of dismissal dated 23.08.1993 passed by the said Bank and subsequently it was modified to that of punishment of compulsory retirement vide Order dated 29.10.1999. It transpires that thereafter the said Bank was acquired by ING Group and transformed into ING Vysya Bank Ltd., which through its Letter dated 24.09.2013 categorically rejected the appellant’s claim for pension etc., for reasons stated therein. Admittedly, during pendency of Writ Petition, ING Vysya Bank merged with Kotak Mahindra Bank, a private sector Bank.

11. Legal position with regard to maintainability of Writ Petition against the order passed by Private Bank is well settled. In **Federal Bank case (1 supra)**, the question that fell for consideration before the Hon'ble Supreme Court was whether the appellant Bank is a private body or falls within the definition of State or local or other authorities under the control of the Government within the meaning of Article 12 of the Constitution of India. The said Bank dismissed it's employee from service and challenging the same, he filed a writ petition. A preliminary objection to maintainability of the writ petition was taken by the Bank, contending that it is a private Bank and not a State or its agency or instrumentality, within the meaning of Article 12 of the Constitution, hence a writ petition under Article 226 of the Constitution was not maintainable against it. Learned Single Judge opined that Federal Bank performs a public duty, and as such it comes under the definition of "other authority" within the meaning of Article 12 and as such the writ petition was maintainable. The Bank carried the matter by way of an appeal.

12. Division Bench of the High Court of Kerala dismissed the appeal, providing that learned Single Judge shall decide the writ petition on merits. Federal Bank Limited aggrieved by the said order filed appeal before the Hon'ble Supreme Court which examined the matter with reference to six factors which have been enumerated in the case of **Ajay Hasia v. Khalid Mujib Sehravardi**[3] as approved by a Seven Judge Bench in the case of **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology**[4], and

[3] (1981) 1 SCC 722
[4] (2002) 5 SCC 111

opined that in the normal functioning of a private banking company there is no participation or interference of the State or its authorities.

13. At Para No.29, the Hon'ble Apex Court recorded a finding that activity which is carried on by the appellant is not one which may have been earlier carried on by the Government and transferred to the appellant company. Further that even it may be assumed that one or the other test as provided in the case of ***Ajay Hasia*** (3 supra), may be attracted, that by itself is not sufficient to hold that it is an agency of the State or a company carrying on the functions of public nature. After detailed analysis of the matter, the Hon'ble Supreme Court recorded its conclusions at Para No.33 which is reproduced hereunder for ready reference:

> **"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 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."

14. Aforesaid Judgment of the Hon'ble Supreme Court, applies on all fours to the facts of the present case.

15. In the light of above stated legal position, Writ Petition itself is not maintainable and in such circumstances, the question of exercising power of judicial review does not arise at all. However, learned Judge examined the matter to do complete justice and rightly dismissed the Writ Petition.

16. For the aforegoing reasons, the order under challenge is confirmed. There is a delay of 240 days in filing this Appeal. As the matter has been considered by us on merits, adjudication on the application seeking condonation of delay is rendered academic. I.A.No.1 of 2025 is disposed of accordingly.

17. Writ Appeal is accordingly dismissed. No costs.

Consequently, the Miscellaneous Applications pending, if any, shall also stand dismissed.

(LISA GILL) **JUDGE**	**(NINALA JAYASURYA)** **JUDGE**

Date: 22.04.2026
Ssv

THE HONOURABLE Mrs. JUSTICE LISA GILL

THE HONOURABLE Mr.JUSTICE NINALA JAYASURYA

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