



2026:CGHC:18795

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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 5324 of 2024**

1 - Smt. Shashwati Ray W/o Ranajit Kumar Ray Aged About 59 Years (Date Of Birth 25-04-1961), R/o House No. 06, Block 06, Moti Lal Nehru Nagar, East Bhilai, District Durg, Chhattisgarh

--- Petitioner(s)**versus**

1 - State Of Chhattisgarh Through Secretary, Department Of Higher Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh

2 - Chhattisgarh Swami Vivekananda Technical University Through - Its Registrar, Office At Chhattisgarh Swami Vivekananda Technical University, Bhilai, District Durg, Chhattisgarh

3 - All India Council Of Technical Education, New Delhi Through -Its Registrar, Office At All India Council Of Technical Education, New Delhi, District New Delhi, Delhi

4 - Bhilai Institute Of Technology Through - Its Director, Bhilai House Durg, District Durg, Chhattisgarh

5 - Chairman Governing Body Bit - Durg (C.G.)

-- Respondent(s)

(Cause title is taken from CIS system)

For Petitioner	:	Mr. Parth Jha, Advocate assisted by Smt. Shashwati Ray, petitioner-in-person.
For Respondent No.1/State	:	Mr. Vivek Verma, Govt. Advocate
For Respondent No.2	:	Mr. Neeraj Choubey, Advocate
For Respondent No.3	:	Mr. Ajit Singh, Advocate
For Respondent No.4 & 5	:	Mr. Siddharth Rathod, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order On Board****23/04/2026**

1. Learned counsel for respondents No.4 and 5 would submit that writ petition in its form before this Court is not maintainable as respondent



No.4 is an unaided private educational institution. He contended that one another Assistant Professor Dr. Madhurima Pandey earlier filed a writ petition before this Court bearing WPS No. 11842 of 2025, which came to be dismissed vide order dated 02.01.2026 on the ground that writ petition was not maintainable relying upon the decision of Hon'ble Supreme Court. Petitioner thereafter preferred writ appeal bearing W.A. No.113 of 2026, which also came to be dismissed affirming the judgment of learned Single Judge vide order dated 05.02.2026, therefore, writ petition filed by petitioner herein stating her to be Assistant Professor with respondent No.4 raising service dispute is not maintainable as the issue has already been settled and decided by the Division Bench of this Court.

2. I have heard learned counsel for parties.
3. Perusal of the order passed in WPS No.11842 of 2025 would show that petitioner therein was also a Assistant Professor appointed on 09.02.1994 with respondent/Bhilai Institute of Technology, Durg i.e. respondent No.4 herein and the said writ petition came to be dismissed on the ground of maintainability observing thus :-

“22. From perusal of the law laid down by Hon'ble the Supreme Court and coming to the facts of the case, it is quite vivid that in WPS No. 11842/2025, the petitioner has challenged his termination order passed by respondent No. 3 which is purely a private contract and the same does not touch any public law element and the Bhilai Institute of Technology cannot be said to be discharging any public duties in connection with the employment of the petitioner. Even the service conditions of the petitioner are not regulated by the statutory provisions or the employer had the status of



‘State’ within the expansive definition under Article 12 of the Constitution of India or it has found that the action complained of is a public law element.

23. The petitioner to fall his case amenable to writ jurisdiction has contended that the statute of University has been violated by the respondent institution, as such the writ petition is maintainable. This submission is misconceived and deserves to be rejected as non-compliance of provisions may not entitle the petitioner to fall his case amenable to writ jurisdiction of this Court but it may be a ground to nullify the action of private respondent before appropriate forum.”

4. The decision rendered in the writ petition was put to challenge in W.A. No.113 of 2026 and Division Bench of this Court taking note of the decision of Hon’ble Supreme Court in case of **Army Welfare Education Society New Delhi v. Sunil Kumar Sharma & Ors (2024 SCC OnLine SC 1683)** in case of **Dilip Kumar Nehru v. St. Xavier’s College (2020) 14 SCC 449** and **St. Mary’s Education Society v. Rajendra Prasad Bhargava (2023) 18 SCC 581** has dismissed the writ appeal observing thus :-

3. Learned Counsel for the Appellant submits that the learned Single Judge erred in law in treating the private character of Respondent No.3 as an absolute bar to the exercise of writ jurisdiction under Article 22, without examining the statutory source of the rights asserted and duties alleged to have been breached. It is contended that CSVTU is a statutory university and Respondent No. 3, being an affiliated college, is governed by Statute No.19 framed under the CSVTU Act, 2004, whereby the service conditions of teachers including age of superannuation and termination are statutorily regulated and not purely contractual. He



further submits that the learned Single Judge failed to consider the statutory notice dated 11.08.2025 issued by CSVTU, thereby overlooking the public law character of the dispute, and placed reliance on *Army Welfare Education Society New Delhi v. Sunil Kumar Sharma & Ors (2024 SCC OnLine SC 1683)* without appreciating that the said decision applies only to purely private employment devoid of statutory control, which is distinguishable from the present case. It is further submitted that binding precedents of the Hon'ble Supreme Court including *Dilip Kumar Nehru v. St. Xavier's College (2020) 14 SCC 449* and *St. Mary's Education Society v. Rajendra Prasad Bhargava (2023) 18 SCC 581*, recognize maintainability where termination violates statutory service provisions even in unaided institutions. The impugned order, having ignored the governing statutory framework and decisive jurisdictional facts, is therefore, vitiated by an error of law apparent on the face of the record, warranting interference in the present Writ Appeal.

4. On the other hand, learned Counsel for the Respondent– State supports the impugned order and submits that the learned Single Judge has rightly dismissed the Writ Petition as not maintainable since Respondent No.3 is a private unaided institution and the dispute relates to service conditions arising from a contractual relationship for which, an alternative civil remedy is available. It is contended that mere affiliation to a statutory university or issuance of a communication seeking explanation does not create a public law obligation enforceable under Article 226. He, therefore, submits that the impugned order warrants no interference in Writ Appeal.

5. Having heard learned Counsel for the parties and upon careful perusal of the material available on record



as well as the order passed by the learned Single Judge, this Court is of the considered view that no case for interference in Writ Appeal is made out. The learned Single Judge has rightly held that the dispute raised by the Appellant pertains to service conditions arising out of employment in a private unaided institution for which, an efficacious alternative remedy in accordance with law is available and therefore, the Writ petition was not maintainable under Article 226 of the Constitution of India. Mere affiliation of the institution with a statutory university or issuance of a communication by the University does not, in the facts of the present case, confer a public law character so as to warrant exercise of extraordinary writ jurisdiction.

5. In the aforementioned facts of the case when the issue with regard to maintainability of writ petition against respondent No.4 being unaided private educational institute is already settled by the Division Bench of this Court, in the opinion of this Court the present writ petition is covered by the order passed by the Division Bench of this Court.
6. Accordingly, this writ petition is dismissed as non-maintainable. However, petitioner would be at liberty to take recourse of remedy available under the law governing the field. It is made clear that the period spent before this Court in pursuing this writ petition shall be excluded for computing the period of limitation as petitioner is bonafidely pursuing her grievance before this Court.

Sd/-
(Parth Prateem Sahu)
Judge