IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 12.08.2026

DELIVERED ON: 19.08.2026

PRESENT:

THE HON'BLE MR. JUSTICE REETOBROTO KUMAR MITRA

WPA 16269 OF 2026

PANKAJ KUMAR GIRI

- VERSUS –

UNION OF INDIA AND ORS.

Appearance:

Mr. Sudip Ghosh, Ld. Advocate.

Mr. Bidish Ghosh, Ld. Advocate.

Mr. Uttam Kumar Kamila, Ld. Advocate.

Mr. Maitryee Maiti, Ld. Advocate.

..... for the Applicant/Petitioner

Mr. Sakya Sen, Sr. Advocate.

Mr. Priyankar Saha, Ld. Advocate.

Mr. Hemant Tiwari, Ld. Advocate.

... for the Respondent no. 5 to 9

Mr. Avishek Guha, Ld. Advocate.

Mr. Subjajit Das, Ld. Advocate.

... for the Respondent no. 3 and 4 (LICI)

Reetobroto Kumar Mitra, J.:

1. The writ petition has been carried within a very short conspectus. The only issue raised by the petitioner is whether he could have been transferred from his present post in West Bengal to the Tezpur area office in Assam of the respondent no. 2.

2. On this narrow point, the issue could have been resolved without much ado.

3. The points to be considered would be whether there is a prevalent transfer policy and if the petitioner's transfer is in breach of such

policy and whether the petitioner's transfer was discriminatory in any manner.

4. The respondent has raised a more fundamental issue. It is this fundamental issue that calls for a detailed deliberation. According to Mr. Sakya Sen, learned Senior Advocate appearing for the respondent, respondent no. 2 is not at all a body that can be termed a State instrumentality or qualifies as a 'State' under Article 12 of the Constitution of India.

5. Therefore, prior to considering whether the petitioner's transfer is sustainable or not, this court would have to deliberate and come to a finding regarding the status of respondent no. 2. The status is, primarily, to ascertain whether respondent no. 2 can be construed as an instrumentality amenable to the writ jurisdiction of this court.

6. Mr. Sakya Sen, learned senior advocate appearing for the LIC (HFL), made the following submissions to buttress his case that the said respondent cannot be construed as a body under Article 12 of the Constitution of India:-

a. Of the total of thirteen directors on the board of directors of Respondent No. 2, only three are nominated by LIC.

b. There is no financial control of any sort by LIC or LIC(HFL). LIC(HFL) arranges its own finances as will appear from Annexure B of the extracts of the corporate information of the company which clearly States that the mode of fund raising of LIC(HFL) is private placement and public issue, rights issue, preferential issue and other modes.

c. The finance of Respondent No. 2 as per its Statement of utilization is clear and unequivocal inasmuch as the same is used for private purpose only. The same has also been demonstrated from page 89 of the bunch of documents.

d. The memorandum of articles merely states that the company (Respondent No. 2) is entitled to deal with the government or any of its limbs on commercial terms and in a similar manner as it would deal with any other private concern. None of the clauses in the memorandum or articles of association establish the fact that the funding of Respondent No. 2 would be drawn from the government or from LIC or from any other limb of the government. Thus, there is no financial dependence of Respondent No. 2 on the LIC or on the government.

e. The mere fact that the company is an associate of a government company such as the LIC by itself would not bring such a company within the purview of State as intended by Article 12 of the Constitution. The Respondent No. 2 is involved in the business of giving loans to home buyers, which cannot be construed as a public duty or a public function to bring it within the domain of "any other authority for the purpose of Article 226 of the Constitution of India".

f. He has placed reliance on the decision of Balmer Lawrie and Company Limited v. Partha Sarathi

Sen Roy and Others reported in (2013) 8 SCC 345, particularly paragraphs 36, 37 and 38 thereof to establish that mere regulatory control is insufficient to bring a company/corporation within the domain of Article 12 of the Constitution of India. In fact, it has to be seen whether the company is engaged in any sort of business activity over which it has monopoly and is subject to administrative, financial, and functional control of the government.

g. He has also placed reliance on S. Shobha v. Muthoot Finance Ltd., reported in 2025 SCC OnLine SC 177 to establish that to ascertain whether or not a corporation can be termed as a State under Article 12, it would have to overcome and pass the functional test as laid down in this decision.

h. He has placed reliance on the decision of the Hon'ble Supreme Court of India reported in 2026 SCC OnLine SC 583 (Ram Chandra Choudhary v. Roop Nagar Dugdh Utpadak Sahakari Samiti Ltd.).

7. Mr. Avishek Guha, learned advocate appearing for Respondent Nos. 3 and 4, has made the following submissions: -

i. There is a distinct difference between a company which can be called an associate company and one which is a subsidiary. This distinction has been earmarked in the Companies Act, 2013.

ii. The definition of an associate company as found in Section 2(6) of the Companies Act, 2013 makes it clear that a company can be called an associate company when 30 per cent of its shares are held by the other company.

iii. Subsidiary, on the other hand, has been defined in Section 2(87) of the Companies Act, 2013 whereby and whereunder it has been Stated in no uncertain terms that the holding company has to be able to control the composition of the board of directors or exercise or control more than half (½) of the total voting power of the subsidiary either on its own or together with other subsidiaries.

iv. In the present case, Respondent Nos. 3 and 4 held a mere 45.24% share which does not grant any controlling power to the said Respondent Nos. 3 and 4.

v. In fact, there is no mode or manner by which Respondent Nos. 3 and 4 can control Respondent No. 2, as Respondent Nos. 3 and 4 only have three nominee directors on the board of Respondent No. 2 out of the total of 13 on the board. Thus, there is no administrative control insofar as Respondent No. 2 is concerned.

vi. The Life Insurance Corporation Act, 1956 is also clear and unequivocal as it is clear that the LIC is engaged only in the business of life insurance. Thus, LIC(HFL) not being in the business of life insurance, does not fall within the business domain of LIC.

vii. He has placed reliance on a decision of the Hon'ble High Court of Telangana at Hyderabad in the case of Manoj K. Badal v. Union of India and Ors. (Writ Petition No. 18485 of 2023), whereby and whereunder it has been held in no uncertain terms that a similar company which is a housing company of the Canara Bank could not be construed as being controlled by the Canara Bank and therefore does not fall within the domain of Article 12 of the Constitution of India.

8. Mr. Ghosh, learned advocate appearing for the petitioner in support of the issue that a writ petition is maintainable against Respondent No. 2, has made the following arguments: -

a. He has referred to the Memorandum of Association of the Respondent No. 2. He has placed reliance on clauses 1, 9, 12, 16, 34, 36, 52, 53, 56, 58, 102 and 104 of the Memorandum of Association.

b. The sum and substance of these articles, according to him, is that the business of Respondent No. 2 is such that it is bound by governmental norms and therefore within the purview of governmental control.

c. He has also placed reliance on articles 138, 139, 143 of the Articles of Association. According to him, these articles clearly establish that the LIC has a deep and pervasive control over the affairs of Respondent No. 2 by virtue of holding more than 33 per cent of the issued equity share capital of the Company. Thus, LIC is entitled to appoint/nominate at least 3 of the total number of directors.

d. This, therefore, establishes a deep and pervasive control of Respondent No. 2 by LIC.

e. LIC being a body under Article 12 of the Constitution of India, exercising deep and pervasive control over the affairs of Respondent

No. 2, is a clear indication that Respondent No. 2 itself is also a body against which a writ petition is maintainable.

f. By virtue of the afore stated facts, Mr. Ghosh has argued that the affairs and management are completely controlled by the LIC which is a State under Article 12 and therefore consequently, so is Respondent No. 2.

g. Mr. Ghosh has placed reliance on the following cases:

i. WPA No. 5633 of 2020, Dr. Arup Kumar Bhaumik v. The State of West Bengal and Ors.

ii. WA No. 904 of 2022 in the case of Vivek V and Anr. v. LIC Housing Finance Limited and Ors.

iii. Balmer Lawrie and Company Limited v. Partha Sarathi Sen Roy and Ors, reported in (2013) 8 SCC 345.

iv. WP(C) No. 788 of 2026 in the case of Nisant Aanand v. LIC Housing Finance Ltd. and Ors.

9. I have heard learned advocates for the parties and considered the decisions relied upon by them as well as gone through the documents on record.

10. The law on the subject has evolved over a period of time and is now well-settled.

11. Its genesis can be traced from the dictum of the Hon'ble Supreme Court of India in Sukhdev Singh Vs. Bhagatram Sardar Singh Raghuvanshi reported in (1975) 1 SCC 421. In this judgment, the Hon'ble Supreme Court enlarged the scope of the term 'other authorities' under Article 12 of the Constitution of India. The principles laid down in this judgment may be summarized as follows:-

a. Statutory corporations performing public functions were brought within the scope of the definition of 'State,' especially in an evolving country like India, where such a Welfare State carries out commercial activities through a corporation. Hence, a corporation can also be an instrumentality or agency of the Government.

b. Not all State endeavors through corporations qualify as 'State undertakings' and hence fall within the definition of 'State.' Relevant considerations were enumerated in the authoritative insights in Justice Mathew's concurring decision, which were noted.

c. The relevant criteria include:-

    a. Financial assistance;

    b. State control over management of such corporation;

    c. Monopoly status conferred by the State and the business conducted by it;

d. Public importance of the functions and nature of the business;

e. Whether the corporation constitutes an arm of the Government.

12. In Ramana Dayaram Shetty Vs. International Airport Authority of India, reported in (1979) 3 SCC 489, Justice Bhagwati supported and further expanded on the principles laid down in Sukhdev Singh. The parameters for determining whether a corporation is an instrumentality of the State were reiterated as follows:-

i. The entire share capital is held by the Government.

ii. The corporation receives sufficient financial assistance from the State.

iii. The corporation enjoys a State-conferred monopoly.

iv. There is deep and pervasive Government control over the affairs, administration, and management of the corporation.

v. The functions discharged by the corporation are of public importance and closely related to governmental functions.

vi. A department of the Government has been transferred to the corporation.

13. In 1981, in the case of Ajay Hasia Vs. Khalid Mujib Sehravardi, reported in (1981) 1 SCC 722, the Supreme Court laid down six indicia for deciding whether a body is an instrumentality or agency of the State:-

a. Entire share capital held by the Government.

b. Financial assistance meeting almost the entire expenditure.

c. Monopoly status conferred by the State.

d. Deep and pervasive State control.

e. Public functions closely related to governmental functions.

f. Transfer of a Government department to the corporation.

g. The Court also held that none of these tests is conclusive.

14. In 2002, in the case of Pradeep Kumar Biswas Vs. Indian Institute of Chemical Biology reported in (2002) 5 SCC 111 the issues decided in Sukhdev Singh were reconsidered.

i. The Supreme Court clarified that the real issue was whether the Government exercises financial, functional, and administrative domination over the body or corporation.

ii. Mere regulatory control or ownership is insufficient; the control must be deep and pervasive, and the corporation must be financially dominated by the Government. Only when these parameters are fulfilled can a corporation be considered an instrumentality of the Government.

15. While analyzing these cases, the Supreme Court in Balmer Lawrie & Co. Ltd. Vs. Partha Sarathi Sen Roy & Ors., (2013) 8 SCC 345, Stated:-

a. The President of India appoints whole-time Directors.

b. The Central Government exercises administrative control through the Ministry of Petroleum.

c. Major policy decisions require Government approval.

d. The company submits regular performance reports to the Government.

e. Pay scales, appointments, reservation policies, and operational matters are governed by Government directives.

f. The cumulative effect of these factors establishes deep and pervasive Government control, making the company an instrumentality of the State under Article 12.

g. The Court emphasized that all these parameters must be considered collectively before concluding that a corporation is an ‘instrumentality’ or ‘body’ of the State. Mere ownership or regulation alone is not sufficient.

16. The Hon’ble Supreme Court of India upon considering all its earlier decisions, in S Sobha Vs. Muthoot Finance Ltd. reported in (2025)

SCC online SC 177 has formulated a test to ascertain whether institution can be regarded as an instrumentality against which an application under Article 226 of the Constitution of India is maintainable or not. The parameters of this test as formulated are set out herein:-

i. For issuing writ against a legal entity, it would have to be an instrumentality or agency of a State or should have been entrusted with such functions as are Governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence Governmental.

ii. A writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State Government; (ii) Authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.

iii. Although a non-banking finance company like the Muthoot Finance Ltd, with which the Court was concerned is duty bound to follow and abide by the guidelines provided by the Reserve Bank of India for smooth conduct of its affairs in carrying on its business, yet those are of regulatory measures to keep a check and provide guideline and not a participatory dominance or control over the affairs of the company.

iv. A private company carrying on banking business as Scheduled bank cannot be termed as a company carrying on any public function or public duty.

v. Normally, mandamus is issued to a public body or authority to compel it to perform some public duty cast upon it by some statute or statutory rule. In exceptional cases a writ of mandamus or a writ in the nature of mandamus may issue to a private body, but only where a public duty is cast upon such private body by a statute or statutory rule and only to compel such body to perform its public duty.

vi. Merely because a statute or a rule having the force of a statute requires a company or some other body to do a particular thing, it does not possess the attribute of a statutory body.

vii. If a private body is discharging a public function and the denial of any rights is in connection with the public duty imposed on such body, the public law remedy can be enforced. The duty cast on the public body may be either statutory or otherwise and the source of such power is immaterial but, nevertheless, there must be the public law element in such action.

viii. According to Halsbury's Laws of England, 3rd Ed. Vol.30, p.682, "a public authority is a body not necessarily a county council, municipal corporation or other local authority which has public statutory duties to perform, and which performs the duties and carries out its transactions for the benefit of the public and not for private profit". There cannot be any general definition of public authority or public action. The facts of each case decide the point.

17. Finally, the Hon'ble Supreme Court of India, while deciding the case of Ram Chandra Choudhary (supra), has held in no uncertain terms that "the mere existence of regulatory or supervisory control, howsoever extensive, is not determinative. Such control must be of a degree that fundamentally alters the character of the body."

18. In the decision of the Hon'ble Supreme Court of India in Federal Bank Ltd. v. Sagar Thomas & Ors., reported in (2003) 10 SCC 733, it has been unequivocally held that the business of banking is not a public function even though such a bank may be bound by the guidelines and regulations of the Reserve Bank of India.

19. The decision of the Kerala High Court on which the petitioner has placed reliance is in WA No. 904 of 2022. In this decision, the LIC (HFL) respondent no. 2 herein has been construed as falling within the realm of Article 12 of the Constitution only by virtue of the fact that LIC held 45.24% shares in LIC (HFL). The decisions of the Hon'ble Supreme Court as discussed hereinbefore have not been considered. In fact, the said judgement was passed on August 12,

2025, without taking into consideration the decision of the Hon'ble Supreme Court in S Sobha (supra). Thus, with all due respect, this Court is bound by the decisions of the Hon'ble Supreme Court and particularly S. Shobha (supra) and Ram Chandra Choudhary (Supra).

20. The decision of the Hon'ble Gauhati High Court in Nisant Aanand (supra) has considered the question of LIC(HFL) being a State under Article 12. The learned Single Judge stopped short of deciding this issue.

21. The decision of the Hon'ble High Court in Dr. Arup Kumar Bhaumik (supra) is absolutely in line with the decision of the Hon'ble Supreme Court of India. I most humbly and respectfully agree with the decision.

22. The decision proceeds to hold that an organization such as the respondent authority concerned therein was an educational institution so as to fall within the expansive definition of the State under Article 12 of the Constitution of India. It is not in dispute that an educational institution is engaged in discharging a public duty,

which cannot be equated with the nature of work being done by the respondent No. 2 herein.

23. In that particular case, the Regulation (Regulation 21) specified that the organization would be governed according to the service rules, administrative rules, academic rules and financial rules of the society. It was clearly held, in no uncertain terms, that the State Government retains the power to appoint the members of the society. It was also held that none of the board members had any independent existence and owed their membership in the society to the pleasure of the State. It was held that the State exercises deep and pervasive control insofar as this institution is concerned.

24. Therefore, on the facts of the case, the particular institution in question herein is a completely differently situated body as compared to the institution in the case of Dr. Arup Kumar Bhaumik (supra).

25. It is in the context of the law laid down by the Hon'ble Supreme Court of India, that it has to be considered whether the writ petition is maintainable against LIC (HFL)?

26. The mere fact that LIC, being a "State" under Article 12, has a substantial shareholding in LIC Housing Finance Ltd.) and, by virtue of the Articles of Association, possesses the power to appoint, nominate or remove directors, does not ipso facto render LIC(HFL) a "State" within the meaning of Article 12 of the Constitution.

27. At the outset, it is necessary to distinguish between corporate control arising from the incidence of shareholding and constitutional control sufficient to attract Article 12. The powers conferred upon LIC under the Articles of Association to appoint or remove directors are exercised in its capacity as the holding company and the single largest shareholder (45.24%). Such powers are ordinary incidence of corporate ownership recognised by company law and are intended to enable the larger company to supervise the affairs of its associate and protect its investment. Corporate ownership, merely by its presence is not equivalent to the deep and pervasive governmental control contemplated under Article 12.

28. Indeed, under Section 2(45) of the Companies Act, 2013, a subsidiary of a Government company is itself classified as a "Government company". However, this statutory classification operates only for the purposes of the Companies Act. It does not

enlarge the constitutional definition of "State" under Article 12. The constitutional enquiry remains independent and is governed exclusively by the principles evolved by the Supreme Court. However, it does not refer to an associate company at all.

29. This distinction was lucidly explained in Som Prakash Rekhi v. Union of India [(1981) 1 SCC 449], wherein the Hon'ble Supreme Courtof India recognised that a Government company possesses a separate juristic personality and observed that, for the purposes of company law, "a government company has a distinct personality which cannot be confused with the State." The Court nevertheless clarified that the existence of a separate corporate personality is not conclusive for Article 12. The Court must pierce the corporate form and examine the real character of the entity to determine whether it is, in substance, an instrumentality or agency of the State. Thus, while corporate personality does not by itself exclude Article 12, neither does Government ownership or Government-company status automatically attract it. What is required is an independent constitutional examination of the entity itself.

30. The Constitution Bench in Ajay Hasia v. Khalid Mujib Sehravardi, reaffirming the principles emerging from R.D. Shetty v. International

Airport Authority of India, laid down the relevant indicators for determining whether a corporation is an instrumentality or agency of the State.

31. The Supreme Court reiterated this position in Balmer Lawrie & Co. Ltd. v. ParthaSarathi Sen Roy, where it held that the determination of whether a company is amenable to writ jurisdiction depends upon the cumulative evaluation of several factors, including whether the entire share capital of the company is held by the Government; whether its administration is in the hands of a Board of Directors appointed by the Government; and, significantly, even if the Board of Directors has been appointed by the Government, whether it is completely free from governmental control in the discharge of its functions. The very formulation of this test demonstrates that the appointment of directors by the Government is not, by itself, determinative of Article 12 status. If such appointment were conclusive, there would have been no necessity for the Supreme Court to proceed further and enquire whether the Board, notwithstanding such appointment, enjoys functional autonomy in the discharge of its duties.

32. One of the primary endeavours of the petitioner in terming Respondent No. 2 as an entity under Article 12 of the Constitution of India has been to establish the deep and pervasive control of LIC over the affairs of Respondent No. 2. The consistent stand of the petitioner has been that there is deep and pervasive control exercised by LIC in the affairs of Respondent No. 2 by way of demonstrating that Respondent No. 2 is a subsidiary of LIC in the following manner:-

a. Control over its board of directors.

b. Control over the shareholding of the company.

c. Financial control.

d. Control in the business affairs and day-to-day management of Respondent No. 2.

33. In order to deal with this issue, it will be appropriate to ascertain the status of Respondent No. 2 vis-a-vis LIC. Section 2(6) of the Companies Act, 2013 defines an associate company. An associate company in relation to another company has been defined as a

company in relation to which that "other company" has significant influence. Significant influence, in turn, has been explained as control of at least 20 per cent of the voting power or control of participation in business decisions under an agreement.

34. Section 2(87) of the Companies Act, 2013 defines a subsidiary company in relation to the other company which has been termed as the "holding company". The holding company should have control over the composition of the board of directors and exercise or control more than ½ of the total voting power either on its own or together with one or more of its subsidiaries.

35. In the instant case, undoubtedly, LIC controls 45.24 per cent of the total voting power of Respondent No. 2. There is no control or participation in the business decisions of Respondent No. 2 under any agreement or arrangement.

36. There is no control by LIC over the composition of the board of directors of Respondent No. 2, as it merely has the right to nominate/appoint 3 of the 13 members on the board of Respondent No. 2. There is also no control over one-half (½) of the total voting

power in Respondent No. 2, falling short of one-half by a significant percentage.

37. Therefore, as it stands at present, Respondent No. 2 is at best an associate of LIC.

38. Every “other company” ordinarily exercises varying degrees of supervisory control over the composition of the board of its associate. Such control is an incidence of corporate contract and is exercised in the capacity of a shareholder. If such shareholder control were treated as conclusive, every subsidiary of every Government company would automatically become a "State" under Article 12. Such a proposition would render ineffective the constitutional tests painstakingly evolved in R.D. Shetty (supra), Ajay (supra), Hasia (supra), Som Prakash Rekhi (supra), Pradeep Kumar Biswas (supra), and Balmer Lawrie(supra), all of which require an independent examination of the subsidiary's own financial, functional and administrative relationship with the Government.

39. Therefore, the question is not whether LIC possesses the power to appoint or remove directors of LIC(HFL). The real constitutional question is whether, notwithstanding its separate corporate identity,

LIC(HFL) itself is so financially, functionally and administratively dominated by Government, and so deeply and pervasively controlled by Government in the discharge of its affairs, that it has ceased to function as an independent corporate entity and has become, in substance, an instrumentality or agency of the State. Unless this cumulative constitutional test is satisfied, LIC(HFL) cannot be treated as "State" merely because LIC happens to be a "State" or because the "other company" exercises the ordinary incidence of shareholder control recognised by company law.

40. LIC (Life Insurance Corporation of India) is undoubtedly a State-backed body, with the Government holding 96.5% of its shares, exercising deep and pervasive control. LIC's business, which involves insuring life, is part of the welfare activities of the State. LIC holds 45.24% shares in respondent no. 2.

41. Respondent no. 2's main business is providing housing loans, which is a commercial activity. It is a listed company. It has a Board of Directors, and its affairs are managed independently, and not under any specific Act nor is it subject to Government domination or control. Although LIC holds over 45% shares, this does not mean that the State exercises any deep or pervasive control over the

respondent no. 2. Its activities are akin to banking, which is a commercial activity regulated by the Reserve Bank of India.

42. Respondent no. 2 was incorporated under the Companies Act and operates independently, governed by its Memorandum and Articles of Association. Its affairs are not controlled by the Government in a manner that qualifies it as an 'instrumentality of the State.' The appointment and removal of Directors are governed by its own rules, and the company's operations are not dominated by Government control.

43. The business of the respondent no. 2 is not such that it has a duty towards the public at large. The duty of the respondent no. 2 is towards its customers which may include borrowers who avail the loan facility for the purpose of housing. The respondent no. 2 does not have the authority to pass any order or take any action affecting the rights of the public at large.

44. The binding nature of its action is limited to its customers. The functions of the respondent no. 2 are not akin to any governmental function.

45. Applying the 'function test', it is clear that the respondent no. 2 does not fall within any of the institutions against whom the writ petition is maintainable. The respondent no. 2 is not a company which is financed and owned by the State nor is it a body run substantially on State funding. The respondent no. 2 is not a private body discharging public duty or any obligation of public nature. Thus, the respondent on the function test does not qualify as a body against whom the writ petition is maintainable. Since the respondent no. 2 does not qualify as a public authority nor does it come within the fold of any of the parameters set forth by the Hon'ble Supreme Court of India in S Sobha (Supra), this writ petition against the respondent no. 2 is not maintainable.

46. In view of the law laid down by the Hon'ble Supreme Court of India in various decisions, which have been extensively discussed hereinbefore, the following conclusions are inevitable:-

i. LIC(HFL) is an associate company of Life Insurance Corporation of India, it is not a subsidiary.

ii. LIC, with 45.24 percent of the shareholding in LIC(HFL) and with a right to nominate three directors on its board, which consists of 13, cannot be said to have any supervisory control over the affairs of LIC(HFL). This control is not deep and pervasive nor does it extend to control over the day-to-day affairs of LIC(HFL).

iii. Merely because LIC is a government company, the power to nominate directors does not grant supervisory control over any of its associates and thus, does not render such an associate, a government company.

iv. LIC(HFL) conducts its own business with its own money and is not dependent on LIC in any manner whatsoever.

v. LIC(HFL) is a private body engaged in carrying on its business as per its memorandum and articles of association without in any manner being engaged in a business which can be termed as a public function. The activities of LIC(HFL) are completely commercial in nature and do not fall within the benchmark parameter of a monopoly business as a limb of the government.

vi. LIC(HFL) is a company which is autonomous, driven by its commercial pursuit and guided by the decision of its board of directors who do not owe any financial, administrative or functional dependence on LIC or any other government authority. It is strictly guided by its internal governance, absolutely dependent for its affairs on the decision taken by the board of directors.

vii. Thus, LIC(HFL), not carrying out any public duty, cannot as a private body be amenable to the writ jurisdiction of this Hon'ble Court.

viii. Clearly, LIC(HFL) does not qualify the function test as laid down by the Hon'ble Supreme Court of India in the case of S. Shobha (supra).

47. Having held as aforestated, the question of entertaining the writ petition or considering the prayers made by the petitioner does not arise. In the circumstances, the writ petition fails and is accordingly dismissed.

48. Urgent photostat certified copy of this judgment, if applied for, shall be granted to the parties as expeditiously as possible, upon compliance of all formalities.

(Reetobroto Kumar Mitra, J.)