



Digitally  
signed by  
SOURABH  
BHILWAR  
Date:  
2025.04.24  
18:41:11  
+0530

2025:CGHC:18435

**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPS No. 136 of 2025**

**1 - Dhananjay Kumar S/o Shri Prabhakar Aged About 29 Years Branch Manager (1554) Can Fin Homes Ltd. Bhilai Branch, Chouhan Estate, Supela Bhilai- 490001, District- Durg (C.G.)**

**... Petitioner**

**versus**

**1 - Can Fin Homes Ltd Through- Chairman And Managing Director, Registered Office, No. 29/1, Sir M.N. Krishna Rao Road, Basavangudi, Bangalore, Pin Code- 560004 (Karnataka)**

**2 - The General Manager HRM Department, Can Fin Homes Ltd. Registered Office, No. 29/1, Sir M.N. Krishna Rao Road, Basavangudi, Bangalore, Pin Code- 560004 (Karnataka)**

**3 - Assistant General Manager Can Fin Homes Limited, Zonal Office, D. No. 56-6-515, 4<sup>th</sup> Floor, Plot No. 21, Pantakaluva Road, Lotus Heights, Vijayawada, Pin Code- 520010 (AP)**

**... Respondents**

**(Cause title is taken from Case Information System)**

---

For Petitioner : Mr. Uttam Pandey and Mr. Vikas Kumar Bajpai,  
Advocates

---

For Respondents : Mr. Harshwardhan Parganiha, Advocate

---

**(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)**

**Order on Board**

**23/04/2025**

1. By the present writ petition, the petitioner is challenging the order dated 01/01/2025 (Annexure P/12) by which the petitioner has been terminated from the service. The petitioner is also seeking a direction towards the respondent authorities to continue him in service as Branch Manager in the respondent Bank.
2. Learned counsel appearing for the petitioner submits that the petitioner was appointed as Manager in the respondent bank. Subsequently, his services were confirmed. During the service period of the petitioner, several notices were issued to him seeking explanation with regard to the alleged non-performance on the part of the petitioner. The petitioner submitted his response and in the meanwhile, he has been transferred from Raipur to Bilai. Since time and again, notices were issued to the petitioner, the petitioner tendered his resignation from service, however, during pendency of the said proceedings, the impugned termination order has been passed in an illegal and arbitrary manner.
3. Learned counsel appearing for the respondents would submit that the present writ petition is not maintainable on the ground that the respondent is not a 'State' under the definition of Article 12 of the constitution of India. The activities, structure, and nature of Respondent No. 1 does not indicate any form of pervasive governmental control or performance of public functions that

would bring it within the ambit of Article 12, therefore, the writ jurisdiction under Article 226 of the Constitution cannot be invoked against the Respondents in the instant case. He would submit that Respondent No. 01 is a company incorporated under provisions of the Companies Act, 1956, and therefore functions as a distinct legal entity. The mere fact of its incorporation under the Companies Act establishes its independent nature and separates it from any governmental or public body that could fall under the ambit of "State" under Article 12 of the Constitution of India, 1950. According to the learned counsel, the respondent is a public sector bank that holds only 29.99% of the shareholding.

4. I have heard learned counsel for the parties and perused the pleadings as well as the documents.
5. The grievance of the petitioner cannot be pursued as a public law remedy is the sum and substance of the counter-affidavit. The petitioner does not refute this contention nor establishes that the respondent is under a deep and pervasive control of Canara Bank.
6. In the circumstances and in view of the decision of the Constitution Bench in **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology, (2002) 5 SCC 111** and the decision of the **Andhra Pradesh High Court in Shaheed Begum v. Principal, Army School, Secunderabad, 2005 (6) ALD 312**, this Court is satisfied that the respondent is neither a 'State' nor an instrumentality of the State and the petitioner's service grievance with the respondent cannot be pursued under Article 226.

7. The share holding of Can Fin Homes reveals that Canara Bank and Canbank Financial Services Ltd. together had less than 51% of share holding in Can Fin Homes. Thus, it is clear that Can Fin Homes cannot be called as a government company in view of less than 51% shares being held by Canara Bank and Canbank Financial Services Ltd. put together.
8. The Hon'ble Supreme Court in the matter of ***Ajay Hasia vs. Khalid Mujib Sehravardi*** reported in **(1981) 1 SCC 7222** held thus at Para 9 :-

9) *The tests for determining as to when a corporation can be said to be an instrumentality or agency of government may now be culled out from the judgment in the International Airport Authority case. These tests are not conclusive or clinching, but they are merely indicative indicia which have to be used with care and caution, because while stressing the necessity of a wide meaning to be placed on the expression "other authorities", it must be realised that it should not be stretched so far as to bring in every autonomous body which has some nexus with the government within the sweep of the expression. A wide enlargement of the meaning must be tempered by a wise limitation. We may summarise the relevant tests gathered from the decision in the International Airport Authority case as follows:*

*(1) One thing is clear that if the entire share capital of the corporation is held by Government, it would go a long way towards indicating that the corporation is an instrumentality or agency of Government. (SCC p. 507, para 14)*

*(2) Where the financial assistance of the State is so much as to meet almost entire expenditure of the corporation, it would afford some indication of the corporation being impregnated with governmental character. (SCC p. 508, para 15)*

*(3) It may also be a relevant factor... whether the corporation enjoys monopoly status which is State conferred or State protected. (SCC p. 508, para 15)*

*(4) Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality. (SCC p. 508, para 15)*

*(5) If the functions of the corporation are of public importance and closely related to governmental functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government. (SCC p. 509, para 16)*

*(6) "Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference" of the corporation being an instrumentality or agency of Government. (SCC p. 510, para 18)*

*If on a consideration of these relevant factors it is found that the corporation is an instrumentality or agency of government, it would, as pointed out in the International Airport Authority case", be an 'authority' and, therefore, 'State' within the meaning of the expression in Article 12.*

9. Present is a case of disciplinary action being taken against its employee by the respondent. Petitioner's service with the bank stands terminated. The action of the Bank was challenged by filing a writ petition under Article 226 of the Constitution of India. The petitioner is not trying to enforce any statutory duty on the part of the Bank. That being the position, the petition deserves to be dismissed.
10. Applying the well settled principles of law to the facts of the present case and for the reasons stated hereinabove, in the considered opinion of this Court this petition is **dismissed** as not maintainable. However, the petitioner is at liberty to pursue such other appropriate remedies as may be available to him under the law. No costs.

Sd/-

**(BIBHU DATTA GURU)  
JUDGE**