

Heard Mr. K. M. Nataraj, learned Additional Solicitor General and Mr. Ranbir Singh Thakur, learned counsel appearing for the appellant(s) as well as Mr. Narender Hooda and Mr. Sanjeev Sharma, learned senior counsel and Ms. Ana Upadhyay, learned counsel appearing for the respondents(s).

2. These appeals challenge the order dated 16.05.2024 passed by the Division Bench of the High Court of Punjab and Haryana at Chandigarh. For the sake of convenience, facts have been noted from SLP(C) No.17595 of 2024 by considering it as the main matter.

3. The appellant Indian Council of Social Science Research (hereinafter 'ICSSR') before this Court is a society established in 1969 and registered under the Societies Registration Act, 1860 but under the total financial and administrative control of Ministry of Education, Government of India ('GOI'). As per the Memorandum of Association of ICSSR, its objectives are as follows:

(i) reviewing the progress of social science research and giving advice to GOI and other users;

(ii) sponsoring social science research programs and administering grants to research institutions and individuals for research in social sciences, indicating areas and topics on which social science research is to be promoted;

(iii) advising GOI on all such matters pertaining to social science research etc. ICSSR consists of twenty-seven members including social scientists and ex-officio members from various departments and bodies of GOI. The chairman of ICSSR, appointed by GOI, has to be a person of national eminence in the field of social sciences with proven contributions to research. The funds of ICSSR consist of grants made by the GOI, contributions from other sources and income from the assets of ICSSR.

4. Respondent No.19 Centre for Research in Rural and Industrial Development (hereinafter 'CRRID') was established in the year 1978, and is an autonomous Research Institute in Chandigarh. It is registered as a scientific and educational charitable society under the Societies Registration Act, 1860. The working of CRRID is administered, directed and controlled by its main body, known as the Governing Body. This Governing Body of CRRID can have a maximum of twelve members including seven life members.

5. Whereas ICSSR, as referred above, provides grants to institutions involved in social science research and since one of the aims of CRRID is to conduct and promote research in various subjects including social sciences, CRRID is under the grant-in-aid of the ICSSR. CRRID receives 45% grants from ICSSR and equally 45% from the State of Punjab. The remaining 10% is generated by CRRID through its own resources. CRRID is hugely dependent upon these grants-in-aid, which it has been receiving since 1984. The ICSSR's Rules of Grant-in-Aid to Societies and Institutions Doing Research in the field of Social Sciences (hereinafter 'Grant-in-Aid Rules'), govern the manner in which grants are to be given by ICSSR.

6. In the year 2015-2016, several complaints were received by ICSSR against CRRID alleging malpractices in the functioning of CRRID including violation of rules and regulations, and misuse of resources including the grants paid by ICSSR. Pursuant to these complaints, ICSSR constituted a committee to enquire into allegations against CRRID. The terms of reference of the Committee inter alia included:

1. Recruitment/promotion of staff allegedly on the basis of fake degrees, placement of faculty to higher grades and grant of additional increments against MHRD norms.
2. Alleged violation of ICSSR Grant-in-Aid rules in amending MoA and its misuse by BOG members of CRRID for availing large benefits.
3. Audit objections particularly about the elevation of faculty/staff to higher grades.
4. Alleged discrepancies in the implementation of 6th CPC and submission of incorrect records for this purpose.
5. Issues related to alleged violation of service rules including retirement age.
6. Non-response of the queries forwarded by MHRD and other authorities of Govt. of India about CRRID.
7. Complaints about alleged violation of building bye-laws by CRRID.
8. Alleged nepotism and misuse of office facility and funds by Executive Vice Chairman of CRRID on purposeless abroad visits and visits within India.
9. Any other violation of ICSSR Grant-in-Aid Rules applicable to the CRRID as mentioned in the complaint.

7. In its report dated 29.05.2017, the Committee highlighted various irregularities and malpractices within CRRID. CRRID was found to be in violation of its Rules as there were appointments of unqualified persons with either fake or dubious degrees. Promotions and increments of staff were also made against the norms. There were findings of non-maintenance of proper office records, etc. The Committee recommended several corrective measures to be taken by CRRID including the recovery of excess payments made by CRRID to some of its employees.

8. Thereafter, between 2017 and 2021, we have a long list of correspondence between ICSSR and CRRID about the implementation of the directions suggested by ICSSR largely to employ corrective measures including rectifying academic qualifications of the staff, recovering excess salaries paid to employees, taking action against guilty persons etc. In January 2021, CRRID had submitted an action-taken report to ICSSR. A Fact-Finding Committee was also constituted by ICSSR to enquire into the compliances by CRRID and this fact-finding committee concluded that CRRID Management has been non-cooperative and responses/compliances made by CRRID are evasive,

ambiguous and incomplete. In sum and substance, ICSSR was not satisfied with the actions taken by CRRID and since CRRID did not submit its clarification as sought by ICSSR regarding deficiencies in the action taken report, ICSSR finally stopped releasing its grant in favour of CRRID April 2021 onwards. Once the grant was stopped by ICSSR, we are told that the Government of Punjab followed suit and stopped 45% of its share of grant to CRRID.

9. In July 2022, seventeen employees of CRRID (Respondent Nos.1 to 17) filed a Writ Petition before the High Court for the release of their salary. In their Writ Petition, Respondent Nos.1 to 17 pleaded that they have been working on different academic and non-academic posts in CRRID, but they have not been paid the salaries and thus prayed for the release of their salaries. The plea taken by the CRRID before the High Court was that the salaries of its employees are paid from the grant given by ICSSR and since ICSSR has stopped the payment of the grant, CRRID could not pay the salaries of employees. Meanwhile, during the pendency of proceedings before the High Court, in January 2023, ICSSR constituted a high level committee consisting inter alia of a retired High Court Judge to look into the matter related to CRRID. The terms and reference of this High Level Committee read as follows:

1. To comprehensively look into all the issues pointed out in various enquiry reports, actions taken by the CRRID in compliance of these reports and observations recorded by Fact Finding Committee; and
2. To suggest comprehensive resolution of the matter including any punitive action that needs to be initiated by ICSSR or by CRRID against concerned officers responsible for irregular appointments and promotions by CRRID.

10. This High Level Committee was informed by CRRID that Rs.55 lacs and Rs.189 lacs have been withheld by ICSSR for the year 2020 to 2021 and 2021 to 2022, respectively. The Committee gave its findings that the faith of the ICSSR in CRRID was misused by the management of CRRID and the Committee suggested that the grant already withheld by the ICSSR, to the tune of Rs.55 lacs for the year 2020 to 2021 and Rs.189 lacs for the year 2021 to 2022, may not be released as a punitive measure against CRRID. There were some other recommendations for ICSSR to be imposed on CRRID like incorporating restrictions on the tenure of members of the Governing Body including the life members. However, considering that CRRID is a research and educational institution, and many Ph.D. scholars are getting the assistance of CRRID in their research work, this High Level Committee recommended the release of future grants so that payment of salaries be made to the employees including Ph.D. supervisors, librarians etc. Consequently, April 2023 onwards, grants were released.

11. Meanwhile, vide order dated 17.10.2023, the learned Single Judge of the High Court allowed the Writ Petition filed by employees as it had come to the conclusion that ICSSR has the ultimate responsibility of releasing the grant for the salaries of the employees of CRRID for the reason that ICSSR has a 'deep and pervasive' control over CRRID as it has its nominee in the Governing Body, which had taken all the important decisions which have now been questioned by ICSSR for violating its rules and norms. The learned Single Judge of the High Court was of the opinion that there is no

justification for ICSSR to withhold the grant. The Writ Petitions were allowed, and direction was given to release the grant. Aggrieved by the same, ICSSR filed a Writ Appeal before the Division Bench of the High Court. The Division Bench dismissed the Writ Appeal on 16.05.2024 reiterating the findings of the Single Judge and directing that the amount, deposited by ICSSR before the Registry of the High Court, be disbursed in favour of the employees as their salaries.

12. We have heard Mr. K.M Nataraj, Additional Solicitor General for Appellant ICSSR, Mr. Narender Hooda, Senior Advocate, for respondent no. 1 to 17 (employees) as well as for the CRRID and Mr. Sanjeev Sharma, Senior Advocate, for the State of Punjab. We have also perused the material on record.

13. The learned Single Judge as well as the Division Bench of the High Court, to our mind, have erred in observing that since the governing body of CRRID had a nominee of ICSSR, ICSSR has a 'deep and pervasive' control over the functioning of CRRID and ICSSR is equally at fault for irregularities within CRRID. In other words, the High Court was of the opinion that appointments were made on the posts sanctioned by ICSSR and with the approval of the Governing Body which consisted of a nominee of ICSSR, thus ICSSR is not justified in withholding the grant by alleging irregularities in such appointments or promotions. It is our respectful opinion that the High Court has not considered the matter in its right perspective.

14. We have gone through the Rules and Regulations of CRRID (hereinafter 'CRRID Rules') by which CRRID is governed as a society. As per Rule 22(a)(i) of the said Rules, the total number of members in the Governing Body cannot exceed twelve including the seven life members. Rule 22(d) provides the Governing Body to accept the nominees by the ICSSR or the State Governments in the society and the Governing Body. Here, the relevant portion of Rule 22(d) of CRRID Rules is reproduced below:

The Governing Body shall have the authority to accept the nominees in the Society and the Governing Body who are deputed by the Indian Council of Social Science Research (ICSSR) or the State Governments.

Similarly, Rule 17 of Grant-in-Aid Rules of ICSSR, by which grants given by ICSSR are governed, read as follows:

17. Condition of Grants-in-Aid (Special):

A Research Institution which receives a recurring grant of Rs. One lakh or more shall be subject to the following additional conditions:

(1) ... (2) The Council shall nominate not more than two representatives on the governing body of the research Institution.

(3) ...

15. The learned Single Judge and the learned judges of the Division Bench of the High Court have considered the above provision to be amounting to a 'deep and pervasive' control by the State! However, it is to be noted that the second part of Rule 22(d) of CRRID Rules empowers the Governing Body to reject the names of nominees proposed by ICSSR or State Governments without giving any reason. It is like a proviso to the general part embodied under Rule 22(d) of CRRID Rules. It reads as follows:

The Governing Body shall, however, have the right to reject/or refer back to the deputing authorities the names of the proposed nominees(s) should it feel that the said nominee is not acceptable to the Governing Body. The Governing Body shall not be obliged to give the reason for rejecting or referring back any such name.

This shows that CRRID is an autonomous body without much control of ICSSR. The Governing Body of CRRID has the authority to reject and refer back the names of proposed nominees and while doing so, CRRID is not even required to give any reasons.

16. The presence of one or even two members of ICSSR in a Governing Body of twelve does not amount to 'deep and pervasive' control of the State. Even assuming an additional two nominees from the Government of Punjab in the Governing Body will at best make four such members in a Governing Body of twelve. We have been informed that as of today there are only three nominees together from ICSSR and State of Punjab in all. This is not 'deep and pervasive' control.

17. We have no doubt in our mind that ICSSR is indeed an "authority", within the purview of Article 12 of the Constitution of India. It also controls CRRID to an extent inasmuch as CRRID depends on the funds released by ICSSR as grants. But this itself cannot be called a 'deep and pervasive' control. A 'deep and pervasive' control would require much more than just financing an institution or a body. Even guiding, controlling or regulating affairs of an institution will not be called a 'deep and pervasive' control. The 'deep and pervasive' control requires administrative, financial and functional control of such a body to a much higher degree including interference into its day-to-day working, and mere regulatory control cannot mean 'deep and pervasive' control. [See: S.S Rana v. Registrar Coop. Societies and Anr. (2006) 11 SCC 634; Chander Mohan Khanna v. NCERT (1991) 4 SCC 578; Balmer Lawrie & Co. Ltd. v. Partha Sarathi Sen Roy (2013) 8 SCC 345].

18. Moreover, the crucial question here is not whether the control exercised by ICSSR on CRRID is 'deep and pervasive' but whether ICSSR was justified in withholding its grant. CRRID has not answered this question with any degree of satisfaction. The High Court has also failed to address this crucial issue. Simply because ICSSR has some control over CRRID, it cannot be a reason for directing ICSSR to release the grants when it has been withheld for just and valid reasons. Once ICSSR gives its grant to CRRID it does not have much interference in the management of these funds. Nor is the administration of CRRID controlled by ICSSR. CRRID, in any case, is not an authority within the purview of Article 12 of the Constitution of India. Merely because CRRID is under the control of an authority (as defined under Article 12) will not make CRRID an authority. In fact, this is neither the case of the respondents' employees nor does CRRID in any manner assert

itself as an Authority.

19. The grant-in-aid provided by ICSSR to any research institution comes with certain conditions which are required to be followed by the beneficiary institution. Rule 3 of the Grant-in-Aid Rules of ICSSR makes this position very clear. It states that 'the Indian Council of Social Science Research (hereinafter referred to as the Council) shall have authority, with prior approval of the Government of India, to extend grant-in-aid under these Rules to Research Institutions (...) provided that they fulfill all the conditions laid down in Rule 4 below'. Thereafter, Rule 4 lays down certain conditions that make an institution eligible for a grant by ICSSR. Certain other Rules prescribing conditions for grants are as follows:

16. CONDITIONS OF ASSISTANCE (General):

... (2) Grant under a particular head shall not be utilized for a purpose other than that for which it is intended except with the previous approval of the Council.

(3) The Council may require a Research Institution to refund a grant given under specific conditions, if the Research Institution does not comply with these conditions. The Council may, in such cases, also stop any further grant to the Research Institution.

... (10) It shall be obligatory for the Research institutions to surrender any unspent balance of the grant after expiry of the period within which the grant is required to be spent.

17. CONDITION OF GRANTS-IN-AID (Special):

A Research Institution which receives a recurring grant of Rs. One lakh or more shall be subject to the following additional conditions:

(3) The constitution of the Research Institute shall be got approved by the Council and the Research Institution shall agree not to make any change therein without the prior approval of the Council.

20. A reading of these Grant-in-Aid Rules makes it clear that the grants by ICSSR are discretionary and institutions like CRRID cannot claim grants as a matter of right. It is made more apparent by Rule 11 which explicitly states that 'all grants under these rules are discretionary and cannot be claimed as a matter of right.' Further, Rule 16(3) of said Rules, as reproduced above, even empowers ICSSR to the extent that, in cases of violation of conditions of grants by any institution, ICSSR can demand the refund of grants from such institution and can stop any further grant to such an institution. Rule 6 reads as follows:

6. WITHDRAWAL OF ASSISTANCE:

If an aided Research Institution ceases to fulfill the conditions of eligibility laid down in Rule 4, or persistently violates any of the conditions of grant-in-aid, the Council may, after giving due notice to the Institution, declare the Institution as ineligible to receive assistance under these Rules under intimation to the Government of India, and may pass such orders as it may deem necessary regarding the disposal of the assets created with grant-in-aid given earlier to the Institution.

21. Besides grants being discretionary, these Grant-in-Aid Rules and CRRID Rules also tell us something about the kind of control that ICSSR has over the CRRID. The only control that ICSSR has over CRRID is in the form of certain conditions under which grant-in-aid is provided to CRRID. Otherwise, there is no reason for ICSSR to assert any control over this autonomous private society i.e. CRRID and in fact, it is the essence of any private society registered under the Societies Registration Act, that societies should be governed and restricted only by its own Rules or some general principles of law applicable to all such societies. CRRID, therefore, has absolute authority over its financial as well as administrative matters. Thus, as far as 'deep and pervasive' control of ICSSR over CRRID is concerned, we are afraid that the findings of the High Court are totally misplaced. There is a very loose control over the large affairs of the CRRID, which would include both financial and administrative. The financial control by both ICSSR and the State of Punjab is limited only to their grant-in-aid. ICSSR does not have any power to interfere with the day-to-day functions of CRRID. Under these circumstances, it cannot be said that CRRID is under a 'deep and pervasive' control of the State. At the same time, it cannot be denied that there is some control of the State in the form of the State of Punjab and ICSSR which is an instrumentality of State. But this control is not of such nature as to make it 'deep and pervasive' as has been held by the High Court. What ICSSR has in its control, definitely, is that it can stop the grant in case of violation of the conditions under which the grant is being given and this is exactly what has happened in the present case.

22. After the enquiry report of the year 2017, CRRID was repeatedly asked by ICSSR to take proper and prompt corrective measures. However, for one reason or another, CRRID did not follow the recommendations given by ICSSR and consequently, the grant in favour of CRRID was stopped. With regard to recoveries from employees to whom excess salaries were paid, CRRID has tried to make an excuse that many of such employees have by now retired from service. Although much later, CRRID issued certain recovery notices, but it never took recourse to any Court proceedings when such notices were not complied by the employees. All three committees constituted by ICSSR: the enquiry committee, the fact-finding committee and the High-Level Committee, had given reports against CRRID, highlighting anomalies in the working of CRRID. CRRID was provided with ample opportunities to improve its functioning by rectifying the deficiencies, but CRRID failed to do so. In such circumstance, we see no fault on the part of ICSSR if it has withheld the grant from April 2021 to March 2023, after which the grant was again released by ICSSR in favour of CRRID. By withholding the grant, ICSSR has only taken recourse to the law which allowed it to exercise such power in case of detection of anomalies in the functioning of the beneficiary research institution, which is CRRID in the present case. This withholding of grants for a certain period was even suggested by the High-Level Committee as a punitive measure.

23. There is also another aspect to this matter. The grant was withheld in the year 2021 but that decision of withholding the grant has never been challenged by CRRID before any forum. The picture is therefore very clear and CRRID also understands it very well that the grant ☐ aid is a discretion of ICSSR and CRRID is not in a position to assert a claim on receipt of the grant ☐ aid particularly when there is a clear finding of various committees that it is CRRID which has defaulted and has violated the mandate and the directions under which it had to work to receive the aid without any interruption. This we have already discussed in the preceding paragraphs of this judgment and it needs no further elaboration.

24. Another point which has been argued before us as well as before the High Court is that respondents nos.1 to 17 are employees of CRRID and not of ICSSR. It has been argued on behalf of the ICSSR that these employees do not have any right against ICSSR and ICSSR is not under any kind of obligation to pay salaries to these persons who are employees of CRRID. This contention of ICSSR has to be kept in mind because it is a fact that the private respondents are employees of CRRID and they may have their rights against their employer i.e. CRRID, but they cannot claim any right to salary from ICSSR, which is just a body providing grant ☐ aid to their employer. In other words, there is no employer ☐ employee or master ☐ servant relationship between respondents nos.1 to 17 and appellant ☐ ICSSR. Thus, ICSSR cannot be held liable for providing salaries of these respondents ☐ employees as it is the responsibility of CRRID to pay them the salaries irrespective of whether it gets a grant from ICSSR or not.

25. Although CRRID has taken a stand before the High Court as well as before this Court that it had followed the directions of ICSSR and whatever anomalies were committed during the past were in the period of a particular Director, but the Institution is running well as of now and ICSSR is liable to release the grant for the period for which it has been withheld. All the same, the learned counsel for CRRID, who could only appear before us after much persuasion, when asked by this Court as to why employees have raised their claim for salary before the High Court and why CRRID did not directly move the Court for the release of its grants, very candidly answered that this was not done as CRRID cannot compel ICSSR to release the grants. In other words, therefore, ICSSR is not bound to release the grant in favour of CRRID and the employees of CRRID have no master ☐ servant relationship with ICSSR.

26. We can understand that both the learned Single Judge and Division Bench of the High Court have taken a compassionate view as employees, who may have had nothing to do with the anomalies, should not be deprived of remuneration for the work done by them. The High Court ordered the ICSSR to release the grant so that employees could get their salaries as withholding of grants amounted to withholding of salaries of these employees. All the same, at the risk of repetition we would note that this Court cannot lose sight of the fact that it is ultimately the responsibility of CRRID to pay salaries to its employees. This liability cannot be shifted to ICSSR.

27. We have also been informed that CRRID has, in its account, funds which it has received from sources other than Punjab Government or ICSSR as grants. This amount has admittedly been received by CRRID from other sources. It has been admitted by CRRID that they do research for other entities for which they engage ad hoc employees on a need to basis. However, it cannot be said

that the respondents' employees were not engaged in such other work especially since some of the respondents' employees are occupying pivotal positions in the autonomous private institution i.e. CRRID. This is evident from the fact that one of these employees has filed an affidavit on behalf of CRRID, representing it in the present matter; in support of the claim of the respondents' employees. The audited balance sheet also indicates sufficient funds being available with CRRID to settle the dues of the employees before us. It is the submission of the learned counsel for CRRID that the funds shown in the balance sheet are those available with CRRID for the other assignments. If that is so, definitely CRRID cannot claim that the salary of the employees is only dependent on the grant-in-aid made by the appellant ICSSR. As already stated earlier, ultimately, the responsibility to pay the salary to its employees, lies on CRRID and not on ICSSR or Government of Punjab.

28. Consequently, we allow these appeals and set aside the order of learned Single Judge dated 17.10.2023 as well as the impugned order dated 16.05.2024 passed by the Division Bench. This would not mean that now respondent Nos. 1 to 17 will not be given their salaries for the period they worked. We direct CRRID to ensure payment of salaries to all its employees which were withheld between April, 2021 to March, 2023 from its own resources within a period of three weeks from the date of this order. In case, CRRID fails to release this amount in favour of the employees, we direct ICSSR to withhold all further grant-in-aid in favour of CRRID. The CRRID will not only have to release the amount in favour of employees but shall also file a compliance report before ICSSR stating that this has been done within the stipulated period. This we do as we cannot lose sight of the fact that anomalies have been committed at the end of CRRID.

29. The Registry of this Court is directed to release the amount which has been deposited by ICSSR in this Court, in favour of ICSSR along with the interest, if any, within a week from today.

30. All connected matters stand disposed of in the light of the decision made in the main matter and we make it clear that what has been determined in the case of ICSSR as to its liabilities of payment of grants will also apply to the State of Punjab as well.

31. ICSSR and the State of Punjab are at liberty to move applications before the High Court to get back the amount, if any, deposited by them and the High Court shall decide such applications in the light of this order.

32. Pending application(s), if any, stand(s) disposed of.

.....J. [SUDHANSHU DHULIA]J. [K. VINOD CHANDRAN] NEW DELHI, MARCH 20, 2025.