

Girish G vs State Of Kerala on 10 January, 2020

Equivalent citations: AIRONLINE 2020 KER 83

Author: P.V.Asha

Bench: P.V.Asha

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 10TH DAY OF JANUARY 2020 / 20TH POUSHA, 1941

WP(C).No.7219 OF 2014(B)

PETITIONER/S:

- 1 GIRISH G., INDRAGIRI, MANNAM P.O, NORTH PARUR,
ERNAKULAM 683 520.
- 2 RAMESAN T
AMBADY, PRA/50, PUNNAKKAMUGAL, ARAMADA P.O,
THIRUVANANTHAPURAM 695 032.

BY ADVS.
SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.S.A.ANAND
SRI.PETER JOSE CHRISTO
SMT.N.SANTHA
SRI.B.UNNIKRISHNA KAIMAL

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.
- 2 COCHIN INTERNATIONAL AIRPORT LTD (CIAL)
REPRESENTED BY ITS MANAGING DIRECTOR, COCHIN
AIRPORT PO, KERALA 683 111.

BY ADVS.
ADV. SRI.K.A.JALEEL ADDL. ADVOCATE GENERAL
ADV. SMT.DEVI.C.HARIDAS

ADV. SRI.DINESH THANKAPPAN
ADV. SRI.V.KRISHNA MENON
ADV. SRI.E.K.MADHAVAN
ADV. SMT.J.SURYA
ADV. SMT.UMA GOPINATH
ADV. SMT.P.VIJAYAMMA
ADV. SRI.U.K.RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26.11.2019, ALONG WITH WP(C).12328/2013(M), WP(C).6949/2013(P),
WP(C).6950/2013(P), WP(C).8011/2014(B), THE COURT ON 10.01.2020
DELIVERED THE FOLLOWING:

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 10TH DAY OF JANUARY 2020 / 20TH POUSHA, 1941

WP(C).No.12328 OF 2013

PETITIONER/S:

RAMESAN T., AGED 45 YEARS,
S/O.THANKAPPAN, AMBADY, PRA/50, PUNNAKKAMUGAL,
ARAMDA P.O., THIRUVANANTHAPURAM-685002.

BY ADVS.

SRI.BAISIL ATTIPETTY.

RESPONDENT/S:

- 1 COCHIN INTERNATIONAL AIRPORT LTD. (CIAL)
REPRESENTED BY ITS MANAGING DIRECTOR, COCHIN
AIRPORT P.O., ERNAKULAM-683111.
- 2 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 3 GENERAL ADMINISTRATION DEPARTMENT
GOVERNMENT OF KERALA, REPRESENTED BY ITS SECRETARY
TO GOVERNMENT, THIRUVANANTHAPURAM-695001.

BY ADVS.

ADV.SRI.V.KRISHNA MENON
ADV. SRI.K.A.JALEEL ADDL. ADVOCATE GENERAL
ADV. SRI.E.K.MADHAVAN
ADV. SMT.P.VIJAYAMMA
ADV.SRI.U.K.RAMAKRISHNAN, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26.11.2019, ALONG WITH WP(C).6949/2013(P), WP(C).6950/2013(P),
WP(C).7219/2014(B), WP(C).8011/2014(B), THE COURT ON 10.01.2020
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 10TH DAY OF JANUARY 2020 / 20TH POUSHA, 1941

WP(C).No.6949 OF 2013

PETITIONER/S:

HENISH P.V.
AGED 32 YEARS
SON OF P.V.VARGHESE, PYNADATH HOUSE,
NAYATHODE.P.O., ANGAMALY-683 572.

BY ADVS.
SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SMT.C.G.PREETHA
SRI.P.N.RAJAGOPALAN NAIR

RESPONDENT/S:

- 1 COCHIN INTERNATIONAL AIRPORT LTD.
REPRESENTED BY ITS MANAGING DIRECTOR, KOCHI
AIRPORT.P.O., ERNAKULAM-683 111.
- 2 THE CHAIRMAN
COCHIN INTERNATIONAL AIRPORT LIMITED, KOCHI AIRPORT
P.O., ERNAKULAM-683 111.
- 3 THE MANAGING DIRECTOR
COCHIN INTERNATIONAL AIRPORT LIMITED, KOCHI AIRPORT

P.O., ERNAKULAM-683 111.

BY ADV. SRI.V.KRISHNA MENON
BY ADV. SRI.E.K.MADHAVAN
BY ADV. SMT.J.SURYA
BY ADV. SMT.UMA GOPINATH
BY ADV. SMT.P.VIJAYAMMA

OTHER PRESENT:

U.K.RAMAKRISHNAN-SR.S.C

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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WP(C).7219/2014(B), WP(C).8011/2014(B), THE COURT ON 10.01.2020
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 10TH DAY OF JANUARY 2020 / 20TH POUSHA, 1941

WP(C).No.6950 OF 2013

PETITIONER/S:

BINOY K.K.
AGED 38 YEARS
S/O K.V.KURIAKOSE, KEECHERIL HOUSE, CHEMPAKASSERY
ROAD, ALUVA P.O., ALUVA-683 101.

BY ADVS.
SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SMT.C.G.PREETHA
SRI.P.N.RAJAGOPALAN NAIR

RESPONDENT/S:

- 1 COCHIN INTERNATIONAL AIRPORT LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR, KOCHI AIRPORT
P.O., ERNAKULAM-683 111.
- 2 THE CHAIRMAN
COCHIN INTERNATIONAL AIRPORT LIMITED, KOCHI AIRPORT
P.O., ERNAKULAM-683 111.

3 THE MANAGING DIRECTOR
COCHIN INTERNATIONAL AIRPORT LIMITED, KOCHI AIRPORT
P.O., ERNAKULAM-683 111.

BY ADV. SRI.V.KRISHNA MENON
BY ADV. SRI.E.K.MADHAVAN
BY ADV. SMT.J.SURYA
BY ADV. SMT.UMA GOPINATH
BY ADV. SMT.P.VIJAYAMMA
BY ADV. SRI.U.K.RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 10TH DAY OF JANUARY 2020 / 20TH POUSHA, 1941

WP(C).No.8011 OF 2014

PETITIONER/S:

MS.DAISY P.T.
AGED 50 YEARS
W/O. DAVIS, PLACKKAL HOUSE, KARIYAD, MEKKAD P.O,
NEDUMBASSERY VILLAGE, ERNAKULAM DISTRICT, PIN
683589

BY ADVS.
SRI.PAUL JACOB
SRI.K.A.HASHIM
SRI.M.A.ANZAR
SRI.K.R.MURALI
SRI.PEARL K.DAVIS

RESPONDENT/S:

COCHIN INTERNATIONAL AIRPORT LTD,
REPRESENTED BY ITS MANAGING DIRECTOR, COCHIN
AIRPORT P.O, NEDUMBASSERY, ANGAMALY, ERNAKULAM
DISTRICT, PIN 683111

R1 BY ADV. SMT.DEVI.C.HARIDAS

R1 BY ADV. SRI.DINESH THANKAPPAN
R1 BY ADV. SRI.V.KRISHNA MENON
R1 BY ADV. SRI.E.K.MADHAVAN
R1 BY ADV. SMT.J.SURYA
R1 BY ADV. SMT.UMA GOPINATH
R1 BY ADV. SMT.P.VIJAYAMMA
BY ADV.SRI.U.K.RAMAKRISHNAN, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26.11.2019, ALONG WITH WP(C).12328/2013(M), WP(C).6949/2013(P),
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W.P. (C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014

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P.V.ASHA, J.

W.P.(C) Nos.6949/2013, 6950/2013,
12328/2013,7219/2014 & 8011/2014

Dated this the 10th day of January, 2020

ORDER

JUDGMENT Petitioners in all these writ petitions are challenging the termination of their services by the Cochin International Airport Limited (CIAL). Therefore, all these writ petitions are disposed of by this common judgment. Parties and documents referred to in this judgment are as described in W.P. (C).No.7219/2014 unless specifically stated otherwise.

2. The CIAL has raised a preliminary objection as to the maintainability of these Writ Petitions. According to them, CIAL does not come under the definition of a State under Article 12 of the Constitution of India. It is also their case that it does not perform any public duties and therefore the writ petitions will not lie against termination of services of its employees under Article 226 of the Constitution of India also.

3. The respondents have filed counter affidavits and additional counter affidavits. Petitioners have filed reply affidavits and additional affidavits. In view of the objection raised by the respondents it is necessary to consider the question of maintainability of the Writ Petitions.

4. CIAL is a company incorporated under the Companies Act, W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 1956. It is stated that State Government is holding only 32.24% of the paid up capital of the Company. Therefore, it is not a Government company within the definition of section 617 of the Companies Act, 1956. Article 4 of Articles of Association provides that the allotment of shares shall exclusively be vested in the Board of Directors. The particulars of the allottees shall be entered in the Register of Members maintained under section 150 of the Act. The number of shares to be allotted is left to the discretion of the Board

of Directors. As per Article 6, the Company may alter the conditions of its Memorandum of Association in its general meeting by ordinary resolution. Article 7 provides that the Company may reduce its share capital in any manner by special resolution, subject to any incident authorised and consent required by law. As per Article 94 of Ext.R2(a) Articles of Association, the number of Directors shall not be less than 3 and not more than 12. It is stated that there are 11 Directors. Under Article 95 (1), the Cochin International Airport Society shall have the right to nominate one third of the total number of Directors of the Company, as long as the society holds not less than 15% of the equity shares. Under Article 102, any financing Corporation or body to which the CIAL has financial obligation, shall have a right to appoint one or more persons as Directors, pursuant to an agreement between it and the company, they would be the nominated Directors, without liability to retire on rotation. As W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 per Article 108, two thirds of the total number of Directors shall retire by rotation and shall be elected by the Company in the General Meeting. The nominees who retire on rotation would include Government nominees also. As per Article 116, the quorum for a meeting of the board shall be one third of the total strength or three Directors, whichever is higher. Except the Chairman and Managing Director, the other Directors in the Board are appointed in the General Meeting of the Company. It is stated that the Chief Secretary to Government is also appointed as Director in the General Meeting. The Director General of Civil Aviation has granted Ext.R2(d) license to CIAL authorising it to use the aerodrome as regular place of landing and departure to all persons on equal terms and conditions for operation by aircraft requiring specifications of runway and associated facilities subject to the conditions specified therein. CIAL has entered into Ext.R2(e) agreement with the Airport Authority of India (AAI). The agreement would indicate that the AAI is responsible for providing air traffic services within Indian airspace and at all civil airports in India. Ext.R2(e) agreement was executed on 25.02.2010 for the provisions of CNS/ATM facilities and services (Communication, Navigation, Surveillance and Air Traffic Management). As per clause 8.1 of the agreement the AAI shall not assign or otherwise transfer its right or obligation under the agreement without prior consent of CIAL. As per clause 8.2, CIAL shall not W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 assign or otherwise transfer its rights or obligations under the agreement without prior consent of AAI. It is stated that the CIAL is only given the license to use the aerodrome and to provide for the facilities of aircraft, runway, aircraft terminal, building, associated infrastructure etc, in addition to its obligation to ensure continuity and reliability of CNS and ATM to ensure safety of aircraft with proper coordination with the responsible agencies. It is stated that the ground handling services at the airport like passenger handling, ramp handling, cargo flight handling, etc. are handled by AIR India on the basis of Ext.R2(f) agreement. It is stated that it has also entered into an agreement with Bharat Petroleum Corporation Limited for providing facilities for refueling of aircrafts. In effect according to the respondents CIAL does not discharge any sovereign or public function. It is stated that State Government does not provide any funds and does not exercise any control over it and, at any rate, there is no deep or pervasive control over the affairs of the CIAL. It is also stated that the nature of functions and duties attached to the 2nd respondent is not of public nature. It is also their case that the CIAL has not undertaken any activity which was carried out by the State Government and hence there is no administrative, financial or functional control for Government over any of the activities of the CIAL. It is stated that while the share holding of Government of Kerala is 32.24%, State Public Sector W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 Undertakings, Central Public

Sector Undertakings and Nationalized Banks are holding the share of 1.77%, 9.97% and 3.59% and all the remaining shares are held by members of public. It is stated that the Board of Directors of the 2nd respondent had in its meeting held on 23.06.2016 suggested that the State Government shall hold at least 51% of the equity capital of CIAL.

5. The Government had as per Ext.R2(u) order dated 29.08.1997 (produced along with IA No.7615/2017) decided to enhance the share to 51% and that as on 31.01.2000, 60.9% share of CIAL was to be held by the State Government and Public Sector Undertakings. However, it is stated that the decision of the Government in Ext.R2(u) to enhance the share capital was not implemented and as per Ext.R2(v) order dated 17.09.2001 it was decided to refix its equity participation in the 2nd respondent company at 26% from 51%. Simultaneously, it was decided that the CIAL would take steps to amend the Articles of Association empowering the State Government to nominate the Chairman, Managing Director and 1/3rd of the Board of Directors of the company. Accordingly, Ext.R2(w) resolution was passed in the Annual General Meeting (AGM) held on 03.11.2001 amending the Articles of Association in accordance with Ext.R2(x). It is stated that as at present the share capital of State Government is only 32.24%.

6. It is further stated that it is providing facilities to W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 the statutory authorities like CISF, Customs Department, Intelligence Bureau, AAI, Meteorological Department, State Police, etc. in its premises for discharging their statutory duties as is being done in other private airports. The memorandum of Association was thereafter amended as per Ext.R2(x). As per amended Article 95.1, so long as Government of Kerala and/or its Public Sector Undertakings jointly or severally hold not less than 26% of the paid up equity capital of the company, Government of Kerala shall have the right to nominate from time to time at its discretion one third of the total number of the directors of the company. It shall also be entitled to remove any such director so appointed and to appoint any other person in their place. The Directors so appointed by the Government shall be liable to retire by rotation. Article 107 provides that all the directors of the Company shall have equal rights and privileges in all matters and be subject to equal obligations and duties in respect of the affairs of the Company. Article 112 provides that the number of directors can be increased or reduced in the general meeting and it can also be determined in what rotation such increased or reduced number has to retire. Under article 116(1), the quorum of the meeting of the board shall be one third of the total strength or three directors whichever is higher. It also provides that in case the number of interested directors is equal to or exceeds two-thirds of the total strength, the number of remaining directors who are W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 not interested shall be the quorum, provided it is not less than three. Under article 118, the Chief Minister of Kerala shall be the Chairman of the Company who shall be one of the nominee directors of the State Government. Article 123 provides for the powers and duties of directors. Under Article 123(a), the business of the company shall be managed by the board of directors. Under Article 125(b)(7), the directors shall have the discretion to remove, suspend, dismiss and remunerate bankers, legal advisers, accountants and other professionals, cashiers, clerks, agents, commission agents, dealers, brokers, foremen, servants, employees of every description and to employ professional or technical or skilled assistant from time to time in the interest of the company. As per Article 125(1), the Government of Kerala and/or its Public Sector Undertakings jointly or severally

hold not less than 26% of the paid up equity capital of the Company. The Government of Kerala shall have the right to appoint one among the Directors as Managing Director of the company for such term not exceeding five years at a time and to fix his remuneration. It can also have the right to withdraw/cancel the appointment so made and to reappoint any other director as Managing Director at their discretion. However, it is provided that the Government of Kerala shall exercise its rights contained in that article only in consultation with the board of the Company. Article 125(3) provides that the Managing Director shall have the general W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 direction, management and superintendence of the business of the company with power to do all acts and matters for carrying out the business and concerns of the company subject to the general supervision and control of the board.

7. Along with IA No.7572/2017 the respondents have produced the resolution of the board of directors in its meeting held on 23.06.2016 by which the present Chief Minister of the Government of Kerala was appointed as the Chairman. Under Article 118(1) of the Articles of Association, the Chief Minister of the Government of Kerala shall be the Chairman of the Company so long as the share capital held by Government and/or its Public Sector Undertakings is not less than 26%. Ext.R2(n) would show that Dr.T.M.Thomas Issac, who was appointed as the Additional Director on 23.06.2016, was appointed as Director as resolved by the Board of Directors on 27.09.2016. It was also resolved that the period of his office would be liable to determination by retirement of directors by rotation. Adv.V.S.Sunilkumar and Adv.Mathew T.Thomas were also appointed similarly on the same day. Sri.S.M.Vijayan was also appointed as Director on similar terms.

8.Per contra, the learned counsel for the petitioners argued that CIAL is an authority under Article 12. Though Government is having only less than 51% share, the Chief Minister is the Chairman; there are three other members nominated by the Government; more over the Managing Director is W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 also appointed by the Government. Therefore, the decision would be in the hands of Government as there are only 11 members.

9. Sri.U.K.Ramakrishnan, learned Senior Counsel for the CIAL, relying on the judgment of the Apex Court in Pradeep Kumar Biswas v. Indian Institute of Chemical Biology, (2002) 5 SCC 111 argued that CIAL does not come under the purview of Article 12.

10. On the other hand Sri.S.P.Aravindakshan Pillai, the learned counsel for the petitioners in W.P.(C).No.7219 of 2014 relied on judgment of this Court in Sreesanth v. Board of Control for Cricket in India :[2017 (3) KLT 1033] and argued that Airways, Aircraft, provision for Aircrafting etc., come under 7th schedule as item No.29. Referring to Clause 3.7 of Ext.R2(e) agreement, which obligates that CIAL has to ensure suitable arrangements against all sorts of emergencies occurring in the airport and Clause 8.2 which prohibits assignment of the rights of CIAL without the consent of AAI, relating to assignment by CIAL, the provisions contained in Ext.R2(f) agreement entered into by CIAL with Airlines according to which Air India is selected to undertake exclusive contract of ground handling services and also Ext.P4, it was argued that Government is the authority to decide all matters; it was argued that as Appointing Authority, the Managing Director need only have

consultation with the Board of Directors and not concurrence.

11. M/s. Ashok Shenoy and P.S.Gireesh, the learned counsel appearing for the petitioners in W.P.(C) Nos.6949 and 6950/2014 W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 and Sri.R.Sreeraj, the learned Counsel appearing for the petitioner in W.P(c).No.8011/2014 relied on the judgment of the Bombay High Court in Flemingo Duty Free shop Pvt Ltd & anr V Union of India & ors: 2008 SCC online Bom 508 where MIAL was declared an instrumentality of State though the Government was having share capital of only 26%. The contention of the learned counsel is that CIAL is performing all the duties provided under the Airport Authorities Act which the airport authority has to perform. Airport authority is a State. When all the powers, duties and functions of the airport authority provided under the Airport Authorities Act are performed/discharged by the CIAL, it cannot be said that CIAL is not a State. According to him, Government is having sovereign power and the entire administration is in the hands of Government. It is stated that the initiative to constitute and run CIAL was made by the Government of Kerala through its executive and the participation of the private directors is confined to financing to the capital. The decision making authority and the power to control vests in the Government. When the Chief Minister is the Chairman, Managing Director is the Government Servant from IAS cadre under the Government, Chief Secretary and the Ministers of Finance, Agriculture, Industries and Minister for Airports are in the board of directors, control over the functioning of the CIAL continues with the Government. It is also their case that the function of the CIAL is of public nature and it is enjoying W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 monopoly status. Therefore, in all respects it is a company controlled by the Government of Kerala.

12. Relying on the judgment of the Apex Court in Air India Ltd V CIAL: AIR 2000 SC 801, Amar Alcohol Ltd. v. Sicom Ltd. And Another: (2006)1 SCC 199 Sri.Gireesh P.S. argued that mere reduction in share cannot be the criteria to determine the nature of the functions of CIAL. Pointing out the preamble of the Airport Authority of India Act, 1994, its statement of objects, its functions under Section 12 it was argued that the main objects of the CIAL as evident from Ext.R2(a) Memorandum of Association are one and the same as contained in Section 12 of the Airport Authority of India Act. Pointing out the licence as well as the agreement executed in Exts.R2(e), R2(f) with reference to Clause 3.1 to 3.3 as well as the cargo handling dealt with in Ext.R2(f) agreement for ground handling, it was pointed out that CIAL was undertaking all the activities under Section 12 of the Airport Authority of India Act, 1994. It is also pointed out that as per Ext.R2(u) order dated 29.08.1997, Government share was enhanced from 26% to 51%. Thereafter on 17.09.2001 the share capital was reduced from 51% to 26% and simultaneously Government ordered amendment of Articles of Association especially to Articles 95, 116, 125, etc., based on which Chairman shall be the Chief Minister of the State. It is pointed out that Articles 74, 76, 77, 78, 82(2) 92, 125(3) etc., would also show the the governmental influence over the affairs W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 of the Company. Under Article 74 the Chairman shall preside over the general meeting of the company. Under Article 76, a resolution put to vote shall be decided on show of hands, on a declaration by the Chairman. Under Article 77 Chairman shall have a casting vote in the event of equality of votes, in addition to the vote in his capacity as a member. Article 78 deals with the procedure when a poll is demanded in accordance with Section 179 of the Companies Act. Article 82 provides that in the event of objection against the

qualification of any voter it shall be referred to the Chairman whose decision shall be final. Article 92 provides that the Chairman shall be the sole judge of every vote tendered in a poll. Article 125 as amended provides that the power to appoint the Managing Director shall be on Government of Kerala as long as it holds not less than 25% of the share. It was argued that in effect the Government is having a supervisory and dominant role and that all the decisions are of Government despite the percentage of shares below 35. It was argued that the dictum laid down in Pradeep Kumar's case (CSIR) would apply to the facts of the case. Referring to the judgment of the Bombay High Court in Flemingo Duty Free Shop's case (supra), it was argued that in all respects the duties and functions of MIAL and CIAL are one and the same and that the CIAL is performing statutory duties in accordance with the provisions contained in the AAI Act. It is pointed out that 1/3rd of the Directors, Managing Director, W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 Chairman would mean that 5 out of the 11 directors are Government nominees and therefore all the decisions would always be of the Government. The learned counsel referred to Ext.P12 order of the Information Commission produced in W.P. (C).No.6950/2014 along with I.A.No.2 of 2019 and argued that there was already a finding that CIAL is a public authority. However the learned Senior Counsel pointed out that the said decision is already stayed and that cannot be relied on.

13. Relying on the judgments of the apex court in Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi: (1975) 1 SCC 421, Pradeep Kumar Biswas V Indian Institute of Chemical Biology:

(2002) 5 SCC 111, learned Senior Counsel argued that CIAL is not created by Government; it is a private limited company; there is no audit by CAG; there is no sovereign power for Government. The judgments in General Manager, KSCM Ltd. v. Satrugan Nishad [AIR 2003 SC 4531], Lt. Governor of Delhi & Ors. v. V.K.Sodhi [AIR 2007 SC 2885: (2007)15 SCC 136 (para 10 to 14)], Jatya Pal Singh And Others v. Union of India And Others [(2013)6 SCC 452], Rajbir Surajbhan Singh v. Chairman, Institute of Banking Personnel Selection, Mumbai [(2019) 3 KHC 625], G.Bassi Reddy v.

International Crops Research Institute & Another [(2003) 4 SCC 225 para 28], Binny Ltd. And Another v. V.Sadasivan And Others [(2005) 6 SCC 657] were relied on in support of the contention that a Writ Petition against CIAL is not maintainable as it is neither a State nor is it dealing with any public W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 duties.

14. As much reliance was made on the judgment of the High Court of Bombay where MIAL was declared as an instrumentality of State, I will examine the same. From the contention advanced therein it is seen that the MIAL is a joint venture company, with 26% shares held by Air Port Authority of India. The contention therein was that MIAL is the lessee of the AAI under Section 12 A of the AAI Act for the development, maintenance and operation of the Chhatrapati Shivaji International Airport, an existing airport. It was also the contention that MIAL has to pay 38.7% of its gross revenue to the AAI. It was also found that no change in the Memorandum of Association or Articles of Association can be effected by MIAL without the consent of AAI; monthly reports are to be furnished to AAI; developments can be made only in Central Government lines, etc. In the

present case, there is no lease agreement executed with the AAI. There is no lease with AAI and AAI does not have any shareholding also. Therefore the judgment of the Bombay High Court would not apply to the facts of this case.

15. The next contention is that the objects behind the constitution of CIAL is to perform the duties conferred on Section 12 of the AAI Act, 1994 which read as follows:

12. Functions of the Authority.-- (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the Authority to manage the airports, the civil enclaves and the aeronautical communication stations efficiently.

(2) It shall be the duty of the Authority to provide air traffic service and air transport service at W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 any airport and civil enclaves.

(3) Without prejudice to the generality of the provisions contained in sub-sections (1) and (2), the Authority may--

(a) plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves;

(aa) establish airports, or assist in the establishment of private airports, by rendering such technical, financial or other assistance which the Central Government may consider necessary for such purpose;

(b) plan, procure, instal and maintain navigational aids, communication equipment, beacons and ground aids at the airports and at such locations as may be considered necessary for safe navigation and operation of aircrafts;

(c) provide air safety services and search and rescue facilities in co-ordination with other agencies;

(d) establish schools or institutions or centres for the training of its officers and employees in regard to any matter connected with the purposes of this Act;

(e) construct residential buildings for its employees;

(f) establish and maintain hotels, restaurants and restrooms at or near the airports;

(g) establish warehouses and cargo complexes at the airports for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at the airports and civil enclaves;

(i) make appropriate arrangements for watch and ward at the airports and civil enclaves;

(j) regulate and control the plying of vehicles, and the entry and exit of passengers and visitors, in the airports and civil enclaves with due regard to the security and protocol functions of the Government of India;

(k) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to airports, air-navigation services, ground aids and safety services or any facilities thereat;

(l) establish and manage heliports and airstrips;

(m) provide such transport facility as are, in the opinion of the Authority, necessary to the passengers travelling by air;

(n) form one or more companies under the Companies Act, 1956 (1 of 1956) or under any other law relating to companies to further the efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act;

(p) perform any other function considered necessary or desirable by the Central Government for ensuring the safe and efficient operation of aircraft to, from and across W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 the air space of India;

(q) establish training institutes and workshops;

(r) any other activity at the airports and the civil enclaves in the best commercial interests of the Authority including cargo handling, setting up of joint ventures for the discharge of any function assigned to the Authority.

(4) In the discharge of its functions under this section, the Authority shall have due regard to the development of air transport service and to the efficiency, economy and safety of such service. (5) Nothing contained in this section shall be construed as--

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject.

16. The main objects of CIAL as per Ext.R2(a) Memorandum of Association are as follows:

"To construct, develop, turn into account, set up, commission, operate, manage and maintain an Airport of international standards with all modern facilities for domestic and international flights by Indian and foreign airlines and all other related activities, to make it an International Airport subject to the guidelines prescribed by the

regulating authorities in India and abroad, and to own or hire aircrafts for operation in India and/or abroad as air taxis by the Company or with Airport authorities or other parties as warranted by circumstances in the manner beneficial to the interest of the Company, to provide repair, servicing, engine overhauling and on-line maintenance facilities to all types of aircrafts including wide bodies Turbo Jets, helicopters, turbo propellers by construction of Hangars or otherwise, to collaborate and contract for any or all of the above mentioned acts whether in India or abroad."

17. CIAL has entered into Ext.R2(d) agreement with AAI, according to which AAI would provide air traffic service for CIAL in terms of the conditions set out therein. AAI will provide the CNS/ATM (Communication, Navigation and Surveillance and Air Traffic Management Services as described in Schedule III); whereas CIAL will provide all facilities for the W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 operations, as agreed to in the agreement. The provisions contained in Section 12(3)(aa) of the AAI Act would show that the duties of AAI includes rendering of assistance in establishing private air ports also. It is an admitted fact that the State Government is having only 32.24% of the share in the paid up capital of CIAL. The Company does not get any financial assistance from the Government. It cannot also be said that the Company is having any State protected monopoly. Therefore, it is necessary to examine whether CIAL is an instrumentality of State as defined under Article 12 of the Constitution of India. As pointed out by the learned Counsel for the petitioners the presence of one third of the Directors nominated by Government along with the Chairman is likely to influence the decisions of the Company, especially when the quorum is one third. At the same time there is no provision enabling Government to issue any directives to the Company; company is not also bound to furnish any reports or accounts before Government. Therefore whether presence of Government nominees, the Chairman and the Managing Director would make the control of Government deep and pervasive and whether it is discharging public duties is to be examined in the light of various judgments, interpreting Article 12 as well as 226 of the Constitution of India.

18. First of all I shall examine the applicability of the judgments relied on by the petitioners. In *Air India v. CIAL*:

(200)2 SCC 617, relied on by the learned Counsel for the W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 petitioners, the Apex Court was considering the challenge against a contract awarded to Air India for ground handling.

Though in para.2 of the judgment it is stated that CIAL is a public sector undertaking, it appears that the question of maintainability of the Writ Petition was not raised therein.

19. In the judgment in *Amar Alcohol Ltd. v. SICOM Ltd.*, (2006) 1 SCC 199, relied on by Sri.Ashok Shenoy, the issue was as to whether the State Industrial Investment Corporation of Maharashtra Limited (SIICOM), was an instrumentality of State. It was a company established by the Government of Maharashtra in the year 1966 with 100% shares owned by the State Government. The contention of the appellant was that consequent to reduction in the shares it ceased to have the

status of a State Financial Corporation under the Act. In paras.19 and 20 of the judgment, the apex court found that the State of Maharashtra being the single largest shareholder has retained the overall control over the management by retaining the right to nominate its Directors by virtue of the amended Article 18(a) of the Articles of Association of the Companies. It was held that by mere reduction in its stakes to below 50%, SIICOM would not cease to be a State Financial Corporation, as it was established by the State of Maharashtra for financing industrial concerns and the Central Government had in exercise of its powers under Section 46 of the Act, notified it as a Financial Corporation. No such circumstances are available in the present case. W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014

20. In the judgment in *Sreesanth v. Board of Control for Cricket in India*: 2017(3) KLT 103, this court held that if the Constitution obliges the State to make law and State allows a private body to act as a substitute, court would be justified in its approach of conceiving a public element in respect of an action to preserve public interest or for the collective benefit of the public. The question whether CIAL is a state or otherwise, whether its action involves any public element can be considered afterwards, after examining whether it fulfills the tests laid down by the apex court.

21. In *Ajay Hasia v. Khalid Mujib Sehravardi*: (1981) 1 SCC 722 a 5 Judge Constitution Bench approved the following six tests laid down in the judgment in *Ramana Dayaram Shetty v. International Airport Authority of India*: (1979) 3 SCC 489, to determine whether an institution is a State under Article 12 of the Constitution of India.

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

(3) It may also be a relevant factor ... whether the corporation enjoys monopoly status which is State conferred or State protected.

(4) Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality.

(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 the Government.

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014

1. 'Specifically, if a department of the 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 the Government.

22. Later a 7 Judge Constitution Bench in *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*: (2002) 5 SCC 111 after considering all the judgments relating to the same held as follows in para 40 of the judgment:

"40. The picture that ultimately emerges is that the tests formulated in *Ajay Hasia* are not a rigid set of principles so that if a body falls within any one of them it must, ex hypothesi, be considered to be a State within the meaning of Article 12. The question in each case would be -- whether in the light of the cumulative facts as established, the body is financially, functionally and administratively dominated by or under the control of the Government. Such control must be particular to the body in question and must be pervasive. If this is found then the body is a State within Article 12. On the other hand, when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body a State."

23. In *G.Bassi Reddy v. International Crops Research Institute*: (2003) 4 SCC 225, a two Judge Bench considered the question whether ICRISAT, which is an international institution functioning in India is a state and whether a writ will lie against under Article 226 of the Constitution of India, when the employees of ICRISAT challenged the termination of services and the High Court dismissed their writ petitions on the ground that writ will not lie against ICRISAT. The apex court found that ICRISAT did not fulfill the tests laid down in *Pradeep Kumar Biswas's* case (supra). It was found that it was not set up by the Government; it is not controlled by Government; it is not accountable to the Government; it gives its services voluntarily W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 to a large number of countries besides India; the Indian Government's financial contribution to ICRISAT is minimal; its participation in ICRISAT's administration is limited to 3 out of 15 members and therefore it cannot be said that it is a State or other authority as defined in Article 12 of the Constitution of India.

24. The Apex Court further examined whether a writ will lie under Article 226. After discussing the judgments in *Praga Tools Corpn. v. C.A. Imanuel*: (1969) 1 SCC 585, *Shri Anadi Mukta Sadguru Trust v. V.R. Rudani*: (1989) 2 SCC 691, etc it was observed that public functions or public duties are similar to or closely related to those performable by the State in its capacity. As the primary activity of ICRISAT was to conduct research and training programs in the sphere of agriculture purely on a voluntary basis, it was held that a service voluntarily undertaken cannot be said to be a public duty. It was further found that while the Indian public may be the beneficiary of the activities of the Institute, it cannot be said that ICRISAT owes a duty to the Indian public to provide research and training facilities. Reiterating the dictum laid down in *Praga Tools Corporation's* case it was held that an application for mandamus will not lie for an order of reinstatement to an office which is essentially of a private character or to secure performance of obligations owed by a company towards its workmen.

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014

25. Another constitution Bench with 5 Judges in *Zee Telefilms Ltd. v. Union of India*: (2005) 4 SCC 649 considered whether BCCI is a State. After discussing the dictum laid down in *Pradeep Kumar*

Biswas' case, to determine whether a body is State, it was held that though the Union of India has been exercising certain control over the activities of the Board it can only be said to be regulatory in nature and not pervasive as interpreted in Pradeep Kumar Biswas's case and hence it is not a State under Article 12. However in para.31 of the judgment it was found that selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket, etc are activities of BCCI akin to public duties or State functions and it was made clear that any aggrieved party can approach the High Court under Article 226 of the Constitution. In this context it is relevant to note the following observations made in para.35 of the judgment.

35. In conclusion, it should be noted that there can be no two views about the fact that the Constitution of this country is a living organism and it is the duty of courts to interpret the same to fulfil the needs and aspirations of the people depending on the needs of the time. It is noticed earlier in this judgment that in Article 12 the term 'other authorities' was introduced at the time of framing of the Constitution with a limited objective of granting judicial review of actions of such authorities which are created under the statute and which discharge State functions. However, because of the need of the day this Court in Rajasthan SEB and Sukhdev Singh noticing the socio-economic policy of the country thought it fit to expand the definition of the term 'other authorities' to include bodies other than statutory bodies. This development of law by judicial interpretation culminated in the judgment of the seven-Judge Bench in Pradeep Kumar Biswas. It is to be noted that in the meantime the socio-economic policy of the Government of India has changed (see BALCO Employees' Union v. Union of India) and the State is today distancing itself from commercial activities and concentrating on governance rather than on business. Therefore, the situation prevailing at the W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 time of Sukhdev Singh is not in existence at least for the time being, hence, there seems to be no need to further expand the scope of 'other authorities' in Article 12 by judicial interpretation at least for the time being. It should also be borne in mind that as noticed above, in a democracy there is a dividing line between a State enterprise and a non-State enterprise, which is distinct and the judiciary should not be an instrument to erase the said dividing line unless, of course, the circumstances of the day require it to do so."

26. In the judgment in Board of Control for Cricket in India v. Cricket Association of Bihar: (2015) 3 SCC 251, a 2 Judge Bench of the apex court reiterated that though BCCI is not a State within the meaning of Article 12 of the Constitution, it is amenable to writ jurisdiction under Article 226 of the Constitution of India. In the light of the aforesaid judgments the Apex Court in Board of Control for Cricket v. Cricket Assn. of Bihar: (2016) 8 SCC 535 also reiterated that writ will lie against BCCI .

27. A two Judge Bench in Lt.Governor of Delhi vs. V.K. Sodhi : (2007) 15 SCC 136, while considering the claim of employees in SCERT for parity in pay, held that there is no simple litmus test to determine whether an entity is State or "other authority" within the meaning of Article 12 of the Constitution of India; various facets of the foundation and the working of the entity would be relevant in determining the question in the context of the duties entrusted to it or taken up by it for performance. Referring to the judgment in Pradeep Kumar Biswas's case, it was held that the matter to be considered is whether in the context of the functions entrusted to it, the rules and bye-laws that govern it and the financial W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 &

8011/2014 position enjoyed by it, SCERT can be said to be financially, functionally and administratively dominated by or under the control of the Government. Observing that SCERT was formed in more or less same lines as NCERT and the judgment in *Chander Mohan Khanna V NCERT: (1991) 4 SCC 478* that it is not a State was not overruled in *Pradeep Kumar Biswas's* case, it was held that the society cannot be said to be a state. It was found that the Government does not have deep and pervasive control over the working of SCERT; once the finances are made available to it, the administration of those finances is left to SCERT and there is no further Governmental control. It was found that, the intention behind the very formation of an independent society itself under the Societies Registration Act, would be not to make the body a mere appendage of the State. The apex court accepted the plea of SCERT that if it spends the whole or major portion of the grant towards the pay and allowances of its employees, the very object with which the Society was formed would be frustrated and held that the court cannot issue a direction which would tend to frustrate the very object with which SCERT is formed. Accordingly the judgment of the Delhi High Court was reversed.

28. In *State of U.P. v. Radhey Shyam Rai: (2009) 5 SCC 577* a two Judge Bench of the Apex Court considered the question whether the Uttar Pradesh Ganna Kishan Sansthan, a society registered under the Societies Registration Act is "State" W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 within the meaning of Article 12 of the Constitution of India. It was found that the functions of the Sansthan were being performed by the Cane Development Department of the State Government was performing the functions viz. imparting of knowledge and training to the cane-growers so as to enhance production of sugar in the State, before its constitution. The training centres under the Government were transferred to it. 80 to 90% of its expenditure was met out of the funds provided by the Government. Apart from the fact that the majority of the office-bearers of the Governing Council were holders of various offices of the Government with the Minister in charge of the Cane Department as the ex-officio Chairman of the Governing Council and the Chief Executive Authority, it was found that the Sansthan could appoint only Government servants to every posts. Apart from that it was found that Sansthan was bound by any directives issued by the Governor. Governor could also call for the returns, accounts and other information with respect to the properties and activities of the society. Thus it was found that its functions were public functions under the deep and pervasive control of Government and hence it is a State under Article 12. The judgment in *Jatya Pal Singh v. Union of India:*

(2013) 6 SCC 452, relates to termination of services of the former employees of VSNL. It is stated that in 1947, Government of India took over a private company, which was operating the external communication service of India, along with its W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 employees and the department of Overseas Communication Service was formed. Thereafter in 1986, VSNL was constituted and all the international communication services were transferred to it.

Government of India gradually divested of its shareholdings in VSNL to 26.97% when Tata group acquired more than 50% of the shares and the name of VSNL was changed as TCL. The orders of termination were issued by TCL. The contention of the employees was that TCL would still fall

within the definition of State or other authority within the ambit of Article 12 of the Constitution and that since it is performing public duties writ will lie under Article 226. The Apex Court after referring to various judgments held that TCL cannot be said to be an authority within the meaning of Article 12 of the Constitution of India. It was found that TCL did not enjoy monopoly status. It was found that the Government of India did not exercise deep or pervasive control over either in the management or policy making. It was further held that even though the operators were providing service to the subscribers, it cannot be said to be public functions, as the service is made available on commercial charges and though functions were formerly discharged by Government of India. After discussing the meaning of public function with reference to the United Kingdom Human Rights Act, 1998, the judgment in Binny Ltd.'s case (supra), in which referring to the commentary on Judicial Review of Administrative Action (5th Edn.) by De Smith, Woolf and Jowell, in Chapter 3 W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 Para 0.24, it was held that a body is performing a 'public function' when it seeks to achieve some collective benefit for the public or a section of the public and is accepted by the public or that section of the public as having authority to do so and that bodies exercise public functions when they intervene or participate in social or economic affairs in the public interest. It was held that TCL was providing commercial service for commercial considerations and it was not discharging any public function.

29. The judgment in Balmer Lawrie & Co. Ltd. v. Partha Sarathi Sen Roy : (2013) 8 SCC 345 relates to termination of the employees of the company which claimed that it was only a subsidiary of a government company; though Government gave some aid, Government does not have any control over its day to day affairs and hence there is no deep or pervasive Government control over it; it does not carry out any public function which could render it as, "any other authority", for the purposes of Article 226 of the Constitution; it carries on a variety of business activities where there are several competitors and the terms of employment, cannot be enforced through writ jurisdiction. After discussing various judgments on Article 12, the meaning and intent of pervasive control, sovereign function, etc, it was held as follows:

18. Often, there is confusion when the concept of sovereign functions is extended to include all welfare activities.

However, the court must be very conscious whilst taking a decision as regards the said issue, and must take into W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 consideration the nature of the body's powers and the manner in which they are exercised. What functions have been approved to be sovereign are the defence of the country, the raising of armed forces, making peace or waging war, foreign affairs, the power to acquire and retain territory, etc. and the same are not amenable to the jurisdiction of ordinary civil courts.

30. Analysing the judgments relating to instrumentality of State, sovereign/public functions, pervasive control, etc, it was found that it was a Government of India Enterprise under the administrative control of Ministry of Petroleum, its Directors are from Government service, it is bound by directives of President, it has to furnish its monthly reports to the Ministry, etc and hence it is an instrumentality of State.

31. In *K.K.Saksena v. International Commission on Irrigation & Drainage*: (2015) 4 SCC 670, the apex court examined whether ICID is a state. The object of ICID was found to be "to encourage progress in design, construction, maintenance and operation of large and small irrigation works and canals (including navigation canals); to bring together information thereon; and to study all questions relating thereto." The contention was that it was performing the functions of Government and it was a state within the meaning of Article 12 apart from the fact that it is amenable to jurisdiction under Article 226. The High Court had after examining the matter in the light of the Constitution Bench judgments found that ICID is not funded by the Government nor is it discharging any function under any statute. The further question as to whether it is discharging public duty or positive W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 obligation of public nature, was examined in the light of the judgments in *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*, (1989) 2 SCC 691, *K. Krishnamacharyulu v. Sri Venkateswara Hindu College of Engg.*, (1997) 3 SCC 571, *G. Bassi Reddy v. International Crops Research Institute*: (2003)4 SCC 225, *Praga Tools Corporation V C.A. Immanuel*: (1969) 1 SCC 585, *Federal Bank Ltd V Sagar Thomas*: (2003) 10 SCC 733, *Binny Ltd V Sadasivan*: (2005) 6 SCC 657 etc and it was held that a writ petition will lie under Article 226, against a company which is financed and owned by the State; a private body run substantially on State funding; a private body discharging public duty or positive obligation of public nature; and a person or a body under liability to discharge any function under any statute, to compel it to perform such a statutory function. But if the rights are purely of a private character, no mandamus could issue and a contract of personal service cannot be enforced.

32. In the judgment in *Rajbir Surabhjan Singh v. Chairman, Institute of Banking Personnel Selection, Mumbai*: 2019(3) KHC 625(SC) the Apex Court upheld the judgment of the High Court that writ petition will not lie against IBPS, as conducting recruitment for appointment in Banks and other financial institutions is not a public duty. It was found that IBPS is not a creature of statute and there are no statutory duties or obligations imposed on it to conduct recruitment tests; the W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 Governor of the Reserve Bank of India, the joint Secretary of the Banking Division in the Ministry of Finance along with Chairmen of certain Public Sector Banks were the members of the governing Body; the IBPS does not receive any funds from Government; it is not controlled by Government; a control which is regulatory under the statute or otherwise would not make the body a State under Article 12.

33. The dictum laid down in the judgment in *K.K.Saksena's case* (supra) was reiterated in the judgment in *Ramakrishna Mission and others vs. Kago Kunya and others* : AIR 2019 SC 5570, while considering the appeal filed by the Ramakrishna Mission. An employee of a Hospital run by the Ramakrishna Mission claimed continuance in service. The Division Bench of the Gauhati High Court held that though Ramakrishna Mission may not be a State under Article 12, the Hospital would be amenable to the writ jurisdiction under Article 226. After considering the aforesaid judgments it was held that though the Hospital is in receipt of some element of grant which covers only part of expenditure it does not discharge any public function and the terms of the grant do not indicate any form of governmental control either in the management or day to day functioning of the Hospital. It was found that there is no statutory obligation of a public nature casting any positive obligation on the Hospital and that the contracts of purely private nature would not be subject to

writ jurisdiction merely by reason of the fact that they are W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 structured by statutory provisions and that the general principle is that a contract of personal service cannot be specifically enforced. Hence it was found that writ will not lie against the Hospital under Article 226 of the Constitution also. In the present case also there is no statute which governs the contract of service of the employees under the CIAL.

34. On an analysis of the provisions contained in the Memorandum of Association, Articles of Association and Ext.R2

(a) to (d), it cannot be said that CIAL is financially, functionally and administratively dominated by or under the control of the Government. It cannot also be said that it is having any government conferred monopoly in providing air traffic services; under the Airport Authority of India Act, providing of air traffic service is the function of AAI. AAI is bound to render assistance also for establishment of Airports. CIAL is only facilitating the AAI to perform its statutory obligations. Therefore the contention that CIAL is a State or it is undertaking public function or sovereign function since the Airways, Aircraft, provision for Aircrafting etc, come under 7th schedule as item No.29 would not have any relevance. It does not get any sort of financial aid from Government. It is not bound to submit reports or accounts before Government; there is no provision enabling Government to issue any directives. Therefore, I am of the view that CIAL cannot be said to be an authority or instrumentality of State within the W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 meaning of Article 12 of the Constitution.

35. The next question is whether a writ petition would lie under Article 226 of the Constitution of India. It is seen that CIAL does not have any statutory duty to be performed. Going by the dicta laid down in the judgments of the Apex Court in Praga Tool Corporation's case, Binny's case, SCERT's case, Jatyapal Singh's case, IBPS' case, K.K.Saksena's case, Ramakrishna Missions' case etc (supra), no direction can be issued to enforce any personal contracts. The employment of the petitioners by CIAL or the termination of their services do not involve any public element. Therefore it cannot also be said that a writ petition would lie against it under Article 226 of the Constitution of India.

In the light of the finding on the preliminary objection in favour of the respondents, I do not find it necessary to go into the merits of the case. It is made clear that petitioners would be free to approach the appropriate forum. As the petitioners were prosecuting the matter before this Court, the delay in approaching any forum on account of the pendency of the Writ Petition shall not stand in the way of entertaining their grievances.

The writ petitions are accordingly dismissed.

Sd/-

rkc/AS

P. V. ASHA
JUDGE

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 APPENDIX OF WP(C) 7219/2014 PETITIONER'S/S EXHIBITS:

EXHIBIT P₁ COPY OF THE RELEVANT PORTION OF THE NOTIFICATION ISSUED BY THE 2ND RESPONDENT ON 5.2.2009.

EXHIBIT P₂ COPY OF THE CERTIFICATE ISSUED BY THE MAHATMA GANDHI UNIVERSITY TO THE 1ST PETITIONER (DEGREE OF BACHELOR OF BUSINESS ADMINISTRATION) EXHIBIT P₂(A) COPY OF THE DEGREE CERTIFICATE (MBA IN STRATEGIC LEADERSHIP AND INTERNATIONAL MANAGEMENT) ISSUED BY BRETAGNE BREST, FRANCE TO THE 1ST PETITIONER.

EXHIBIT P₃ COPY OF THE BA DEGREE CERTIFICATE ISSUED BY UNIVERSITY OF MADRAS TO THE 2ND PETITIONER.

EXHIBIT P₃(A) COPY OF THE MBA CERTIFICATE ISSUED BY INDIRA GANDHI NATIONAL OPEN UNIVERSITY TO THE 2ND PETITIONER.

EXHIBIT P₃(B) COPY OF THE CERTIFICATE OF POST GRADUATE DIPLOMA IN PUBLIC RELATIONS AND JOURNALISM ISSUED BY THE SCHOOL OF COMMUNICATION AND MANAGEMENT STUDIES, KOCHI TO THE 2ND PETITIONER.

EXHIBIT P₃(C) COPY OF THE CERTIFICATE OF POST GRADUATE DIPLOMA IN ECOLOGY AND ENVIRONMENT ISSUED BY THE INDIAN INSTITUTE OF ECOLOGY AND ENVIRONMENT NEW DELHI TO THE 2ND PETITIONER.

EXHIBIT P₃(D) COPY OF THE PROVISIONAL CERTIFICATE IN LLB DEGREE EXAMINATION ISSUED BY THE UNIVERSITY OF KERALA TO THE 2ND PETITIONER.

EXHIBIT P₄ COPY OF THE RELEVANT PORTION OF THE RECRUITMENT AND PROMOTION RULES FRAMED BY THE 2ND RESPONDENT.

EXHIBIT P₅ COPY OF THE ORDER NO.CIAL/HR-40A DATED 23.6.2009 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P₆ COPY OF THE ORDER NO.CIAL/HR-19A-VIII DATED 26.7.2010 ISSUED BY THE 2ND RESPONDENT.

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 EXHIBIT P₇ COPY OF THE ORDER NO.CIAL/HR-40A DATED 21.7.2009 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P8 COPY OF THE ORDER NO.CIAL/HR-19A-II DATED 28.9.2010 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P9 COPY OF THE SHOW CAUSE NOTICE DATED 15.11.2011 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER.

EXHIBIT P10 COPY OF THE SHOW CAUSE NOTICE DATED 15.11.2011 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT P11 COPY OF THE REPLY DATED 24.11.2011 SUBMITTED BY THE 1ST PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P12 COPY OF THE REPLY DATED 24.11.2011 SUBMITTED BY THE 2ND PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P13 COPY OF THE EXPERIENCE CERTIFICATE SUBMITTED BY THE 1ST PETITIONER ALONG WITH THE APPLICATION.

EXHIBIT P13(A) COPY OF THE EXPERIENCE CERTIFICATE SUBMITTED BY THE 1ST PETITIONER ALONG WITH THE APPLICATION.

EXHIBIT P14 COPY OF THE DISCHARGE CERTIFICATE DATED 4.10.2006 OF THE 2ND PETITIONER FROM AIR FORCE.

EXHIBIT P15 COPY OF THE G.O(P) NO.109/PD DATED 21.3.1966 EXHIBIT P16 COPY OF THE ORDER NO.CIAL/HR-40A DATED 31.8.2012 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER.

EXHIBIT P17 COPY OF THE ORDER NO.CIAL/HR-40A DATED 31.8.2012 ISSUED BY THE 2ND RESPONDENT TO THE 2ND PETITIONER.

EXHIBIT P18 TRUE COPY OF THE CONSOLIDATED STATEMENT OF VARIOUS OFFICERS APPOINTED IN LOWER POSTS EXHIBIT P19 TRUE COPY OF THE STATEMENT SHOWING THE SERVICE DETAILS OF SRI.SAJAY.P.AND MS.

JYTHI N. EXHIBIT P20 TRUE COPY OF THE CONSOLIDATED STATEMENT OF W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 THE 12 EMPLOYEES RESPONDENT'S/S EXHIBITS:

EXHIBIT R1 Y TRUE COPY OF THE MINUTES OF 92ND BOARD MEETING HELD ON 8-9-2012 EXHIBIT-R2(A) TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE SECOND RESPONDENT EXHIBIT-R2(B) TRUE COPY OF THE STATEMENT SHOWING THE SHARE HOLDING PATTERN OF THE SECOND RESPONDENT AS ON 31.3.2014 EXHIBIT-R2(C) TRUE COPY OF THE

MINUTES OF THE GENERAL BODY MEETING HELD ON 24.9.2011
EXHIBIT-R2(D) TRUE COPY OF THE AERODROME LICENCE ISSUED TO THE
SECOND RESPONDENT EXHIBIT-R2(E) TRUE COPY OF THE AGREEMENT
DATED 25.02.2010 EXHIBIT-R2(F) TRUE COPY OF THE AGREEMENT ENTERED
INTO BETWEEN THE SECOND RESPONDENT AND AIR INDIA LTD
EXHIBIT-R2(G) TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING
ENTERED INTO BETWEEN THE SECOND RESPONDENT AND BHARAT
PETROLEUM CORPORATION LTD EXHIBIT-R2(H) TRUE COPY OF THE
DETAILS FOR THE POST OF JUNIOR MANAGER (COMMERCIAL)
EXHIBIT-R2(I) TRUE COPY OF THE DETAILS FOR THE POST OF ASSISTANT
MANAGER (RR) EXHIBIT P2 (J) TRUE COPY OF THE ADVERTISEMENT
EXHIBIT -R2 (K) TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING
HELD ON 18.8.2015 APPOINTING SMT.ATHIYARATH KOTHAI RAMANI
EXHIBIT -R2 (L) TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING
HELD ON 18.8.2015 APPOINTING SRI. KURIAKOSE ROY PAUL EXHIBIT -R2 (M)
TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON
23.6.2016 W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014
EXHIBIT -R2 (N) TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING
HELD ON 27.9.2016 APPOINTING DR.T.M.THOMAS ISSAC AS DIRECTOR OF
THE COMPANY EXHIBIT -R2 (O) TRUE COPY OF THE RESOLUTION PASSED IN
THE MEETING HELD ON 27.9.2016 APPOINTING ADV.V.S.SUNIL KUMAR AS
DIRECTOR OF THE COMPANY EXHIBIT -R2 (P) TRUE COPY OF THE
RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING
ADV.MATHEW.T. THOMAS AS DIRECTOR OF THE COMPANY EXHIBIT -R2(Q)
TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON
27.9.2016 APPOINTING SRI.S.M.VIJAYANAND AS DIRECTOR OF THE COMPANY
EXHIBIT -R2(R) TRUE COPY OF THE AERODROME LICENCE WITH RENEWED
PERIOD UPTO 29.12.2017 EXHIBIT -R2(S) TRUE COPY OF THE MEMORANDUM
OF UNDERSTANDING DATED 1.7.2015 EXHIBIT -R2(T) TRUE COPY OF THE
MEMORANDUM OF UNDERSTANDING DATED 6.4.2015 EXHIBIT -R2(U) TRUE
COPY OF THE ORDER OF THE STATE GOVT.

DATED 29.8.1997 EXHIBIT -R2(V) TRUE COPY OF THE ORDER OF THE STATE
GOVT.

DATED 17.9.2001 EXHIBIT -R2(W) TRUE COPY OF THE MINUTES OF ANNUAL
GENERAL MEETING HELD ON 3.11.2001 EXHIBIT -R2(X) TRUE COPY OF THE
MEMORANDUM AND ARTICLES OF ASSOCIATION W.P.(C)
Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 APPENDIX OF
WP(C) 12328/2013 PETITIONER'S/S EXHIBITS:

EXHIBIT P1 EXHIBIT P1 : TRUE COPY OF THE NOTIFICATION APPEARED IN
THE MALAYALA MANORAMA DAILY DATED 24-4-2013.

EXHIBIT P2 EXHIBIT P2 : TRUE COPY OF THE INTERIM ORDER DATED 23-12-2011 IN WPC 35042/2011 WITH CASE STATUS.

EXHIBIT P3 EXHIBIT P3 : TRUE COPY OF THE STATUTE OF CIAL PUBLISHED IN THE OFFICIAL WEBSITE.

EXHIBIT P4 EXHIBIT P4 : TRUE COPY OF THE EXPERIENCE CERTIFICATE DATED 19-9-2013 ISSUED BY THE CIAL TO THE PETITIONER.

EXHIBIT P5 EXHIBIT P5 : TRUE COPY OF THE LIST OF CASES FILED IN CONNECTION WITH THE AFFAIRS OF THE CIAL.

RESPONDENT'S/S EXHIBITS:

EXHIBIT R1 A TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE FIRST RESPONDENT.

EXHIBIT R1 B TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING HELD ON 24.9.2011.

EXHIBIT R1 C TRUE COPY OF THE AERODROME LICENCE ISSUED TO THE FIRST RESPONDENT.

EXHIBIT R1 D TRUE COPY OF THE AGREEMENT DATED 25.2.2010.

EXHIBIT R1 E TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE FIRST RESPONDENT AND AIR INDIA LTD.

EXHIBIT R1 F TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING ENTERED INTO BETWEEN THE FIRST RESPONDENT AND BHARAT PETROLEUM CORPORATION LTD.

EXHIBIT R1 G TRUE COPY OF THE NOTIFICATION DATED 5.2.2009.

EXHIBIT R1 H TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.8.2015 APPOINTING SMT.

ATHIYARATH KOTHAI RAMANI.

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 EXHIBIT R1 I TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.8.2015 APPOINTING SRI.KURIAKOSE ROY PAUL.

EXHIBIT R1 J TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 23.6.2016.

EXHIBIT R1 K TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING DR.T.M.THOMAS ISSAC AD DIRECTOR OF THE COMPANY.

EXHIBIT R1 L TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING ADV.V.S.SUNIL KUMAR AS DIRECTOR OF THE COMPANY.

EXHIBIT R1 M TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING ADV.MATHEW T. THOMAS AS DIRECTOR OF THE COMPANY.

EXHIBIT R1 N TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING SRL.S.M. VIJAYANAND AS DIRECTOR OF THE COMPANY.

EXHIBIT R1 O TRUE COPY OF THE ADRODROME LICENSE WITH RENEWED PERIOD UPTO 29.12.2017.

EXHIBIT R1 P TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DATED 1.7.2015.

EXHIBIT R1 Q TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DATED 6.4.2015.

EXHIBIT R1 R TRUE COPY OF THE ORDER DATED 29.8.1997.

EXHIBIT R1 S	TRUE COPY OF THE ORDER NO.22/2001/TRAN DATED 17.9.2001.	GO(MS)
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EXHIBIT R1 T	TRUE COPY OF THE MINUTES OF ANNUAL GENERAL MEETING HELD ON 3.11.2011.	
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EXHIBIT R1 U	TRUE COY OF THE MEMORANDUM OF ARTICLES OF ASSOCIATION.	
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W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 APPENDIX OF WP(C) 6949/2013 PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF CERTIFICATE NO.LAC.NO.15/98&16/98 DATED 01.06.2009 ISSUED BY SENIOR MANAGER (L.A) OF KOCHI INTERNATIONAL AIRPORT SOCIETY TO MOTHER OF THE PETITIONER.

EXHIBIT P2	TRUE COPY OF CONSENT LETTER DATED 18.09.2009 ISSUED BY MOTHER OF THE PETITIONER, NAMELY, VALSA TO 3RD RESPONDENT.	
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EXHIBIT P3	TRUE COPY OF APPOINTMENT LETTER NO.CIAL/HR-	
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40A DATED 08.09.2009 ISSUED BY 3RD
RESPONDENT TO PETITIONER.

EXHIBIT P4 TRUE COPY OF LETTER NO.CIAL/HR-1A DATED
24.09.2009 ISSUED BY HEAD (HR) OF THE IST
RESPONDENT.

EXHIBIT P5 TRUE COPY OF ORDER NO.CIAL/HR-19A-IV DATED
28.09.2010 ISSUED BY 3RD RESPONDENT TO
PETITIONER.

EXHIBIT P6 TRUE COPY OF OFFICE ORDER NO.CIAL-MD0/2011-
12(II) DATED 19.09.2011 ISSUED BY 3RD
RESPONDENT TO PETITIONER.

EXHIBIT P7 TRUE COPY OF THE LETTER NO.CIAL-MD/SC-
LET/2011-12 DATED 15.11.2011 ISSUED TO
PETITIONER BY 3RD RESPONDENT.

EXHIBIT P8 TRUE COPY OF THE REPLY DATED 24.11.2011
SENT TO 3RD RESPONDENT BY PETITIONER.

EXHIBIT P9 TRUE COPY OF THE ORDER NO.CIAL/HR-19 A(II)

DATED 09.04.2012 ISSUED BY 3RD RESPONDENT TO PETITIONER.

EXHIBIT P10 TRUE COPY OF THE LETTER NO.CIAL/HR-40A DATED 31.08.2012 ISSUED BY
3RD RESPONDENT TO PETITIONER.

EXHIBIT P11 TRUE COPY OF THE REPRESENTATION DATED 01.09.2012 SUBMITTED BY
PETITIONER TO 2ND RESPONDENT.

EXHIBIT P12 TRUE COPY OF PAGE FROM THE WEBSITE OF IST W.P.(C)
Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 RESPONDENT WHEREIN
REQUIREMENTS FOR THE POST OF ASSISTANT MANAGER (PUBLIC RELATIONS) WERE
PUBLISHED BY THE IST RESPONDENT.

EXHIBIT P13 TRUE COPY OF THE RECRUITMENT AND PROMOTION RULES OF IST
RESPONDENT.

EXHIBIT P14 TRUE COPY OF THE APPLICATION DATED 6.12.2010 SUBMITTED TO PUBLIC
INFORMATION OFFICER OF IST RESPONDENT BY MR.A.G.KESAVAN.

EXHIBIT P15 TRUE COPY OF THE LETTER NO.CIAL/SPIO/RTI DATED 7.1.2011 ISSUED BY
STATE PUBLIC INFORMATION OFFICER OF IST RESPONDENT TO MR.A.G.KESAVAN WITH
ENCLOSURES.

EXHIBIT P16 TRUE COPY OF LETTER NO.CIAL/01/RTI/2010 DATED 6.10.2010 ISSUED BY 1ST RESPONDENT TO ADV.D.B.BINU.

EXHIBIT P17 TRUE COPY OF EXTRACT FROM THE MINUTES OF 61ST MEETING OF THE SUB COMMITTEE OF THE BOARD OF DIRECTORS OF 1ST RESPONDENT HELD ON 7.9.2010.

RESPONDENT'S/S EXHIBITS:

EXHIBIT R1A TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE FIRST RESPONDENT.

EXHIBIT R1B TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING HELD ON 24.9.2011.

EXHIBIT R1C TRUE COPY OF THE RELEVANT PORTION OF AERODROME LICENCE ISSUED TO THE FIRST RESPONDENT.

EXHIBIT R1D TRUE COPY OF THE AGREEMENT DATED 25.2.2010.

EXHIBIT R1E TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE FIRST RESPONDENT AND AIR INDIA LTD.

EXHIBIT R1F TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING ENTERED INTO BETWEEN THE FIRST RESPONDENT AND BHARAT PETROLEUM CORPORATION LTD.

EXHIBIT R1G TRUE COPY OF THE LETTER DATED 30.4.2012. W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 EXHIBIT R1H TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.8.2015 APPOINTING SMT.ATHIYARATH KOTHAI RAMANI.

EXHIBIT R1I TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.8.2015 APPOINTING SRI.KURIAKOSE ROY PAUL.

EXHIBIT R1J TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 23.6.2016.

EXHIBIT R1K TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING DR.T.M.THOMAS ISSAC AS DIRECTOR OF THE COMPANY.

EXHIBIT R1L TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING ADV.V.S.SUNIL KUMAR AS DIRECTOR OF THE COMPANY.

EXHIBIT R1M TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING ADV.MATHEW T.THOMAS AS DIRECTOR OF THE COMPANY.

EXHIBIT R1N TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.2016 APPOINTING SRI.S.M.VIJAYANAND AS DIRECTOR OF THE COMPANY.

EXHIBIT R1O TRUE COPY OF THE AERODROME LICENSE WITH RENEWED PERIOD UPTO 29.12.2017.

EXHIBIT R1P TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DATED 1.7.2015.

EXHIBIT R1Q TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DATED 6.4.2015.

EXHIBIT R1R TRUE COPY OF THE ORDER DATED 29.8.1997.

EXHIBIT R1S TRUE COPY OF THE ORDER

GO(MS)NO.22/2001/TRAN DATED 17.9.2001.

EXHIBIT R1T TRUE COPY OF THE MINUTES OF ANNUAL GENERAL MEETING HELD ON 3.11.2001.

EXHIBIT R1U TRUE COPY OF THE MEMORANDUM OF ARTICLES OF ASSOCIATION.

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 APPENDIX OF WP(C) 6950/2013 PETITIONER'S/S EXHIBITS:

EXHIBIT P1 EXHIBIT P1: TRUE COPY OF APPLICATION DATED 24.2.2009 ALONG WITH BIO-DATA SUBMITTED BY PETITIONER RBEFORE 3RD RESPONDENT.

EXHIBIT P2 EXHIBIT P2: TRUE COPY OF APPOINTMENT LETTER NO.CIAL/HR-40A DATED 27.6.2009 ISSUED BY 3RD RESPONDENT TO PETITIONER.

EXHIBIT P3 EXHIBIT P3: TRUE COPY OF LETTER NO.CIAL-HR-

1A DATED 15.7.2009 ISSUED BY GENERAL MANAGER (HR) OF 1ST RESPONDENT TO PETITIONER.

EXHIBIT P4 EXHIBIT P4: TRUE COPY OF OFFICE ORDER NO.CIAL/HR-19A-VII DATED 26.7.2010 ISSUED BY HEAD (HR) OF THE 1ST RESPONDENT TO PETITIONER.

EXHIBIT P5 EXHIBIT P5: TRUE COPY OF LETTER NO.CIAL-

MD/SC-LET/2011-12 DATED 15.11.2011 ISSUED TO PETITIONER BY 3RD RESPONDENT.

EXHIBIT P6 EXHIBIT P6: TRUE COPY OF REPLY DATED 24.11.2011 SENT TO 3RD RESPONDENT BY PETITIONER.

EXHIBIT P7 EXHIBIT P7: TRUE COPY OF LETTER NO.CIAL/HR-

40 A DATED 31.8.2012 ISSUED BY 3RD RESPONDENT TO PETITIONER.

EXHIBIT P8 EXHIBIT P8: TRUE COPY OF REPRESENTATION DATED 1.9.2012 SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT.

EXHIBIT P9 EXHIBIT P9: TRUE COPY OF RECRUITMENT AND PROMOTION RULES OF 1ST RESPONDENT.

EXHIBIT P10 EXHIBIT P10: TRUE COPY OF APPLICATION DATED 6.12.2010 SUBMITTED TO THE PUBLIC INFORMATION OFFICER OF 1ST RESPONDENT BY MR.A.G.KESAVAN.

EXHIBIT P11 EXHIBIT P11: TRUE COPY OF LETTER NO.CIAL/SPIO/RTI DATED 7.1.2011 ISSUED BY STATE PUBLIC INFORMATION OFFICER OF 1ST RESPONDENT TO MR.A.G.KESAVAN WITH ENCLOSURES.

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 EXHIBIT P12 TRUE COPY OF ORDER DATED 20.6.2019 IN A.P.NOS.1212(1)/13/SIC,1038/(6)/14,2126(3)/14,2128(3)/14,2132(3)/14,2136(3)/14,2139(3)/14,2143(3)/14,2145(3)/14,2149(3)/14,2151(3)/14,2155(3)/14,148(1)/17,899(1)/18,2989(3)/18 AND 2990(3)/18,CP NOS.568(1)2010/SIC,567(1)/2010/SIC,569(1)/2010/SIC,570(1)/2010/SIC,571(1)/2010/SIC,572(1)/2010/SIC PASSED BY STATE INFORMATION COMMISSION, KERALA.

RESPONDENT'S/S EXHIBITS:

EXHIBIT R1 A TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE FIRST RESPONDENT.

EXHIBIT R1 B TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING HELD ON 24.09.2011.

EXHIBIT R1 C TRUE COPY OF THE AERODROME LICENCE ISSUED TO THE FIRST RESPONDENT.

EXHIBIT R1 D TRUE COPY OF THE AGREEMENT DATED 25.02.2010.

EXHIBIT R1 E TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE FIRST RESPONDENT AND AIR INDIA LTD.

EXHIBIT R1 F TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING ENTERED INTO BETWEEN THE FIRST RESPONDENT AND BHARAT PETROLEUM CORPORATION LTD.

EXHIBIT R1 G TRUE COPY OF THE ADVERTISEMENT. EXHIBIT R1 H TRUE COPY OF THE LETTER DATED 30.04.2012. EXHIBIT R1 I TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.08.2015 APPOINTING SMT.ATHIYARATH KOTHAI RAMANI.

EXHIBIT R1 J TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.08.2015 APPOINTING SRI.KIURIKOSSE ROY PAUL.

EXHIBIT R1 K TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 23.06.2016.

EXHIBIT R1 L TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.09.2016 APPOINTING DR.T.M.THOMAS ISSAC AS DIRECTOR OF THE W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 COMPANY.

EXHIBIT R1 M TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.09.2016 APPOINTING ADV.V.S.SUNIL KUMAR AS DIRECTOR OF THE COMPANY.

EXHIBIT R1 N TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.09.2016 APPOINTING ADV.MATHEW T.THOMAS AS DIRECTOR OF THE COMPANY.

EXHIBIT R1 O	TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.09.2016 APPOINTING SRI.S.M.VIJAYANAND AS DIRECTOR OF THE COMPANY.	
EXHIBIT R1 P	TRUE COPY OF THE AERODROME LICENSE RENEWED PERIOD UPTO 29.12.2017.	WITH
EXHIBIT R1 Q	TRUE COPY OF THE MEMORANDUM UNDERSTANDING DATED 01.07.2015.	OF
EXHIBIT R1 R	TRUE COPY OF THE MEMORANDUM UNDERSTANDING DATED 06.04.2015.	OF
EXHIBIT R1 S	TRUE COPY OF THE ORDER DATED 29.08.1997.	
EXHIBIT R1 T	TRUE COPY OF THE ORDER	

GO(MS)NO.22/2001/TRAN DATED 17.09.2001. EXHIBIT R1 U TRUE COPY OF THE MINUTES OF ANNUAL GENERAL MEETING HELD ON 03.11.2001.

EXHIBIT R1 V TRUE COPY OF THE MEMORANDUM OF ARTICLES OF ASSOCIATION.

EXHIBIT R1 W TRUE COPY OF THE MINUTES OF 92ND BOARD MEETING HELD ON 08.09.2012.

EXHIBIT R1 X TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE COURT ON 25.07.2019 IN WPC NO.20383 OF 2019.

EXHIBIT R1 Y TRUE COPY OF THE ORDER DATED 07.08.2019. EXHIBIT R1 Z TRUE COPY OF THE ORDER DATED 26.08.2019. W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 APPENDIX OF WP(C) 8011/2014 PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF CALL LETTER FOR WRITTEN TEST ISSUED BY THE RESPONDENT TO THE PETITIONER DATED 07-04-2009 EXHIBIT P2 TRUE COPY OF THE PROVISION SELECTION LETTER ISSUED BY THE RESPONDENT TO THE PETITIONER DATED 15-07-2009 EXHIBIT P3 TRUE COPY OF LAND ACQUISITION CERTIFICATE FOR THE ACQUISITION OF 84.65 ARES OF PROPERTY FROM THE PETITIONER'S FAMILY TO THE CONSTRUCTION OF AIRPORT ISSUED BY AIRPORT SOCIETY DATED 08-04-2008 EXHIBIT P4 TRUE PHOTOCOPY OF POSTING LETTER ISSUED BY THE RESPONDENT BY APPOINTING THE PETITIONER AND OTHERS TO THE SECURITY WING OF CIAL DATED 16-12-2009 EXHIBIT P5 TRUE PHOTOCOPY OF RESULT SHEET OF THE BASIC AVSEC COURSE CONDUCTED FROM 03-08-2009 TO 14-08-2009 AT COCHIN FOR CIAL SECURITY EXHIBIT P5(A) TRUE PHOTOCOPY OF THE CERTIFICATE OF THE BASIC AVSEC COURSE CONDUCTED FROM 03.08.2009 TO 14.08.2009 AT COCHIN FOR CIAL SECURITY EXHIBIT P5(B) TRUE PHOTOCOPY OF THE TRAINING CERTIFICATE ISSUED TO THE PETITIONER BY SMITHS DETECTION AUSTRALIA AND ASIA PACIFIC CONDUCTED FROM 2-11-2009 TO 5-11-2009 EXHIBIT P6 TRUE COPY OF RESULT SHEET OF X-RAY SCREENERS CERTIFICATION TEST ON 19-11-2009 AND 20-11-2009 AT COCHIN FOR CIAL SECURITY EXHIBIT P7 TRUE PHOTOCOPY OF REGULAR SCALE APPOINTMENT ORDER BY APPOINTING 31 PERSONS INCLUDING THE PETITIONER AS ASSISTANT (SECURITY) DATED 18-03-2011 EXHIBIT P8 TRUE PHOTOCOPY OF RESULT SHEET OF X-RAY SCREENERS TEST HELD AT RDCOS CHENNAI FOR AIRLINES PERSONAL FROM 10.07.2012 -

W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 11.07.2012 EXHIBIT P9 TRUE PHOTOCOPY OF RESULT SHEET ON IN-LINE-

X-RAY SCREENERS TEST HELD AT CIAL FROM 06.08.2012 - 07.08.2012 EXHIBIT 9(A) TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY THE BUREAU OF CIVIL

AVIATION , MINISTRY OF CIVIL AVIATION FOR THE TEST CONDUCTED FROM 6-8-12 TO 7-8-12 EXHIBIT P9(B) TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY TIRWIN AVIATION ACADEMY HELD AT COCHIN ON 13-08-2010 EXHIBIT P9(C) TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY TIRWIN AVIATION ACADEMY HELD AT COCHIN ON 12-7-2013 EXHIBIT P9(D) TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY CIAL FOR THE TRAINING SAFETY MANAGEMENT SYSTEM COURSE MODULES FROM 14-11-2011 TO 15-11-2011 EXHIBIT P10 TRUE PHOTOCOPY OF PROBATIONARY EXTENSION LETTER ISSUED BY RESPONDENT TO THE PETITIONER DATED 22-12-2012 EXHIBIT P11 TRUE PHOTOCOPY OF PROBATIONARY EXTENSION LETTER ISSUED BY RESPONDENT TO THE PETITIONER DATED 08-03-2013 EXHIBIT P12 TRUE PHOTOCOPY OF PROBATIONARY EXTENSION LETTER ISSUED BY RESPONDENT TO THE PETITIONER DATED 15-06-2013 EXHIBIT P13 TRUE PHOTOCOPY OF PROBATIONARY EXTENSION LETTER ISSUED BY THE RESPONDENT TO THE PETITIONER DATED 26-09-2013 EXHIBIT P14 TRUE PHOTOCOPY OF THE NEWS REPORT REGARDING THE DETECTION OF CORROSIVE FROM THE BAGGAGE BY THE PETITIONER DTD 27-2-11 EXHIBIT P15 TRUE PHOTOCOPY OF TERMINATION LETTER ISSUED BY THE RESPONDENT TO THE PETITIONER DATED 15-11-2013 EXHIBIT P16 TRUE COPY OF THE TEST OF PROBATION EXTENDED W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 EMPLOYEES (22 PERSONS EXTENDED) DATED 13.12.2011 EXHIBIT P17 TRUE PHOTO COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE RESPONDENT DATED 16-11-2013 EXHIBIT P18 TRUE PHOTO COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE RESPONDENT DATED 26.2.14 EXHIBIT P19 TRUE PHOTOCOPY OF THE REQUEST SENT BY THE PETITIONER TO THE CHIEF MINISTER/CHAIRMAN CIAL DATED 1-2-2014.

RESPONDENT'S EXHIBITS EXT.R1: TRUE COPY OF THE MEMORANDUM AND ARTICLES OF ASSOCIATION OF THE THIRD RESPONDENT EXT.R2: TRUE COPY OF THE STATEMENT SHOWING THE SHARE HOLDING PATTERN OF THE RESPONDENT AS ON 31.3.14 EXT.R3: TRUE COPY OF THE MINUTES OF THE GENERAL MEETING HELD ON 24.9.2011 EXT.R4: TRUE COPY OF THE AERODROME LICENCE ISSUED TO THE RESPONDENT EXT.R5: TRUE COPY OF THE AGREEMENT DT.25.2.10 EXT.R6: TRUE COPY OF THE AGREEMENT DT.22.6.2000 ENTERED INTO BETWEEN THE RESPONDENT AND AIR INDIA LTD.

EXT.R7: TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DT.19.5.97 ENTERED INTO BETWEEN THE RESPONDENT AND BHARAT PETROLEUM CORPORATION LTD.

EXT.R8: TRUE COPY OF THE ADVERTISEMENT PUBLISHED IN THE NEWSPAPER INVITING APPLICATION FOR THE OF ASSISTANT SECURITY (TRAINEE) EXT.R9: TRUE COPY OF THE DETAILS FOR THE POST OF ASST. SECURITY (TRAINEE) EXT.R10: TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 18.8.15 APPOINTING SMT.ATHIYARATH KOTHAI RAMANI EXT.R11: TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD W.P.(C) Nos.6949/2013,6950/2013,12328/2013,7219/2014 & 8011/2014 ON 18.8.15 APPOINTING SRI.KURIAKOSE ROY PAUL EXT.R12: TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 23.6.2016 EXT.R13: TRUE COPY OF THE RESOLUTION

PASSED IN THE MEETING HELD ON 27.9.16 APPOINTING DR.T.M.THOMAS ISSAC AS DIRECTOR OF THE COMPANY EXT.R14: TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.16 APPOINTING ADV.V.S.SUNIL KUMAR AS DIRECTOR OF THE COMPANY EXT.R15: TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.16 APPOINING ADV.MATHEW T.THOMAS AS DIRECTOR OF THE COMPANY EXT.R16: TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING HELD ON 27.9.16 APPOINTING SRI.S.M.VIJAYANAD AS DIRECTOR OF THE COMPANY EXT.R17: TRUE COPY OF THE AERODROME LICENSE WITH RENEWED PERIOD UPTO 29.12.17 EXT.R18: TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DT.1.7.15 EXT.R.19: TRUE COPY OF THE MEMORANDUM OF UNDERSTANDING DT.6.4.15 EXT.R20: TRUE COPY OF THE ORDER DT.29.8.97 EXT.R21: TRUE COPY OF THE ORDER GO(MS) NO.22/2001/TRAN DT.17.9.01 EXT.R22: TRUE COPY OF THE MINUTES OF ANNUAL GENERAL MEETING HELD ON 3.11.01 EXT.R23: TRUE COPY OF THE MEMORANDUM OF ARTICLES OF ASSOCIATION.