


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5575/2025

Dr. Purusottam Narain Sharma Son Of Shri Radhey Shyam Sharma, Aged About 58 Years, Resident Of P-48, Madhuban West, Kisan Marg, Tonk Road, Jaipur-302015.

----Petitioner

Versus

1. Union Of India, Through The Chairman, Public Enterprise Selection Board Having Its Office At 502, Block No. 14, Public Enterprises Bhawan, Cgo Complex, Lodhi Road, New Delhi - 110003.
2. Ministry Of Heavy Industries, Through Its Secretary, Having Its Office At Room No.183, Udyog Bhawan, Rafi Marg, New Delhi- 110011.
3. The State Of Rajasthan, Through Its Chief Secretary, Government Of Rajasthan, Secretariat, Jaipur 302005.
4. Rajasthan Electronics And Instruments Limited, Through Its Chairman, Having Its Registered Office At 2, Kanakpura Industrial Area, Sirsi Road, Jaipur 302012.
5. Mr. Brijesh Dixit S/o Sh. Suresh Chandra Dixit, R/o H-001, Raheja Atharva, Sector-109, Gurugram-122001, Haryana

----Respondents

For Petitioner(s)	:	Mr. Tanveer Ahamad with Mr. Mohd. Kasim Khan & Mr. Mohit Sharma and Mr. Hasrat Khan
For Respondent(s)	:	Mr. R.D. Rastogi, Senior Advocate with Mr. Devesh Yadav, Mr. Rajat Sharma, Mr. Chinmay Sharma, Mr. Kunal Sharma and Mr. Mahavir Tyagi Mr. Pawan Pareek Ms. Suruchi Kasliwal with Mr. Vikram Singh Tanwar Mr. Yash Joshi, Ms. Tanvisha Pant and Mr. Kshitz Jain for Mr. Vigyan Shah, AAG

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

13/02/2026

1. Instant writ petition is preferred by petitioner with following prayer:

It is, therefore, most respectfully prayed that your lordships may graciously be pleased to accept and allow this writ petition and by necessary writ, direction or order be pleased to quash the selection process as per the Minutes dated 24.07.2024 (Annexure-2), the appointment of Respondent No. 5 as per Order dated 28.03.2025 (Annexure-6) and the approval for appointment of Respondent No. 5. It is further prayed that necessary direction be kindly given to call for fresh interview with the full forum of the selection board inclusive of the Chief Secretary of Government of Rajasthan in the panel of selection committee and the appointment process be initiated afresh to be completed in a time-bound manner.

2. The facts of the case are that respondent No. 1, Public Enterprise Selection Board, has issued Advertisement No. 9/2024 dated 01.02.2024 for inviting applications for the post of Managing Director (MD), Rajasthan Electronics and Instruments Limited (REIL). Pursuant to the said advertisement, 12 persons were found eligible for interview held on 24.07.2024 at New Delhi and ultimately respondent No. 5 was recommended for appointment on the post of

Managing Director, REIL. After due approval, Respondent No. 5, Brijesh Dixit, was appointed as Managing Director in the pay scale of Rs. 1,60,000–2,90,000 for a period of five years from the date of assumption of charge or till the date of his superannuation or until further orders vide order dated 28.03.2025 (Annexure-6). The petitioner, who has participated in the selection process, has filed the present writ petition on 07.04.2025 to challenge not only the selection process but also the appointment of respondent No. 5 on the basis of approval.

3. The grounds on which this writ petition has been filed are as under:

(1) The guidelines relating to Board level appointments in Central Public Sector Enterprises issued by the Ministry of Personnel, Public Grievances and Training published on 27.11.2013 and lastly updated in 2022 provide under Clause 11 that in case of a joint venture enterprise with State Government, the Chief Secretary of the concerned State Government is also required to be invited to assist PESB for selection.

(2) The process of selection is bad for the reasons as mentioned in the grounds of the petition and there is no basis of selection of respondent No.5

4. Both the parties have filed written submissions along with list of cases and were afforded opportunity of hearing. The number of cases referred by both sides are too many and for the sake of brevity, each and every case is not being referred except what has been specifically submitted before the Court.

5. Learned counsel for the petitioner submitted that REIL is a joint venture between Union of India and State of Rajasthan and its registered office is situated in Rajasthan. He further submitted that there is a guideline for selection and appointment on Board level posts and these guidelines were not followed in letter and spirit. He further referred Article 12 of the Constitution of India and submitted that on the basis of shareholding of State of Rajasthan-through RIICO, having 49% shareholding in REIL and RIICO being an instrumentality of the State Government, REIL is "State" within the meaning of Article 12 of the Constitution of India. He further submitted that the registered office of REIL and the work jurisdiction of REIL is situated in Rajasthan, therefore this Hon'ble Court has territorial jurisdiction to entertain the writ petition.
6. He also submitted that the petitioner was not aware about the composition of the Selection Board and only at a subsequent stage, he came to know about the composition and when he found fault in the composition, as there was lack of transparency in the selection process, he challenged the selection process and appointment of respondent No. 5. He also submitted that Appendix-VI annexed with the Administrative Tribunal Act does not include the name of REIL, therefore Central Administrative Tribunal (CAT) has no jurisdiction. He further submitted that on the basis of recommendation by any Ministry, Government of India, it cannot be presumed that CAT has the jurisdiction. He also

submitted that appointment of respondent No. 5 is wholly illegal and same cannot be validated on any ground.

7. Learned counsel for the petitioner has further placed reliance upon judgment in **Krishna Devi (Dead) through LRs and others vs. Banaras Hindu University through Registrar and others, (2020) 17 SCC 626**, and submitted that there cannot be any estoppel against law and if law requires something to be done in a particular manner, then it must be done in that manner and if it is not done in that manner, then it would have no existence in the eyes of law.
8. He further referred judgment in **Union of India and others vs. Mahendra Singh, (2022) SCC OnLine SC 909**, and submitted that it is well settled that if a particular procedure for filling up application form is prescribed, the same must be followed strictly. He further referred judgment in **State of U.P. vs. Singhara Singh and others, AIR 1964 SC 358**, and submitted that if a statute confers power and prescribes the manner in which such power has to be exercised, the act must be done in that manner alone.
9. He further submitted that if respondent Nos. 1 and 2 have failed to follow the procedure prescribed under the law, then their act cannot be justified on any ground. He further submitted that the petitioner has participated in the process believing that the procedure as prescribed under the rules has been followed, but when it was revealed that there were defects in the composition of the Selection Board and lack of transparency in selection process, the petitioner has

challenged the decision to appoint respondent No. 5 as Managing Director of REIL.

10. He further placed reliance upon judgment of Bombay High Court in **Damomal Karamomal Raisinghani vs. Union of India, 1965 SCC OnLine Bom 129**, and submitted that when question about cause of action for exercise of power arises wholly or in part within the territorial jurisdiction, the Court can exercise jurisdiction where such cause of action arises.
11. He further placed reliance upon judgment in **ONGC vs. Utpal Kumar Basu and others, (1994) 4 SCC 711**, and submitted that Article 226 of the Constitution of India empowers the High Court to issue directions where cause of action arises wholly or in part within its territorial jurisdiction. Cause of action means bundle of facts which entitle the petitioner to a judgment in his favour and in determining objection of lack of territorial jurisdiction, the Court must take all facts pleaded in support of cause of action into consideration without going into correctness or otherwise of such facts at that stage.
12. He further referred the observation made by Hon'ble Supreme Court and submitted that question whether the High Court has territorial jurisdiction to entertain writ petition must be answered on the basis of averments made in the petition, the truth or otherwise whereof being immaterial.
13. Learned counsel has further referred a Constitution Bench judgment in **Ajay Hasia vs. Khalid Mujib Sehravardi and**

others, (1981) 1 SCC 722, and submitted that the expression "authority" by reason of its inclusion within the definition of State under Article 12 is subject to certain constitutional limitations, as the Government and its instrumentalities are equally bound by the basic obligation to obey the constitutional mandates of the fundamental rights enshrined in Part III of the Constitution of India.

14. He further referred order dated 16.04.2019 in **Dinesh Kumar Singh vs. Union of India, 2019 (4) CAT CK 0009**, and submitted that the jurisdiction of the Central Administrative Tribunal is to be determined on the basis of Section 14 of the Administrative Tribunals Act, 1985 and unless a specific notification is issued by the Central Government conferring jurisdiction upon the Tribunal, no proceeding can lie before the CAT. He also submitted that in the instant case, the jurisdiction clause is not applicable.
15. Learned counsel for the petitioner has further referred judgment in **Dr. (Major) Meeta Sahai vs. State of Bihar and others, (2019) 15 SCC 273**, and submitted that a candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. He further submitted that the constitutional scheme is sacrosanct and its violation in any manner is impermissible.
16. Learned counsel has further referred judgment in **Tata Chemicals Ltd. vs. Commissioner of Customs (Preventive), Jamnagar, (2015) 11 SCC 628**, and submitted that if the law requires something to be done in a particular manner, it must be done in that manner alone and

if not done in that manner, it would have no existence in the eyes of law.

17. He further referred the judgment in **Ramana Dayaram Shetty vs. International Airport Authority of India and others, (1979) 3 SCC 489**, and submitted that cause of action should be apparent immediately after the alleged grievance has taken place and the action of any authority, local or otherwise, must be held subject to constitutional limitations.
18. He further referred judgment in **Justice Chandrashekaraiiah vs. Janekere C. Krishna and others, (2013) 3 SCC 117**, and submitted that an appointment shall be declared invalid if the authority does not follow the mandatory provisions governing such appointment.
19. Aforesaid contentions were opposed by respondent No.3, State of Rajasthan, on the ground that REIL is a joint venture between Union of India and RIICO, and 49% stake is held by RIICO, which is a State Government of Rajasthan company incorporated under the Companies Act, 1956. Learned Additional Advocate General has further submitted that the State of Rajasthan does not have any direct stake in REIL.
20. Learned Senior Advocate and learned counsel appearing on behalf of respondent Nos.1, 2, 4 and 5 opposed the writ petition primarily on the following grounds:
 1. Lack of territorial jurisdiction to entertain the writ petition.
 2. Alternatively, availability of statutory remedy

before the Central Administrative Tribunal since the subject matter falls within the jurisdiction of CAT.

3. The petitioner has participated in the selection process without any protest and, after remaining unsuccessful, has challenged the same, which is not permissible.

4. The writ petition filed by the petitioner suffers from delay and laches.

21. Learned Senior Advocate submitted that all material events, advertisement, interview, selection process and recommendations were made in New Delhi and the subsequent appointment order was also issued at New Delhi; therefore, the matter does not fall within the territorial jurisdiction of the High Court of Judicature for Rajasthan. He further submitted that no part of recruitment or decision-making process was undertaken in Rajasthan and, therefore, no cause of action has arisen either wholly or in part in the State of Rajasthan and this Court has no jurisdiction to entertain the present writ petition.
22. He placed reliance upon judgments in case of **ONGC vs. Utpal Kumar Basu (supra), Kusum Ingots & Alloys Ltd. vs. Union of India, (2004) 6 SCC 254, Om Prakash Srivastava vs. Union of India, (2006) 6 SCC 207 and Alchemist Ltd. vs. State Bank of Sikkim, (2007) 11 SCC 335.**
23. Learned Senior Advocate further referred to judgments of this Court in **Soumya Saxena vs. Union of India, DBSAW No.1312/2022 decided on 06.10.2023, Miss Nikita Verma vs. Union of India and others, CWP**

No.23748/2017 decided on 05.02.2021, Norat vs. Union of India, CWP No.13031/2017 decided on 26.04.2023 and Chhotu Singh vs. Union of India, SBCWP No.53904/2005, and submitted that mere location of respondents or place of employment does not confer territorial jurisdiction to this Court when no part of cause of action has arisen within the State of Rajasthan.

24. Learned Senior Advocate further submitted that Section 14 of the Administrative Tribunals Act, 1985 provides for adjudication of disputes regarding selection, non-selection, appointment or service conditions in Central Public Sector Enterprises (CPSE) under the Department of Personnel and Training and, therefore, jurisdiction of this Court is not invocable under Article 226 of the Constitution of India. He further referred judgment in **Samridhi Verma vs. Union of India, Writ Petition No.4304/2021 (Bombay High Court)** and submitted that Ministry of Personnel, Public Grievances and Pension has notified that PESB comes under DoPT; therefore, there is no requirement to separately notify REIL within the purview of CAT.
25. He also relied upon judgment in **L. Chandra Kumar vs. Union of India, (1997) 3 SCC 261**, and submitted that as per the Administrative Tribunals Act, the appropriate remedy lies before the Central Administrative Tribunal and not directly before the High Court under Article 226 of the Constitution of India.
26. Learned Senior Advocate further submitted that the petitioner, who was already working in REIL, was fully aware

about the selection process adopted by PESB and, after knowing the procedure, participated in the selection process. He submitted that once a person participates in a selection process and remains unsuccessful, he cannot be permitted to challenge the same. He placed reliance upon judgments in cases of **Madan Lal vs. State of Jammu & Kashmir, (1995) 3 SCC 486** and **Manish Kumar Shahi vs. State of Bihar, (2010) 12 SCC 576**.

27. Learned Senior Advocate further raised a preliminary objection of delay and laches and submitted that the writ petition has been filed after about eight months from the recommendation dated 24.07.2024. He also submitted that the petitioner was given additional charge to work as MD, REIL by orders dated 31.07.2024 and 01.11.2024 and was well aware that his name was not recommended in the minutes dated 24.07.2024 and, therefore, he is estopped from challenging the process at this stage.
28. An additional ground regarding non-maintainability has been raised in the written submissions filed by respondent No.5 that writ of mandamus is not maintainable without prior notice to the Government. He placed reliance upon judgment in case of **Amrit Lal vs. Collector of Central Excise, AIR 1975 SC 538** and **Rajat vs. Union of India, Writ Petition (Civil) No.715/2025**, and submitted that the writ of mandamus is premature, misconceived and liable to be dismissed at the threshold.
29. Another judgment in case of **Anupal Singh and others vs. State of U.P., (2022) SCC OnLine SC 173** has been

referred on the ground that constitution of selection committee cannot be challenged by a participant. She placed reliance upon judgment in case of **Durgalal Sharma vs. State of Rajasthan, SBCWP No.818131/2023, decided in light of judgment in Amrit Lal vs. Union of India (supra)**.

30. Learned Senior Advocate further submitted that REIL is a joint venture between Central Government and RIICO wherein majority shareholding, i.e., 51%, is held by Central Government. He submitted that RIICO is not "State" within the meaning of Article 12 of the Constitution of India and there is no joint venture with the State Government so as to attract clause 11 of the guidelines relied upon by the petitioner. He also submitted that respondent No.3 has not opposed the selection process conducted by respondent Nos.1 and 2 and, therefore, the petitioner has no right to challenge the action of respondent Nos.1 and 2.
31. He further submitted that in case of **GCIC vs. Secretary, Revenue Department, Government of A.P., (1999) 4 SCC 458**, it was held that a company registered under the Companies Act is a distinct legal entity from its shareholders. Learned counsel also referred judgment in case of **Vishwambar Prasad vs. State of Rajasthan, 2023 SCC OnLine SC 458**, and submitted that RIICO is a company incorporated under the Companies Act and does not owe its existence to any statute and, therefore, cannot be treated as State.

32. Learned Senior Advocate further submitted that the selection process was conducted pursuant to advertisement issued by respondent No.1 and after following due process as prescribed under the guidelines, recommendation was made and on the basis of such recommendation, the Cabinet Committee approved the appointment of respondent No.5. Thus, respondent No.5 was validly selected through due process adopted by respondent Nos.1 and 2.
33. Heard learned counsel for the petitioner, learned Senior Advocate and learned counsel for the respondents. Also perused the petition, replies filed by the respondents along with written submissions and the judgments referred during the course of arguments and enclosed with written submissions.
34. The first and foremost issue which has been raised before this Court is that RIICO is not a State and the joint venture between Government of India and RIICO cannot be treated as a joint venture between Government of India and Government of Rajasthan. Learned Senior Advocate appearing on behalf of respondent has specifically referred and argued this matter just to impress upon the Court that the definition in Article 12 has to be read to declare that RIICO is not a State.
35. **In the case of RIICO vs Board of Revenue and others, DB S.A.W. No. 414/2012**, a Division Bench of this Court at Principal Seat, Jodhpur, has considered the law laid down in **Ajay Hasia vs Khalid Mujib Sehravardi (supra)** and **DTC vs DTC Mazdoor Congress, AIR 1991 SC 101** and dealt

with an argument whether RIICO is State as defined under Article 12 of the Constitution of India or not and observed that RIICO is a Government company.

36. Again, in the case of **M/s Nehal Enterprises vs State of Rajasthan and others, SBCWP No. 3946/2022**, while dealing with cancellation of a bid offer and discretion of RIICO, reference was made to Article 12 of the Constitution of India on the point that it involved public money and public element, therefore, RIICO has discretion to cancel bid offer in its discretion. The argument of RIICO is only to pursue a fact that RIICO is Government within Article 12 of the Constitution of India.
37. To help RIICO, the State Assembly has passed the RIICO Industrial Areas (Prevention of Unauthorised Development and Encroachment) Act, 1999 and under Section 16 of the said Act included officers and employees of RIICO as public servants as defined under Section 21 of IPC. The Act of 1999 was brought with an object to strengthen the arms of RIICO so as to prevent unauthorized development and remove encroachment of land transferred by the State Government and land purchased or acquired or otherwise held by RIICO.
38. In the case of **Bishamber vs Araf Chemicals Industries Ltd., (supra)**, Hon'ble Supreme Court of India has considered that RIICO is a company established under the Companies Act, 1956 by the State of Rajasthan, thus, it is not a statutory body created by any statute. In the entire judgment nowhere it has been held that RIICO is not a State

within the definition of Article 12 of the Constitution of India. Thus, this judgment is of no help to the respondent.

39. Article 12 of the Constitution of India defines the term "State" for the purpose of enforcement of fundamental rights and as these rights are primarily enforceable against the State and its instrumentalities. Article 13(2) prohibits the State from enacting any law that infringes upon fundamental rights, making it imperative to understand the scope of the term "State".
40. Article 12 of the Constitution of India provides an extended definition of the term "State" and includes Government of India and of each State, Parliament and Legislature, local authorities and other authorities within the territory of India or under the control of the Government of India. Many a time, the definition of "other authorities" under Article 12 has been considered by Hon'ble Supreme Court of India.
41. In the case of **Rajasthan State Electricity Board vs Mohan Lal, AIR 1967 SC 1857**, Hon'ble Supreme Court has extended the meaning of the term "State" by ruling that a statutory corporation has to be considered an authority under Article 12 of the Constitution of India despite the fact that such authority performs commercial functions, as it was held that the commercial nature of functions is not relevant for determining whether an entity can be considered as an authority.
42. Again, in the case of **Sukhdev Singh vs Bhagatram, AIR 1975 SC 1331**, Hon'ble Supreme Court has held that statutory corporations like LIC, ONGC and IFC are "State"

under Article 12 as they are statutory in nature and perform important public functions, making them accountable to the discipline of enforcement of fundamental rights.

43. Again, in the case of **R.D. Shetty vs International Airport Authority of India, AIR 1979 SC 1628**, Hon'ble Supreme Court has laid down a principle by developing the concept of "instrumentality or agency of the Government" and held that even if a body is not created by a statute, it can still be regarded as an authority if it is an instrumentality or agency of the Government.
44. Again, the test was laid down in **Ajay Hasia vs Khalid Mujib Sehravardi, (supra)**, wherein a society registered under the Societies Registration Act managing a Regional Engineering College was held to be an authority under Article 12 of the Constitution of India.
45. Similarly, in case of **Som Prakash Rekhi vs Union of India, AIR 1981 SC 212**, Bharat Petroleum Corporation, a Government company incorporated under the Companies Act, was held to be an authority under Article 12 of the Constitution of India.
46. In case of **Pradeep Kumar Biswas vs Indian Institute of Chemical Biology, (2002) 5 SCC 111**, Hon'ble Supreme Court reaffirmed the test laid down in **Ajay Hasia (supra)** and emphasized that financial and administrative control by the Government is a determining factor to ascertain whether a body can be considered an instrumentality of the State, and held that CSIR, a society registered under the Societies

Registration Act, was an authority under Article 12 of the Constitution of India.

47. Having considered the aforesaid judgments, this Court is of the opinion that there remains no room for any counsel or learned Senior Advocate to advance arguments on the issue whether RIICO is a State or not. All arguments advanced by learned counsels are to contend that RIICO is not a State, which in fact is non-acceptable exercise. Thus, the submissions made by learned Senior Advocate and learned counsel appearing on behalf of respondents are not sufficient to impress upon this Court that RIICO is not a State within the definition of Article 12 of the Constitution of India.
48. The advertisement is issued by Department of Personnel and Training (Public Enterprises Selection Board), Government of India on 01.02.2024 wherein a company profile is mentioned as under:

COMPANY PROFILE

REIL is a four-decade old, Schedule 'C' & Mini Ratna CPSE and Joint Venture of Government of India through Ministry of Heavy Industries (MHI) and Government of Rajasthan through Rajasthan State Industrial Development and Investment Corporation Limited (RIICO) with 51% and 49% ownership respectively. REIL provides technology solutions for qualitative & quantitative analysis of milk across all verticals of Dairy Industry sector through its milk analysis and automation solution; addresses need of the rural and related urban sector through Solar Photo Voltaic; and Information Technology & security surveillance

applications for e-governance, dairy vertical, small business and Government sectors. The Company has entered into set-up EV Charging infrastructure to promote e-mobility under FAME Scheme of Gol and has also diversified into Drone Applications as well as providing Smart Classes solution in Education Sector. The focus is on Shaping Rural India through Electronics, Renewable Energy & IT Solutions. The company employed 191 regular employees (Executives: 65 & Non-Executives: 126) as on 31.03.2023.

Its Registered and Corporate offices are at Jaipur, Rajasthan.

The authorized and paid up capital of the Company is Rs. 15 crores and Rs. 12.25 crores respectively as on 31.03.2023.

49. The aforementioned company profile clearly indicates that REIL is a Mini Ratna CPSE joint venture of the Government of India through Ministry of Heavy Industries and the Government of Rajasthan through RIICO with 51% and 49% ownership respectively. After this introduction, the respondents cannot raise any objection as to whether the State of Rajasthan has any stake in REIL or not. The advertisement dated 01.12.2024 (Annexure-1) is sufficient to counter the arguments as advanced by the learned Senior Advocate and the learned counsel appearing on behalf of the respondents.
50. The selection process has to be in conformity with the Guidelines regarding Board Level Appointments in Central Public Sector Enterprises (updated till 31.12.2022). A copy

has been annexed as Annexure-CA/2 on behalf of the respondents and as Annexure-7 on behalf of the petitioner.

51. The next issue relates to territorial jurisdiction for filing the writ petition in the State of Rajasthan. Admittedly, REIL is having its registered office at Jaipur in Rajasthan only and, moreover, the Government of Rajasthan holds 49% of shares; therefore, REIL in the State of Rajasthan is a company having its registered office at Jaipur, Rajasthan.
52. After the aforementioned facts, an argument cannot be advanced that since the advertisement was issued from Delhi and the selection process was completed at Delhi for a company which is a joint sector undertaking of two Governments, the writ petition cannot be filed in the State of Rajasthan.
53. In the case of **Kusum Ingots & Alloys Ltd. vs. Union of India, (supra)**, the Hon'ble Supreme Court examined the issue as to which High Court would have the jurisdiction to examine the constitutionality of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and whether the presence of Parliament in Delhi confers territorial jurisdiction upon the Delhi High Court to examine such a constitutional challenge. The Hon'ble Supreme Court concluded that framing of a statute, statutory rule, or issuance of an executive order would not confer jurisdiction upon a court merely because of the situs of the office of the maker thereof. Thus, the High Court where the cause of action has arisen wholly or in part can also exercise jurisdiction.

54. In the present case, not only is REIL situated within the territorial jurisdiction of this Court but RIICO is also situated within the jurisdiction of this Court, which holds 49% shareholding on behalf of the State of Rajasthan. Similarly, the person selected as Managing Director has to discharge his duties in Rajasthan only. The minority shareholder, namely the State of Rajasthan, represents the public at large of Rajasthan and commonly denotes the Government for the welfare of the State of Rajasthan.
55. After considering the doctrine of situs and the doctrine of cause of action, this Court is of the considered view that if a cause of action arises in multiple jurisdictions, then the petitioner has the right to choose the forum. Essentially, the cause of action is a bundle of facts as mentioned in the writ petition and also the consequences and effects of the cause of action are felt. Thus, the writ jurisdiction of the High Court is based upon the cause of action brought before the Court, if not on the basis of the doctrine of situs.
56. The judgment in **Union of India vs. Adani Exports Ltd., (2002) 1 SCC 567**, was in a different context and not applicable to the facts of the present case; thus, the ratio laid down is not applicable upon facts of the case.
57. The next preliminary objection relates to jurisdiction under Article 226 of the Constitution of India on the ground that the matter falls within the domain of the Central Administrative Tribunal (CAT) constituted under the Administrative Tribunals Act, 1985. In **Samriti Verma vs. Union of India (supra)**, the Division Bench examined the

case of Mumbai Railway Vikas Corporation Limited (MRVC) and, after considering Section 14 of the Administrative Tribunals Act, 1985 in respect of jurisdiction, powers, and authority, held that there is no doubt that the CAT of appropriate jurisdiction would have jurisdiction to entertain service disputes despite involving PESB and/or MRVC.

58. The judgment in **L. Chandra Kumar vs. Union of India, (1997) 3 SCC 261**, as referred by the Division Bench, has also been considered. It is settled law that an Administrative Tribunal can exercise jurisdiction vested in it specifically and not otherwise.
59. Here in the present case, REIL is a joint venture between the Government of India and the Government of Rajasthan. Admittedly, the registered and functional office of REIL is situated in the State of Rajasthan. The advertisement itself declares that REIL is a Mini Ratna CPSE. There is no independent existence of the Department of PESB; rather, it is part of the Department of Personnel and Training, that too for selection and appointment but not for management. However, no rule, direction, notification, or statutory instrument has been placed on record to demonstrate that REIL is functioning under the administrative or functional control of the Department of Personnel and Training, Government of India.
60. The material available on record further indicates that acquisition of 51% shareholding is directly held by the Government of India, as adjustment of ₹48.16 crore, was already effected by communication dated 23.02.2016.

61. A specific information has been placed on record as an additional CA/3 demonstrating that the Public Enterprises Selection Board has no independent existence and is merely a part of the Department of Personnel and Training. It is further evident from the material on record that REIL is not managed by the Department of Personnel and Training but is administered by the Ministry of Heavy Industries, and both are distinct ministries functioning under separate administrative control.
62. The jurisdiction of the Central Administrative Tribunal can only be exercised in accordance with Section 14 of the Administrative Tribunals Act, 1985. The Appendix-VI under Rule 154-B, as annexed by both the parties, clearly indicates that All India Services, other services regulated by Central Government Servants Rules and other services governed by Central Civil Services Rules are included within its ambit. Similarly, the list of Corporations, Societies and other authorities falling within the purview of CAT under Section 14 of the Administrative Tribunals Act has also been annexed, and in the entire list of 219 organizations are included and REIL does not find mention at any place.
63. As regards Mumbai Railway Vikas Corporation Limited (MRVC), the same is specifically included at entry No. 167 of Appendix-VI. Thus, the judgment relied upon in **Samriti Verma vs. Union of India (supra)** is not applicable in the facts of the present case.
64. The material available on record further indicates that the petitioner is working as General Manager in REIL and, being

an internal candidate, participated in the selection process. No material has been placed on record to demonstrate that any service matter relating to employees of REIL has ever been adjudicated by CAT. When the service conditions governing employees of REIL do not prescribe the jurisdiction of CAT, it is difficult to comprehend as to how jurisdiction can be vested in CAT under Section 14 of the Administrative Tribunals Act in absence of any notification or statutory inclusion.

65. In absence of any document to show that disputes pertaining to employment of officers or employees of REIL are to be adjudicated by CAT, the objection regarding alternative remedy before CAT is not maintainable.
66. The next issue relates to participation of the petitioner in the selection process. Learned Senior Advocate and learned counsel appearing for the respondents has placed reliance upon judgments in **Amrit Lal vs. Collector of Central Excise (supra)**, **Rajat vs. Union of India (supra)**, **Anupal Singh and others vs. State of U.P. (supra)**, whereas learned counsel for the petitioner has relied upon **Krishna Devi (Dead) through LRs and others vs. Banaras Hindu University through Registrar and others (supra)** and **Union of India and others vs. Mahendra Singh (supra)**.
67. Before considering the issue, we have to consider the procedure required to be followed for the selection. Clause 8, Clause 11 and Clause 18 of the guidelines are very important

and they required to be considered by this Court and same are reproduced for ready reference:

Clause 8:

Shortlisting of candidates:

{Auth: As per PESB guidelines communicated for incorporation in Compendium vide PESB'S OM No. 5/3/2017-PESB dated 08.02.2017 and OM of even number dated 10.02.2017, amendment in PESB Resolution dated 10.06.2016 and DOPT's OM No. 27/1/2017-EO (ACC) dated 03.02.2017}

These applications are considered and shortlisted with reference to the job description and eligibility criteria in the following manner:

(a) Internal (from the same CPSE or its subsidiary)	06
(b) Sectoral (from CPSEs of the same cognate group as defined by DPE)	02
(c) External (from any other CPSE)	02
(d) Central Government / Private Sector / State PSEs	02
Total	12

- (i) If eligible applications are received for any particular post from the applicants of all the three categories namely Central Government, Private Sector and State PSEs, the allotted slot of 02 may be exceeded by 01 making a total of 03 slots (i.e. one for each category) as an exception.
- (ii) Internal candidate is one who is an employee of the same CPSE or its subsidiary and has put in a minimum of two years of continuous service in it immediately preceding the date of vacancy, and who does not hold a lien in any other PSE/Government. An employee who holds a lien on a post in a CPSE can also be considered as an

internal candidate of that enterprise, provided he/she has put in a minimum of two years of continuous service in that enterprise, on the date of acquiring lien and the period for which he/she is away from the enterprise is not more than 5 years.

(Auth: DE'S OM No. 18(2/96-GM-GL-81 dated 16.05.2007)}

Further, in case of formation of a new company consequent upon merger of companies/carving out from the old company, a candidate from the erstwhile company/companies will also be treated as internal candidate subject to his/her fulfilling the eligibility norms.

- (iii) Sectoral candidate is one who is an employee of those CPSEs which fall in the same cognate group as per DPE guidelines issued from time to time (List as on 31.03.2015).
- (iv) External candidate is one who is an employee of a CPSE and is other than an Internal or a Sectoral candidate.
- (v) Candidates from Central Government will also inter alia include. Armed Forces of the Union and All India Services.
- (vi) SPSE candidate is a candidate working in State Public Sector Enterprise (SPSE) where annual turnover is as per the Table below.
- (vii) Private Sector candidate is a candidate working in Private Sector in a company whose annual turnover is as per the Table below.

Category of CPSE	Sub Category	Annual Turnover requirement for consideration of a candidate from SPSEs or Private Company
Schedule A	Maharatna Navratna Miniratna	Rs. 10,000 crore or more Rs.5,000 crore or more Rs.2,000crore or more

	Others	Rs. 1,500 crore or more
Schedule B	Miniratna Others	Rs. 1,000 crore or more Rs. 750crore or more
Schedule C		Rs. 500 crore or more
Schedule D		Rs. 250 crore or more

**The average audited annual turnover of three financial years preceding the calendar year in which the post is advertised shall be considered for applying the approved limits.*

Clause 11:

Assistance by the Ministry's representative and CMD/MDs of the PSE:

- (i) Secretary is invited to assist the PESB on behalf of the administrative Ministry/Department. However the concerned Secretary may nominate an officer not below the rank of Additional Secretary to represent him in selection for a Board level post other than CMD of Schedule 'A' company. In the case of selection for Functional Directors, the concerned full time Chief Executive of the concerned enterprise is invariably invited to assist the PESB.
- (ii) However, in the case of subsidiaries, the full time Chairman of the holding Company is invited to assist the Board.
- (iii) In the case of Joint Venture enterprises with the State Governments, Chief Secretary of the concerned State Government is also invited.

Clause 18:

The PESB conducts interview of the applicants and after considering the performance, qualifications, qualities of managerial capability, leadership, broad vision, experience, service record and the inputs provided by those assisting the Board, the PESB sends only one name to the Ministry for its consideration. A reserve name is

kept in a sealed cover with the PESB and is disclosed only upon orders of the ACC.

68. The process adopted in the instant case indicates that a total of 12 candidates were interviewed on 24.07.2024 and, thereafter, recommendation was made on 24.07.2024 and list is as under:

1	DR. PURUSOTTAM NARAIN SHARMA, General Manager General Manager, Rajasthan Electronic Instruments Limited
2	SHRI DR.PRAMODA KUMAR BEHERA, General Manager General Manager(Projects) at HEC HTI, Heavy Engineering Corporation Limited
3	SHRI VARUN KUMAR SHUKLA, General Manager, Richardson & Cruddas (1972) Limited
4	SHRI SATYAM SINGH, General Manager, Central Electronics Limited
5	SHRI SANJEEV SINGHAL, Principal General Manager Business head(BA), Indore, Bharat Sanchar Nigam Limited
6	SHRI PANKAJ KUMAR MATHUR, Chief General Manager CGM(Marketing), Central Marketing Organization(CMO), SAIL, Steel Authority Of India Limited (Sail)
7	SHRI ANURAG DANAYAK, Deputy General Manager Deputy General Manager (Projects- Monitoring), Pipelines Head Office, Noida, U.P., Indian Oil Corporation Limited
8	SMT. KORRA REVATHI, Deputy General Manager DGM CRM, MR & TPI (Mktg) RINL, Rashtriya Ispat Nigam Limited (Rinl)
9	SHRI RAMESH KUMAR VYAS, Deputy General Manager Deputy General Manager (Vigilance), Steel Authority Of India Limited (Sail)
10	SHRI MANOJ KUMAR DASH, Deputy General Manager DEPUTY GENERAL MANAGER (MARKETING) RSP SAIL ROURKELA, Steel Authority Of India Limited (Sail)
11	SHRI BRIJESH DIXIT, Executive Director Exccutive Director (Depot & Machineries), Indian Railway Service Of Mechanical Engineers
12	SHRI HEMANT KUMAR, Chief Workshop Engineer North East Railway, Railways (M/O)

69. However, the appointment of respondent No. 5 was made on 28.03.2025. The present writ petition was filed on 07.04.2025 but before issuance of appointment order dated 28.03.2025. The charge of Managing Director, REIL has also been handed over to other person. No appointment can be challenged unless approved by the competent authority. Some of the documents relating to previous recommendations were placed on record by respondent Nos. 1 and 2 and we have taken note of these documents, annexed as Annexure C-5, pertaining to earlier selections of Managing Director, wherein the recommendation was duly signed by all persons whereas another recommendation is also placed on record and against it has also certain reasons mentioned in the order.
70. When we compare minutes of meeting dated 24.07.2024 with earlier meetings held on 17.05.2010 and 11.10.2019, the reasons or details are missing which clearly indicated that only name of selected candidate is placed on record with Annexure CA/6 which gives rise to speculations how and why respondent No.5 was selected. The name was approved on 28.03.2025 and only after that same can be challenged.
71. Clause 18 as referred herein above clearly prescribes the procedure and assessment of individuals. Clause 8 provides for shortlisting and it clearly lays down that 6 candidates out of 12 should be internal means, same CPSE or its subsidiary. In the instant case, only one person was selected against

six. Similarly, there are three other sectors, two from each and shortlisting of candidates is required to be done in accordance with Clause 8, but the shortlisting is not appeared to be in accordance with Clause 8.

72. Now the issue is whether the list of candidate is published on previous occasion or not, but no record is placed by respondent number 1 and 2 show that constitution and composition of board is within knowledge of the petitioner and despite knowingly fully, well he has participated. The list of individual who appeared on selection processes also published before 24.07.2024. Thus, there is no disclosure prior to order of appointment. Similarly, the recommendation dated 24.07.2024 is published soon after the selection, but there is no record, to how that same was made public. Thus, the ground of delay and latches cannot survive and cannot be raised.

73. Article 1 of the Constitution of India defines India as Union of States, which means India is a federal country with both central and State Government having their own powers and responsibilities. The distribution of power indicates that there are three lists; First is the list for matters exclusively managed by the Central Government; List II is the State List and these subjects fall within jurisdiction of the State Government; third list is the Concurrent List where both can legislate. The distribution of power is well balanced under the Constitution with focus on harmonious relation between Centre and the State. There are certain inter-State disputes

and also conflicts with the Union, but all are decided in harmonious and constructive manner.

74. In case of **Kesavanand Bharati versus State of Kerala, (1973) 4 SCC 225**, the Hon'ble Supreme Court of India has propounded the doctrine of basic structure and it prevents altering the Indian style of federalism. The role and importance of each of the States is considered by the Hon'ble Supreme Court in **S.R. Bommai versus Union of India, (1994) 3 SCC 1**. The harmonious relation between Central Government and State Government always ensures national unity and allows the State to manage their own affairs.
75. Here in this case, no doubt about the fact that petitioner has participated in this selection process, but no record is placed on record to show that prior to initiation of selection process on 24.07.2024, either the composition of Board was disclosed or list of shortlisted candidates was known to public. When transparency and fairness is alleged, then the duty lies upon the selection agency to show that they have followed the principle of good governance, but herein on record, except justification, no other material is placed.
76. The material on record is not sufficient even to justify the selection of respondent No. 5. No bio-data of any of the candidates interviewed by the Selection Board is placed on record. The shortlisting of candidates specifically provided under Clause 8 is not followed. Similarly, Clause 11(3) clearly provide that in case of joint venture enterprise with State, the Chief Secretary of concerned State Government is

also invited. There is no record to show that any communication is made to the Chief Secretary of the State Government. Even no record to show post facto concurrence.

77. The website of REIL suggests that currently the Chairman of REIL is Managing Director of RIICO, who is part-time Director of REIL. Moreover, there is no process of selection for Chairman and MD in RIICO, which means that RIICO is entirely managed by the Government as if it is a Government Department. Thus, it cannot be said that the State Government has no stakes in REIL. The stakes are 49% and that is well written.
78. There is no justification of compliance of Clause 8 and Clause 11(3) of the Guidelines as mentioned hereinabove. The interview process of applicants should be based on performance, qualification, qualities, mental capacity, leadership, broader vision, experience, service record and the inputs provided by those assisting the Board. There is no material on record that parameters as prescribed under Clause 18 were followed in the instant case while selecting respondent No. 5 as the Managing Director.
79. The issue pertains to participation and rule of estoppel. The judgment in case of **Tata Chemicals Ltd. vs. Commissioner of Customs (Preventive), Jamnagar, (supra)** as relied by Hon'ble Supreme Court in case of **Krishna Devi (Dead) through LRs and others vs. Banaras Hindu University through Registrar and others (supra)** clearly shows that there is no estoppel against law, if law requires something to be done in a

particular manner, then it must be done in that manner and if it is not done in that manner, then it would have no existence in the eyes of law. Identical case was considered by a three Judge bench in case of **State of Haryana Vs. Chandra Kishore (1995) 1 SCC 158** after placing reliance upon judgment in case of **Nazir Ahmed Vs King Emperor AIR 1936 PC 253 (2)** both were referred in case of **Union of India Vs Mahendra Singh (supra)**.

80. In a very recent judgment in case of **Amrit Yadav Vs. State of Jharkhand 2025 INSC 176**, while considering the issue of public employment with reference to Article 14 and 16 of the Constitution of India and also dealing arbitrariness vis-a-vis equality of opportunity has strike down the appointment made in pursuant to advt. dated 29.07.2010. Various judgment as referred by Hon'ble Supreme Court clearly laid down that if fair and transparent process is not adopted then selection and appointment is nullity.
81. Having taken note of judgments as referred by both the parties, I am of considered view that The respondent Nos. 1 and 2 have failed to invite the Chief Secretary representing the State of Rajasthan in the selection process for appointment to the post of Managing Director of REIL. The REIL is a joint venture between the Central Government and the State of Rajasthan, and all are well aware that State of Rajasthan is having a minority shareholding, but there has to be representation in selection process. There is no material available on record to show that the State of Rajasthan was

ever consulted or involved in the process of appointment to the post of Managing Director, REIL.

82. The material placed on record clearly indicates violation of the norms prescribed by the DOPT itself and when a particular procedure has been prescribed, the same is required to be followed in its true letter and spirit, then certainly it is a case of interference under Article 226 of Constitution of India as Article 14 and 16 mandates observance of constitutional rights and obligations.
83. The writ petition is allowed and the selection and appointment of respondent No.5 Brijesh Dixit on post of Managing Director, Rajasthan Electronic and Instruments Ltd. (REIL) is quashed and set aside. Respondent Nos. 1 and 2 are directed to re-initiate the process of appointment on post of Managing Director, REIL after including the Chief Secretary of the State of Rajasthan as member of selection panel.
84. Accordingly, the writ petition and misc. application, if any, stands disposed of.

(ASHOK KUMAR JAIN),J