

**CASE COMMENT: ARMY WELFARE EDUCATION SOCIETY NEW DELHI VS.
SUNIL KUMAR SHARMA & ORS.ETC. SC 1683**

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INTRODUCTION

Bench: Hon'ble Justice J.B Pardiwala & Hon'ble Justice Manoj Mishra.

The case involves a dispute between the Army Welfare Education Society(AWES) and former employees of a school previously run by St. Gabriel's Academy. AWES took over the school after the lease with St. Gabriel's ended. The High Court ordered AWES to retain the old staff but with salary conditions similar to those of other AWES schools. Both parties appealed to the Supreme Court. The court acknowledges AWES's financial burden due to the higher salary requirements and the unfairness to current AWES staff. The court proposed a meeting between AWES and the former employees to negotiate terms to get to a solution.

An order stayed the High Court's decision, ensuring the former employees remain on the school's payroll with salary and conditions matching other AWES staff while negotiations continue. The case centres around balancing the rights of the former employees with the financial viability of the school under new management.

FACTS OF THE CASE

The case revolves around a dispute between AWES and a group of teachers and non-teaching staff employed by an educational institution. Initially, the educational institution was operated independently. However, a significant development occurred when AWES took over the management of the institution. The takeover resulted in a change of ownership and control. Following the takeover, the teachers and the non-teaching staff, found their terms and conditions, particularly their salaries and other benefits were altered by AWES. These changes were not liked by the staff. Dissatisfied by the modifications they challenged the legality of these changes. They approached the High Court seeking relief and redressal for what they perceived as an infringement of their rights. In their petition, the teachers argued that AWES, being a government-backed entity, should be considered within the meaning of 'State' under

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Article 12 of the Constitution. Aggrieved by the high court's decision the teachers and non-teaching staff moved to the Apex court. It challenged the high court's finding that it was a 'State' and contested the relief granted to the teachers. The Supreme Court, after a thorough investigation, reversed the high court's decision. In its verdict, the Supreme Court held that AWES did not meet the criteria classified under 'State' of Article 12 of the Constitution. As a result of the Supreme Court's decision the teachers' claim for relief through a writ petition was dismissed. The case ultimately established that service disputes between private educational institutions and their employees would primarily be governed by contract law and other relevant statutory provisions rather than constitutional remedies.

ISSUES

1. Is the Army Welfare Education Society (AWES) a government entity that can be sued in a High Court through a writ petition? Can a dispute between a private school and its employees be resolved through a High Court order instead of regular court proceedings?
2. Assuming AWES is a government body can all its decisions be challenged, or only those decisions that involve government-like powers?

DOCTRINE OF LEGITIMATE EXPECTATION

The doctrine of legitimate expectation is a legal principle that ensures fairness in administrative decision-making. It basically implies that if a public entity has created an expectation through its policies, practices, or representation, it arbitrarily cannot change without any justification.

To invoke this doctrine, a person must demonstrate a legitimate expectation based on clear promises, consistent past practices or established procedures. It does not guarantee a certain outcome but requires the public authority to react in a fair manner. This checks on arbitrary power and protects individuals from unfair treatment by the government.

CONTENTIONS AND ARGUMENTS

Contention of AWES (Army Welfare Education Society):

- AWES is argued that it is a private society and not a state within the meaning of Article 12 of the Constitution. Thus not amendable to writ jurisdiction under Article 226.

- The relationship between AWES and its employees is contractual in nature and governed by private law principles.
- AWES contented that it has not breached any public duty in its dealing with employees. The employees did not have a legitimate expectation of continued employment on the same terms and conditions.

Contention of Sunil Kumar and other employees:

- The employees argued that AWES, being involved in public welfare performs a public function and therefore is under a state under Article 12.
- The modification of service conditions was arbitrary and discriminatory, violating employees rights.
- The employees had legitimate expectations of continued employment on the same terms and conditions as teachers and non-teaching staff in the educational institution.

ANALYSIS

The Apex Court has determined that the Army Welfare Education Society(AWES) is not a state entity, thereby limiting the scope of judicial intervention involving the employees and the society. The court emphasized the distinction between private and public law domains. While AWES performs a public function by running schools and educating children, the relationship with its teacher is contractual in nature. This means any dispute arising in the contractual employment should be resolved through the contractual mechanism rather than writ petitions, a remedy that is typically reserved for the violation of fundamental rights or public matters.

The court also rejected the claim of legitimate expectation, a doctrine primarily applicable to government actions. In this case, the employee failed to establish any express or implied promise from AWES that would justify such a claim. This judgement establishes a boundary between the state and private entities, limiting the scope of judicial oversight in matters of private employment.

CONCLUSION

The Supreme Court has overturned the High Court's decision in favour of the Army Welfare Education Society(AWES), This implies that the High Court's ruling is no longer valid. The Supreme Court said that the current employees of AWES will be working but essentially under

the terms and conditions set by AWES. No additional penalties or costs were awarded to either party.

