

Company as State under Article 12 of Constitution of India

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Introduction

Meaning of "state": The word "states" used in Article 12 refers to the federating units, India itself being a state consisting of these units. The term "states" is defined variously in some of the other articles of the constitution as the context of the particular Part of the Constitution in which it is used requires. Article 12 forms part of Part III of the Constitution which deals with Fundamental Rights and provides definition of "the state". The same definition applies to the expression "the state" when used in Part IV of the Constitution which provides for the directive principle of the state policy.

Ranidipa Ghosh's Profile and details

I am a
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Meaning of "Authority"

Authority means a public administrative agency or corporation having quasi governmental powers and authorized to administer revenue producing public enterprise. It is wide enough to include all bodies created by a statute on which powers are conferred to carry out governmental or quasi- governmental functions held in Rajasthan State Electricity Case. 'Authority' in law belongs to the province of power. Authority in administrative law is a body having jurisdiction in certain matters of a public nature.

Guidelines laid down by the Supreme Court in identifying a body as agency of State

In determining whether a corporation or a government company or a private body is an instrumentality or agency of the state, the following tests was held by the Supreme Court to be applicable in the case of *Ajay Hasia v. Khalid Mujib*

- i) Whether the entire share capital is held by the government.
- ii) Whether the corporation enjoys monopoly status conferred by the state.
- iii) Whether the functions of the corporation are governmental functions or functions closely related thereto which are basically the responsibilities of a Welfare State,
- iv) If a department of the government has been transferred to the corporation.
- v) The volume of financial assistance received from the state.
- vi) The quantum of state control.
- vii) Whether any statutory duties are imposed upon the corporation.
- viii) The character of the corporation may change with respect to its different functions.

Maintainability of a writ petition filed against a corporation by virtue of Art.226 of Constitution of India

It is well settled that every action of the State or an instrumentality of the State in exercise of its executive power, must be informed by reason. In appropriate cases, actions uninformed by reason may be questioned as arbitrary in proceedings under Article 226 or Article 32 of the Constitution. If a company is an organ or instrumentality of the state then the Company acts in its executive power given under Article 298 of the Constitution in entering or not entering in contracts with individual parties. Article 14 of the Constitution would be applicable to those