

Constitution of India Art 12 - Definition

In this Part, unless the context otherwise requires, — “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

NOTES

State and other Authorities: A constitutional or statutory authority would be within the meaning of the expression “other authorities” in Article 12, if it has been invested with statutory power to issue binding directions to third parties, the disobedience of which would entail penal consequence, or it has the sovereign power to make rules and regulations having the force of law.¹

Institutions declared as State: Under Article 12 the following are held to the State: ²

- Project and Equipment Corporation of India, (1984) 3 SCC 316;
- Hindustan Steel Ltd., 1984 Supp SCC 554;
- Indian Council of Agricultural Research, (1984) 2 SCC 141;
- State Financial Corporation, (1983) 3 SCC 379;
- Indian Statistical Institute even though a registered society, (1983) 4 SCC 582;
- Bharat Petroleum Corpn. Ltd. (BPCL), (1981) 1 SCC 449;
- Registered Societies run by State, (1981) 1 SCC 722;

¹ R.D. Shetty v. International Airport Authority, (1979) 3 SCC 489. See also Central Inland Water Transport Corpn. Ltd. v. Brojo Nath Ganguly, (1986) 3 SCC 156 cited in Sankaranarayanan 2017

² Sankaranarayanan 2017

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- Coffee Board, (1980) 3 SCC 358;
- Steel Authority of India Ltd. (SAIL), (1985) 2 SCC 644;
- State Electricity Board, (1985) 3 SCC 38;
- Delhi Stock Exchange, (2005) 4 SCC 4;
- Mysore Paper Mills Ltd., (2002) 2 SCC 167;
- Central Inland Water Transport Corpn., (1986) 3 SCC 156;
- U.P. Rajya Karmachari Kalyan Nigam, (2005) 1 SCC 149;
- Council of Scientific and Indian Research (CSIR), (2002) 5 SCC 111;
- International Airport Authority of India (IAAI), (1979) 3 SCC 489;
- Children's Aid Society, (1987) 3 SCC 50;
- Indian Oil Corporation, (1990) 3 SCC 752;
- Food Corporation of India, (1985) 2 SCC 136;
- United India Insurance Co. Ltd., (1996) 9 SCC 439.

**Judiciary:** State, does not include the judiciary. However, in the exercise of non-judicial functions the court will fall within the definition of the State.<sup>^3</sup>

**Functioning as public:** Functions / Duties of a public nature performed by a body not prohibited by law does not make the body "State" for the purposes of Article 12.<sup>^4</sup>

**Government control:** The test for whether the entity is financially, functionally and administratively under Government control is that the control must be pervasive and not merely regulatory.<sup>^5</sup>

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<sup>3</sup> State of Punjab v. Ajaib Singh, AIR 1953 SC 10 cited in Sankaranarayanan 2017

<sup>4</sup> Zee Telefilms Ltd. v. Union of India, (2005) 4 SCC 649 cited in Sankaranarayanan 2017

<sup>5</sup> Pradeep Kumar Biswas v. Indian Institute of Chemical Biology, (2002) 5 SCC 11 cited in Sankaranarayanan 2017

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