



Serial No. 23
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 110 of 2024

Date of Decision: 11.06.2025

Abutt Nelson Muksor
S/o J.M. Kyndiah
R/o House No. 96, Village Ummulong,
P.O. Thadlaskein, District West Jaintia
Hills – 793151

:::Petitioner

-Vs-

- 1.The State of Meghalaya represented by the
Commissioner & Secretary to the Government
of Meghalaya, Cooperation Department,
Government of Meghalaya, Main Secretariat,
Shillong, East Khasi Hills, Meghalaya – 793001
- 2.The Registrar of Cooperative Societies, Meghalaya,
Third Secretariat, Nokrek, Lachumiere, Shillong,
East Khasi Hills, Meghalaya – 793001
- 3.The Assistant Registrar of Cooperative Societies,
Meghalaya, West Jaintia Hills District, Mission
Compound, Jowai, West Jaintia Hills,
Meghalaya 793150
- 4.The Jowai Cooperative Urban Bank Ltd.,
Ladthadlaboh, Jowai, West Jaintia Hills,
Meghalaya 793150, represented by the
Chairman of Board of Directors of the Bank
- 5.The Board of Directors of the Jowai



Cooperative Urban Bank Ltd., Ladthadlaboh,
Jowai, West Jaintia Hills, Meghalaya 793150
represented by its Chairman

6.The Chairman of the Board of Directors of the
Jowai Cooperative Urban Bank Ltd., Ladthadlaboh,
Jowai, West Jaintia Hills, Meghalaya 793150

7.The Nomination and Remuneration Committee
of the Jowai Cooperative Urban Bank Ltd.,
Ladthadlaboh, Jowai, West Jaintia Hills, Meghalaya
793150, represented by its Chairman

8.The Reserve Bank of India through its Secretary,
Reserve Bank of India, C/O CGM-In-Charge and
Secretary, Secretarys Department, Reserve Bank of
India, 16th Floor, Central Office Building Shahid
Bhagat Singh Marg, Mumbai – 400001, Maharashtra

9.The Reserve Bank of India, having its Regional
Office at Panbazar, Guwahati represented by the
Deputy General Manager, Department of Supervision,
RBI, Panbazar, Guwahati- 781001

10.The Deputy General Manager, Department of
Supervision, Reserve Bank of India, Panbazar,
Guwahati – 781001

11.Anxiously Helmsley Lytan,
Deputy Chief Executive Officer,
Jowai Cooperative Urban Bank Ltd., Ladthadlaboh,
Jowai, West Jaintia Hills, Meghalaya – 793150

:::Respondents



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) :	Mr. R. Dubey, Adv. with Ms. Z.E. Nongkynrih, Adv.
For the Respondent(s) :	Mr. N.D. Chullai, AAG with Ms. R. Colney, GA (For R 1-3) Dr. N. Mozika, Sr. Adv. with Ms. M. Myrchiang, Adv.(For R 4-7) Mr. P. Hazarika, Adv. (For R 8-10) Mr. R. Kharkrang, Adv. (For R 11).

i) Whether approved for reporting in Law journals etc.:	Yes/No
ii) Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. The petitioner who is stated to have been serving as the Chief Executive Officer (CEO) of the Jowai Cooperative Urban Bank Limited, Ladthadlaboh, Jowai is before this Court by way of the instant writ petition praying for quashing and setting aside of his removal on the basis of a Circular dated 25.06.2021, and has impugned the decision of the Board of Directors of the Respondent Bank in its meeting held on 09.11.2023, as also impugned letter of termination of service dated 22.11.2023.



2. Before advertng to the arguments advanced by the respective counsel for the parties, it is relevant to note herein that a Circular dated 25.06.2021, had been issued by the Reserve Bank of India (Respondents No. 8, 9 and 10), wherein at clause – 4 thereof, the tenure of an MD/CEO had been prescribed to be not for a period of more than 5(five) years at a time, subject to a minimum period of 3(three) years at the time of first appointment. It appears that the Board of Directors apart from other considerations, had based its Resolution for removal of the petitioner from the office of CEO in this Circular. The same is reflected in the minutes of the BoD meeting dated 09.11.2023, wherein at Para – 7(a), it has been noted that the writ petitioner having been appointed on 20.11.2020, by application of the RBI Circular dated 25.06.2021, his services were to terminate on 30.11.2023.

3. This Circular then came to be challenged across many High Courts in their respective jurisdictions, and the same was stayed by the Madras High Court, whereafter, by an order of the Supreme Court dated 14.10.2022, passed in a batch of transfer petitions, directions were issued that all similar matters challenging the validity of the Circular dated 25.06.2021, would be transferred to the High Court of Madras. With regard to the petitioner, wherein he had made the same challenge to the Circular dated 25.06.2021, this Court by order dated 17.04.2024, in WP(C) No. 109 of 2024, in compliance with the order of the Supreme Court then transferred the said



writ petition to the Madras High Court, and though a stay order is operating, the same is in the stage of hearing and no final orders have been passed. By this subsequent writ petition, from the facts as noted earlier, the writ petitioner was removed basically in consideration of the directives of the Circular dated 25.06.2021, which has since been stayed. This Court therefore at this juncture is only to examine as to whether the writ petitioner will be eligible to continue in office by virtue of the stay of the Circular dated 25.06.2021, or whether apart from this aspect, he may be allowed to continue in office on other considerations and circumstances which are peculiar to the instant case.

4. Mr. R. Dubey, learned counsel for the petitioner has submitted that what is crucial to the issue is the manner of appointment and removal of the writ petitioner. In the instant case he submits, the writ petitioner was appointed when the earlier Circular dated 31.12.2019, held the field and in this connection, has drawn the attention of this Court to clause – 12 of the said Circular and submits that the Board of Directors of a Bank shall seek approval from the RBI before removing any member or accepting the resignation tendered of any member of the Board. He contends that in view of the fact that the Circular dated 25.06.2021, has since been stayed, the earlier Circular of 2019 which mandates the approval for removal will have to be complied with.



5. Learned counsel has also argued that though the impugned decisions have been taken for his removal in the Board meetings dated 09.11.2023 and 21.11.2023, the same will not be effective unless it was concurred to and approved by the Reserve Bank of India. Learned counsel further submits that the Reserve Bank of India by its communication dated 29.11.2023, had directed the Respondent Bank to withdraw an order dated 28.11.2023, regarding the removal of the petitioner and that status quo with regard to position of CEO be maintained. Thus he submits, by not allowing the petitioner to continue his duties as CEO, the Respondent Bank has acted without jurisdiction.

6. On another limb of submission, the learned counsel has submitted that though the matter concerning the Circular dated 25.06.2021, is seized by the Madras High Court, this writ petition is maintainable before this Court, as the attendant facts and circumstances show that the case of the petitioner does not entirely hinge on the Circular dated 25.06.2021, but that the issue of removal of the petitioner is severable from the operation of the Circular dated 25.06.2021. As such, he submits, the relevant regulations and Circulars in operation and the terms of appointment having mandated the prior approval of the Reserve Bank of India, the non-receipt of approval would make the order of removal by the Board of Directors non est, and as such, for all practical purposes the writ petitioner should be considered to be



still in service. He therefore prays that directions be issued that he may be allowed to continue as CEO of the Respondent Bank.

7. Dr. N. Mozika, learned Senior counsel assisted by Ms. M. Myrchiang, learned counsel for the respondents No. 4-7, the main answering respondents, in his submissions has pointed out that the entire writ petition and the relief claimed by the writ petitioner is founded on the operation of the Circular dated 25.06.2021, and that if any consequential relief is being sought, the same will have to be before the forum that is seized with the matter, that is the Madras High Court. Learned Senior counsel has contended that the relief claimed by the writ petitioner today, going beyond the prayers made in the writ petition, no relief will be permissible. It is further submitted that in the BoD meeting held on 09.11.2023, wherein the removal of the CEO had been discussed and recommendations made, the writ petitioner was himself present and also appended his signature to the said Resolution, which he submits estopps him from questioning the decision by way of the instant writ petition.

8. Learned Senior counsel has then on the question as to whether stay of the Circular would automatically revive the status of the writ petitioner in the office of the CEO, has submitted that the term of the writ petitioner had been considered to be over on 20.11.2023, and that the instant writ petition was filed only in April 2024, and it is not a case where the writ petitioner



had sought legal remedy when his tenure was still subsisting. He further submits that the suspension or the stay orders operating with regard to the Circular dated 25.06.2021, cannot have the effect of reinstating the writ petitioner to the office of the CEO. In this regard, the learned Senior counsel has placed reliance on a judgment of the Supreme Court in the case of *Shree Chamundi Mopeds Ltd. vs. Church of South India Trust Association CSI Cinod Secretariat, Madras* reported in (1992) 3 SCC 1, wherein he submits that at Para – 10, thereof, the Supreme Court has held that there is a distinction between quashing of an order and stay of operation of an order, and that is only on the quashment of an order, which will result in restoration of a position as it stood before its quashing. In concluding his submissions, the learned Senior counsel has also submitted that the Circular of 2019, would have limited application to the case of the writ petitioner, as the same speaks only of removal of Board of Members and not of CEO.

9. Mr. N.D. Chullai, learned AAG assisted by Ms. R. Colney, learned GA appearing on behalf of the respondents No. 1-3 has only submitted that due to the time lapse that has occurred, the restoration of the writ petitioner into office might result in dislocation of the functioning of the Bank which may have a detrimental effect, as it concerns matters of public finance and revenue.



10. Mr. P. Hazarika, learned counsel appearing for the respondents No. 8-10 (RBI) has submitted that the RBI by its letter dated 29.11.2023, in response to the Respondent Bank's letter dated 28.11.2023, wherein intimation was given to the writ petitioner about the termination, has expressed its displeasure, and had directed the Respondent Bank to withdraw the order No. JCUB/JW1/Chairman/26/2023-24/377 dated 28.11.2023, whereby the writ petitioner had been removed. He further submits that though the issue regarding the Circular is important, the said letter has been issued in consideration of the other facts that there were serious governance issues with the Respondent Bank itself, as has been expressed in the said letter.

11. Mr. R. Kharkrang, learned counsel appearing for the respondent 11 has supported the submissions made by the learned Senior counsel on behalf of the Respondent Bank, and submits that since the termination from service of the writ petitioner, he has been serving as Deputy CEO.

12. This Court having heard all the learned counsel for the respective parties, and also having examined the materials on record, finds that the issue in question is twofold, first, is the matter of the Circular dated 25.06.2021, which has since been stayed and is pending hearing before the Madras High Court by virtue of the order of the Supreme Court and secondly, is the circumstances that surround the termination of the writ



petitioner which are peculiar to his case itself. The writ petitioner it is seen was appointed on 18.11.2020, by the Bank and this appointment received post facto approval on 29.01.2021 from the Reserve Bank of India. The petitioner in his service as CEO therefore, on being appointed as such, was bound by the Bye Laws, and as reflected therein, the post of CEO has been placed as Grade – Z in the cadre, inasmuch as, as per the Bye Laws all employees were to be graded. Having been appointed as such, the conditions of service of the writ petitioner, was that he was bound by the Bye Laws of the Bank, as also the General Regulations of the RBI, wherein appointment and termination was subject to approval.

13. The Respondent Bank, it is noted as earlier observed in its BoD meeting dated 09.11.2023, had recommended the termination of service of the writ petitioner based on the Circular dated 25.06.2021, which has since been stayed, and the same is also contained in another communication dated 21.11.2023, to the Reserve Bank, wherein concurrence was sought for the said Resolution.

14. On the aspect of the stay of the Circular dated 25.06.2021, therefore in the considered view of the Court, if the termination of the petitioner had been concurred to, or approved by the RBI, when the said Circular was subsisting, no relief will be admissible to the writ petitioner at this stage. Though on the other aspect, it has also been vehemently argued by the



Respondent Bank that any consequential relief prayed for by the writ petitioner, will have to be necessarily be before the Court, where the matter concerning the Circular is being adjudicated, this however cannot debar this Court from examining the other factors and other attendant facts and circumstances surrounding the matter, leading to the removal or termination of the services of the petitioner. Most important in this regard, is that the services of the writ petitioner notwithstanding the Resolutions, his removal has till date, not been formally approved or concurred to by the competent authority, which is the RBI. This is evidenced from the communication dated 29.11.2023, which for the sake of convenience is reproduced in its entirety hereinbelow:

RESERVE BANK OF INDIA

GWH. DOS. ADM. No. S 205/01-02-001/2023-24

November 29, 2023

*The Chairman
The Jowai Co-operative Urban Bank Limited
Ladthadlaboh
West Jaintia Hills,
Meghalaya – 793150*

Subject: Letter of Displeasure – Removal of the CEO/MD of the bank

*We are in receipt of the letter no. JCUB/JW1/Chairman/26/2023-24/377
dated November 28, 2023*



2. In this regard, your attention is invited to minutes of the SAF quarterly meeting dated August 29, 2023, wherein the CEO had highlighted certain issues against the functioning of the BoD (especially against the Chairman and the Vice Chairman of the Board). It appears that subsequent, to the abovementioned meeting, the BOD has decided to remove the CEO forcefully without giving any prior notice or conclusion of his tenure.

3. Further, two professional directors of the bank had resigned from the Board citing the reason of being sidelined from the Board. In this regard, a letter dated November 01, 2023 was sent to the Chairman of the Board advising him to submit clarifications regarding the resignations, however, we are yet to receive any response in the matter.

4. The BoD had also failed to attend the meeting scheduled with RBI through our e-mail dated November 20, 2023. The Action Taken Report on the quarterly SAF meeting dated August 29, 2023 has still not been submitted by the bank despite our various reminders. It clearly indicates the serious issues in the functioning of the Board.

5. The matter has already been taken up with Shri. D.P. Wahlang, Chief Secretary, Government of Meghalaya (GoM) on November 28, 2023 wherein the Chief Secretary had advised the Finance Department, GoM, to urgently look into the matter.

6. Hence, until the matter is properly investigated, you are strictly advised to refrain from doing any activity which raises serious concerns regarding the integrity of the Board and managing the bank in professional terms.

7. Accordingly, you are advised to withdraw the order No. JCUB/JW1/Chairman/26/2023-24/377 dated November 28, 2023 regarding removal of the CEO immediately and maintain the status quo regarding the positions of the CEO/other officials of the bank/BoD/Sub-committees/BOM until the matter is examined thoroughly by the concerned Authorities.



8.All the directors shall be personally held accountable for any mismanagement/mis-governance in the functioning of the bank.

-Sd-

Endt. GWH.DOS.ADM.No.S209/01-02-001/2023-24 of date

Copy to:

- 1. Finance Department, Government of Meghalaya, Main Secretariat Building, Shillong – 793001*
- 2. The RCS, Department of Cooperation, New Administrative Building, Lower Lachumiere, Shillong – 793001*
- 3. The DRCS, Department of Cooperation, New Administrative Building, Lower Lachumiere, Shillong – 793001*
- 4. The CEO, Jowai Co-operative Urban Bank Limited, Ladthadlaboh, Jowai, West Jaintia Hills, Meghalaya - 793150*

15. On a detailed perusal of the above quoted letter, it is seen that there is no reference to the Circular dated 25.06.2021, but in fact, the same is a communication of displeasure with regard to the removal of the writ petitioner, and the functioning of the Bank. No doubt, the pendency of the challenge to the Circular is important to the functioning of the Bank or rather all concerned Banks across India, with regard to the tenure of MD/CEOs, but, in the instant case, what can be discerned by this Court, is the fact that the termination of the writ petitioner has never been approved and that for all practical purposes, in the backdrop of the materials and the letter dated 29.11.2023, will be deemed to be non est.



16. Accordingly, on these facts and circumstances, the contention of the Respondent Bank that the relief claimed by the writ petitioner will be available only before the Court, where the challenge to the Circular dated 25.06.2021 is pending, is rejected.

17. The other contentions that the prayer in the writ petition is limited to Circular dated 25.06.2021, is of no consequence presently, inasmuch as, as per the situation and facts as they pertain, the petitioner should be deemed to be still in service, until other orders follow.

18. Before parting with the records though some concern has been raised by the State respondents as well as, the Respondent Bank that the reinstatement of the writ petitioner to the post of CEO will have adverse effects and repercussions on the functioning of the Bank, this Court will not pass any observation on the same, as inbuilt mechanisms exist in the Regulations of the Bank itself to deal with such situations. In the result, the respondents are directed to take a considered decision in the matter, keeping in mind the fact that as today the petitioner has never been terminated formally.

19. Writ petition accordingly stands allowed and disposed of to the extent as indicated above.

Judge

Meghalaya
11.06.2025



“D.Thabab-PS”