



CNR: KAHC010595302023

NC: 2026:KHC:47258
WP No. 25518 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 25518 OF 2023 (S-RES)

BETWEEN:

SMT. TANUJA M.R
W/O SURESH B S
AGED ABOUT 41 YEARS
R/O C/O REVANNA
NO.336, 3RD MAIN, 4TH CROSS
SAMPIGE ROAD
CHENNAKESHA NILAYA
GOKULA EXTENSION
TUMAKURU-572104

...PETITIONER

(BY Smt. VAISHALI HEGDE., ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF CO OPERATIVE SOCIETIES
REPRESENTED BY ITS SECRETARY
M S BUILDING
BANGALORE-560001
2. THE REGISTRAR OF CO OPERATIVE SOCIETIES
ALI ASKAR ROAD
BANGALORE-560001
3. TUMAKURU CO OPERATIVE MILK PRODUCERS
SOCIETIES UNION LTD
REPRESENTED BY ITS MANAGING DIRECTOR

Digitally
signed by
SHILPABAI S
Location:
HIGH COURT
OF
KARNATAKA





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N H NO.206, B H ROAD
MALLASANDRA
TUMAKURU-572107
REGISTERED UNDER CO-OPERATIVE SOCIETIES ACT
- 1959

4. TUMAKURU CO OPERATIVE MILK PRODUCERS
SOCIETIES UNION LTD
REPRESENTED BY ITS PRESIDENT
N H NO.206, B H ROAD
MALLASANDRA
TUMAKURU-572107
REGISTERED UNDER CO-OPERATIVE SOCIETIES ACT
- 1959

...RESPONDENTS

(BY SRI. PRASHANTH B R., ADVOCATE FOR C/R3 (CP
16379/2023) & ALSO FOR R4
SMT. MAMATHA SHETTY, AGA FOR R1 & R2)

THIS WRIT PETITION FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA PRAYING TO:

- (i) QUASH AND SET ASIDE THE
ENDORSEMENT DTD 14.09.2023
BEARING NO.TUHAO/SIBBANDI-3/C.C-
159/RI.AAR.9777/2023-24 ISSUED BY
THE R3-MANAGING DIRECTOR VIDE
ANNEXURE-A.
- (ii) DIRECT THE RESPONDENTS TO
CONSIDER THE PETITIONER FOR
PROMOTION TO THE POST OF M.I.S.
OFFICER TAKING INTO ACCOUNT THE 12
YEARS SERVICE RENDERED BY HER IN
THE POST OF M.I.S. ASSISTANT GRADE I
PRIOR TO HER DELAYED PROMOTION TO
THE POST OF M.I.S. SUPERINTENDENT,
SO AS TO ENSURE HER SENIORITY IS
PROTECTED.



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(iii) DIRECT RESPONDENTS NOT TO RECRUIT BY WAY OF DIRECT RECRUITMENT ANY PERSON TO THE POST OF M.I.S. OFFICER TILL THE PROMOTION OF THE PETITIONER TO THE SAID POST IS CLEARED.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL ORDER

1. The petitioner has filed this writ petition seeking following reliefs:

- (i) "quash and set aside the endorsement dated 14.09.2023 bearing No.TuHaO/Sibbandi-3/C.C-159/Ri.AaR.9777/2023-24 issued by the respondent No.3- Managing Director vide Annexure-A;
- (ii) direct the respondents to consider the petitioner for promotion to the post of MIS officer taking into account the 12 years service rendered by her in the post of MIS Assistant Grade I prior to her delayed promotion to the post of MIS Superintendent, so as to ensure her seniority is protected;



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(iii) direct respondents not to recruit by way of direct recruitment any person to the post of MIS Officer till the promotion of the petitioner to the said post is cleared."

2. Thus, the petitioner has sought the relief against a co-operative society registered under *the Karnataka Co-operative Societies Act, 1959* (for short, '***the Act***').
3. It is no more *res integra* that a writ petition filed against a cooperative society without availing the efficacious remedy provided under Section 70 of the Act is not maintainable, in view of the mandate laid down by the Hon'ble Apex Court in the case of ***Ram Chandra Choudhary and others v. Roop Nagar Dugdh Utpadak Sahakari Samiti Limited and others***¹, wherein the Apex Court in paragraph 14 has held as under:

¹ Civil Appeal No.4352 of 2026 disposed of on 10.04.2026



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"14. At the outset, it is necessary to consider the preliminary objection raised by the learned senior counsel for the appellants regarding the maintainability of the writ petitions under Article 226 of the Constitution of India. The High Court in the impugned judgment, proceeded to examine the validity of the bye-laws framed by the District Milk Unions without first addressing the foundational issue as to whether the writ petitions themselves were maintainable, having regard to the nature and character of the respondent societies, as well as the statutory dispute-resolution mechanism provided under the Act, 2001. Since the issue pertains to the very assumption of jurisdiction, it goes to the root of the matter and must be adjudicated as a threshold question.

14.1. It is well settled that the jurisdiction of the High Courts under Article 226, though wide and plenary, is not unbridled. While it extends beyond the confines of Article 32 and may, in appropriate cases, be invoked even against bodies not falling within the



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definition of "*State*" under Article 12, such jurisdiction is ordinarily exercised where the impugned action bears a public law element. A writ would lie against a non-State entity only where it performs public duties, discharges public functions or is alleged to have acted in breach of statutory or constitutional obligations of a public character.

14.2. Conversely, disputes which pertain purely to the internal management, governance or electoral processes of co-operative societies do not, as a matter of course, attract writ jurisdiction merely because such societies owe their incorporation to a statute. The existence of a statutory framework regulating such societies does not by itself convert internal disputes into matters of public law. The exercise of jurisdiction under Article 226 in such cases must therefore be tested on well-established principles, including the nature of the right asserted, the character of the duty alleged to have been breached, and the availability of an efficacious alternate statutory remedy.



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14.3. This Court has, in a long line of decisions, delineated the contours for determining when a body, though not “State” within the meaning of Article 12, may nevertheless be amenable to writ jurisdiction. The relevant considerations include whether the body is entrusted with public duties, performs functions of a public nature, or is subject to deep and pervasive State control so as to partake the character of an instrumentality of the State.

14.4. However, the mere existence of regulatory or supervisory control, howsoever extensive, is not determinative. Such control must be of a degree that fundamentally alters the character of the body. In the absence of such indicia, disputes which are essentially private or internal in nature fall outside the ambit of judicial review under Article 226.

14.5. The question whether the respondent societies can be regarded as “State” must be examined in light of the tests laid down in ***Ajay Hasia v. Khalid***



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Mujib Sehravardi [(1981) 1 SCC 722]

which include indicia such as deep and pervasive State control, financial dependence, and functional integration with governmental activities. These principles have been applied to co-operative bodies in ***General Manager, Kishan Sahkari Chini Mills Ltd. v. Satrughan Nishad and others [(2003) 8 SCC 639]***, where this Court held that mere regulatory supervision or limited State participation does not suffice to confer the status of an instrumentality of the State. Tested on these parameters, the respondent Unions cannot be held to be "State" within the meaning of Article 12.

14.6. In ***Thalappalam Service Co-operative Bank Ltd. and others v. State of Kerala and others, [(2013) 16 SCC 82]***, this Court, while examining the status of co-operative societies, held as follows:

"20. The societies are, of course, subject to the control of the statutory authorities like Registrar, Joint Registrar, the Government,



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etc. but it cannot be said that the State exercises any direct or indirect control over the affairs of the society which is deep and all pervasive. The supervisory or general regulation under the statute over the cooperative societies, which are body corporate does not render activities of the body so regulated as subject to such control of the State so as to bring it within the meaning of the "State" or instrumentality of the State..."

"21. We have, on facts, found that the cooperative societies, with which we are concerned in these appeals, will not fall within the expression "State" or "instrumentalities of the State" within the meaning of Article 12 of the Constitution and hence not subject to all constitutional limitations as enshrined in Part III of the Constitution..." "44. We are of the opinion that when we test the meaning of expression "controlled" which figures in between the words "body owned" and "substantially financed", the control by the appropriate Government must be a control of a substantial nature. The mere "supervision" or "regulation" as such by a statute or otherwise of a



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body would not make that body a "public authority" within the meaning of Section 2(h)(d)(i) of the RTI Act. In other words just like a body owned or body substantially financed by the appropriate Government, the control of the body by the appropriate Government would also be substantial and not merely supervisory or regulatory. The powers exercised by the Registrar of Cooperative Societies and others under the Cooperative Societies Act are only regulatory or supervisory in nature, which will not amount to dominating or interfering with the management or affairs of the society so as to be controlled. The management and control are statutorily conferred on the Management Committee or the Board of Directors of the Society by the respective Cooperative Societies Act and not on the authorities under the Cooperative Societies Act."

14.7. In ***Federal Bank Ltd. v. Sagar Thomas*** (*supra*), this Court held that a writ under Article 226 would lie against a non-State entity only when it is shown to be discharging a statutory or public duty of a public character. Mere regulatory



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control or the existence of a statutory framework governing its activities would not render such a body amenable to writ jurisdiction. The relevant observations are as follows:

"31. It is no doubt held that a mandamus can be issued to any person or authority performing public duty, owing positive obligation to the affected party. The writ petition was held to be maintainable since the teacher whose services were terminated by the institution was affiliated to the university and was governed by the ordinances, casting certain obligations which it owed to that petitioner. But it is not the case here..... no writ would lie against the private body except where it has some obligation to discharge which is statutory or of public character.

32. Merely because Reserve Bank of India lays the banking policy in the interest of the banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5(c)(a) of the Banking Regulation Act does not mean that the private companies carrying on



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the business or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial activity in banking and these companies are to act according to these provisions failing which certain consequences follow as indicated in the Act itself. As to the provision regarding acquisition of a banking company by the Government, it may be pointed out that any private property can be acquired by the Government in public interest. It is now a judicially accepted norm that private interest has to give way to the public interest. If a private property is acquired in public interest it does not mean that the party whose property is acquired is performing or discharging any function or duty of public character though it would be so for the acquiring authority.

33. *For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or a company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such*



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body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor put any such obligation upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. The respondent's service with the Bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank. That being the position, the appeal deserves to be allowed."

14.8. In the present case, the District Milk Unions are autonomous, member driven bodies governed by the provisions of the Act, 2001, the Rules framed



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thereunder, and their bye-laws. They are neither departments of the State nor owned, financially controlled, or administratively dominated by the State in a manner that would render them instrumentalities of the State within the meaning of Article 12. ***The fact that such societies are subject to statutory regulation, oversight by the Registrar or supervision by the State Co-operative Election Authority does not detract from their essential character as independent co-operative institutions. Furthermore, the disputes raised pertain essentially to the internal governance and electoral framework of co-operative societies and do not disclose any breach of a statutory or public duty of a public law character.***

14.9. In view of the aforesaid discussion, we are of the considered opinion that the writ petitions ought not to have been entertained in the exercise of jurisdiction under Article 226."

(emphasis supplied)



4. From the perusal of the aforesaid judgment, it is clear that the writ petition filed against the co-operative society is not maintainable. Hence, in view of the above, the writ petition is ***dismissed as not maintainable.***
5. Liberty is reserved to the petitioner to challenge the impugned order before the appropriate authority within a period of eight weeks from the date of receipt of a copy of this order, in which case, the petitioner is entitled for the benefit of Section 14 of the Limitation Act, 1963.
6. Registry is directed to return the originals/certified copies of the documents, if any, to the petitioner after retaining a photocopy of the same.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

RK
List No.: 1 Sl No.: 30