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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 62 of 2016**

(Arising out of order dated 15.12.2015 in W.P.S. No. 5672 of 2014 of the learned Single Judge)

- P. N. Upadhyay S/o Shri B. Upadhyay, Aged About 61 Years Worked As Junior Assistant At Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit, Urla, District Durg, Chhattisgarh R/o G 7, Dairy Colony, Krishak Nagar, Chhokara Nala, Raipur Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Its Secretary, Law And Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh. (Land Wrongly Mentioned In Certified Copy)
2. The Registrar, Co Operative Societies, Chhattisgarh H.Q. Head Of The Department Building, Block B, Second Third Floor, Naya Raipur Chhattisgarh
3. Chhattisgarh State Co-Operative Dairy Federation Ltd. Thorough Its Managing Director, Urla, P.S. B.M.Y. Charouda, District Durg Chhattisgarh (The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit),

---- Respondents

And**Writ Appeal No. 63 of 2016**

(Arising out of order dated 15.12.2015 in W.P.S. No. 5671 of 2014 of the learned Single Judge)

- R. S. Sharma S/o Late Gaya Prasad Sharma, Aged About 61 Years, Worked As Assistant General Manager, At Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit, Urla, District Durg (Chhattisgarh) R/o C /41, Vijapuram, Chantidih, Bilaspur District Bilaspur (Chhattisgarh).

---- Appellant

Vs

1. State Of Chhattisgarh Through Its Secretary, Law And Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Naya Raipur (Chhattisgarh). (Land Wrongly Mentioned In Certified Copy)
2. The Registrar, Co-Operative Societies, Chhattisgarh, H. Q. Head Of The Department Building, Block - B, Second & Third Floor, Naya Raipur (Chhattisgarh).
3. Chhattisgarh State Co-Operative Dairy Federation Ltd., Through Its Managing Director, Urla P. S. B M Y Charouda, District Durg (Chhattisgarh) (The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit),

---- Respondents

And

Writ Appeal No. 73 of 2016

(Arising out of order dated 15.12.2015 in W.P.S. No. 5700 of 2014 of the learned Single Judge)

- Kishor Kumar Naidu S/o Late Rajgopal Naidu, Aged About 62 Years Ret. Technician Of The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit, Urla, District Durg Chhattisgarh R/o H 8, Dairy Colony, Krishak Nagar, Chhokara Nala, Raipur (Chhattisgarh).

---- Appellants

Vs

1. State Of Chhattisgarh Through Its Secretary, Law And Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Naya Raipur (Chhattisgarh).
2. The Registrar, Co-Operative Societies, Chhattisgarh, H. Q. Head Of The Department Building, Block - B, Second & Third Floor, Naya Raipur (Chhattisgarh).
3. Chhattisgarh State Co-Operative Dairy Federation Ltd., Through Its Managing Director, Urla P. S. B M Y Charouda, District Durg (Chhattisgarh) (The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit),

---- Respondents

And

Writ Appeal No. 74 of 2016

(Arising out of order dated 15.12.2015 in W.P.S. No. 2590 of 2014 of the learned Single Judge)

1. Mahendra Kumar Bhawar S/o Ram Prasad Bhawar, Aged About 61 Years Ret. Driver Of The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit Urla, District Durg, Chhattisgarh R/o Patel Gali, Mahamai Para, Purani Basti Raipur Chhattisgarh
2. Mohan Lal Dubey, S/o Madan Lal Dubey, Aged About 61 Years Ret. Paricharak Of The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit, Urla, District Durg Chhattisgarh R/o Dairy Colony, Chhokara Nala, Arang Road, Raipur, District Raipur, Chhattisgarh

---- Appellants

Vs

1. State Of Chhattisgarh Through Its Secretary, Law And Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh
2. The Registrar, Co Operative Societies, Chhattisgarh H.Q. Head Of The Department Building Block B, Second & Thrid Floor, Naya Raipur Chhattisgarh
3. Chhattisgarh State Co-Operative Dairy Federation, Ltd. Through Its Managing Director, Urla, P.S.B.M.Y.Charouda, District Durg C.G. (The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit),

---- Respondents

And

Writ Appeal No. 80 of 2016

(Arising out of order dated 15.12.2015 in W.P.S. No. 6667 of 2014 of the learned Single Judge)

- J. R. Bhagat S/o Late Karmu Ram Bhagat, Aged About 63 Years Ret. Assistant General Manager Of The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit, Urial, District Durg Chhattisgarh, R/o Aman Nagar, Mowa, P.S. Mowa, Raipur (Chhattisgarh)

---- Appellants

Vs

1. State Of Chhattisgarh Through Its Secretary, Law And Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Naya Raipur (Chhattisgarh) (Land Wrongly Mentioned In Certified Copy)
2. The Registrar, Co-Operative Societies, Chhattisgarh, H.Q.- Head Of The Department Building, Block- B, Second & Third Floor, Naya Raipur (Chhattisgarh)
3. The Agriculture Production Commissioner, Chhattisgarh, H.Q.- Indrawati Bhawan, Naya Raipur. (Chhattisgarh)
4. Chhattisgarh State Co Operative Dairy Federation, Ltd, Through Its Managing Director, Urla, P.S.- B M Y Charouda, District Durg (Chhattisgarh) (The Chhattisgarh Rajya Sahkari Dugdha Mahasangh Maryadit),

---- Respondents

And

WPS No. 2099 of 2016

1. Ramsatya Mishra S/o Late Shri R.N. Mishra, Aged About 60 Years Worked As Junior Assistant At Dairy Plant Raigarh Chhattisgarh R/o Q. No. M-2, Dairy Colony, Choti Koni Bilaspur (Chhattisgarh)
2. Ramlal Sharma, S/o Late Shri Ramawtar Sharma, Aged About 60 Years Worked As Dairy Dak Assistant, At Chhattisgarh State Co-Operative Dairy Federation Ltd., R/o Abhuday Parisar, Nagar Ghadhi Chowk, Raipur (Chhattisgarh)

---- Appellants

Vs

1. State Of Chhattisgarh Through Secretary, Department Of Pashudhan Vikas, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh)
2. The Registrar, Co- Operative Societies, Chhattisgarh, H.Q.- Head Of The Department Building, Block - B, Second & Third Floor, Naya Raipur (Chhattisgarh)
3. Chhattisgarh State Co-Operative Dairy Federation Ltd, Through Its Managing Director, Urla, Post B M Y Charouda, District Durg (C.G.)

---- Respondents

And

Writ Appeal No. 282 of 2016

(Arising out of order dated 22.04.2016 in W.P.S. No. 1185 of 2016 of the learned Single Judge)

- Bhagwati Prasad Verma S/o Chobharam, Aged About 60 Years Worked As Paricharak At Chhattisgarh State Co-Operative Dairy Federation Ltd., Urla, P.S. B M Y Charouda, District Durg, (Chhattisgarh), R/o Village Kadul, Sunder Nagar, Raipur, (Chhattisgarh)

---- Appellants

Vs

1. State Of Chhattisgarh Through Secretary, Department Of Pashudhan Vikas, Mahanadi Bhawan, Mantralaya, Naya Raipur, (Chhattisgarh)
2. The Registrar, Co-Operative Societies, Chhattisgarh, H.Q.- Head Of The Department Building, Block- B, Second & Third Floor, Naya Raipur Chhattisgarh.
3. Chhattisgarh State Co-Operative Dairy Federation Ltd, Through Its Managing Director, Urla, Post BMY Charouda, District Durg (Chhattisgarh)

---- Respondents

For the appellants	: Shri Neeraj Choubey, Advocate
For the State	: Shri Prafull N. Bharat, Additional Advocate General
For the Federation	: Shri Y.S. Thakur, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Judgment On Board

Per Thottathil B. Radhakrishnan, Chief Justice

01/08/2017

1. The appellants were employed in the service of an Apex Society as defined in Section 2 (a-i) of the Chhattisgarh Co-Operative Societies Act, 1960; for short, '*the Act*'. They claimed entitlement to continue in service till the age of 62 years in view of a decision rendered by the Registrar Co-operative Societies in terms of Section 55 of that Act. The learned Single Judge dismissed their writ petitions. Hence, these appeals.

2. The learned counsel for the appellants argued that the directions given under Section 55 of the Act is binding on the employer-Society. Making copious reference to the different provisions of law and judicial precedents referred to by the learned Single Judge and also to the judgment of the Madhya Pradesh High Court in ***M.P. State Co-Operative Dairy Federation vs Madan Lal Chourasia, AIR 2007 M.P. 214***, he argued that the employer Society has all the characteristics of 'State' by reason of the quality of the representation of the interest of the government in the said Apex Society.
3. Per contra, the learned standing counsel for the Society argued that even assuming that the communication of the Registrar is treated as an order in terms of Section 55, the same was made conditional on its acceptance by the Board of Directors of the Society. Relying on the judgment of this Court in ***Writ Appeal No. 298 of 2014 'Rajesh Shrivastava vs. Narayan Sharma and Others'*** (judgment dated 25/08/2014) he also argued that a Co-operative Society registered under the Act is a body different from the State Government.
4. ***Madan Lal Chourasia*** (supra) fundamentally dealt with the issue as to whether writ petitions under Article 226 would lie against Co-operative Societies. Dialating on the scope of Article 12 of the Constitution, it was ultimately held that the writ petitions would lie on given set of situations, though the alternate remedy principle and other relevant issues cannot be excluded while considering whether the writ petition is to be entertained in relation to a matter touching a Co-operative Society. In ***Rajesh Shrivastava*** (supra), this Court noted that merely because an Apex Society falls within the term 'State'

in Article 12 of the Constitution, it does not mean that it is part of the State Government. It was also held that the employees of an Apex Society are not government servants and Article 311 of the Constitution does not apply to them.

5. The decision of the Registrar, which is relied on by the appellants, end by requiring that it be placed before the Board of the employer Society. The Society's Board refused to accede to the modification suggested by the Registrar. Obviously therefore, the employees of the Society could not claim that they were entitled to continue in service till attaining the age of 62 years. Therefore, the reasoning of the learned Judge leading to the dismissal of the writ petition cannot be faulted on any count referable to the contents of the Registrar's communication warranting interference with the impugned judgment.
6. Learned counsel for the appellants argued that since the employer-Society was under the management of an administrator at the relevant time, directions of the Registrar ought to be enforced. In the case in hand, as noted above, the Registrar has made an order enhancing the age of superannuation, subject to it being approved by the Society. It would make no difference whether there is an elected Board or Committee in office or whether the Cooperative Societies is under the control of any administrator or other alternative arrangement. This is because the Cooperative Society is an institution by itself and a legal entity. The argument that the Registrar's order should be treated as an un-conditional one since the Society was managed by an administrator is therefore repelled.

7. Even under the Act, as is discernible from Section 2(z) read with Section 4 of the Act, the underlying doctrine of a Cooperative Society is that its object ought to be the promotion of the economic interest of each member or their general welfare in accordance with Cooperative Principles or a Society is established with the object of facilitating the operations of such a Society. This statutory situation gets formidable constitutional support from Article 43 B in Part IV of the Constitution of India included as per the Constitution 97th Amendment w.e.f. 15.02.2012. By that Constitutional Amendment, endeavor to promote voluntary formation, autonomous functioning, democratic control and professional management of Cooperative Societies were included among the Directive Principles of the State Policy. The legislative history of the Act, as it now stands, would show that various provisions were brought in from time to time, including Section 48C which provides the powers of the Board of the Society. That provision of the Act says that the Board shall, in accordance with byelaws, have power to, *inter alia*, framed policies concerning qualifications, recruitment, service conditions of the staff and other matters relating to staff, with the approval of the Registrar. That amendment was brought in with effect from 08.05.1994 as per M.P. Amendment Act 12 of 1994, while Section 55 of the Act was already there. It would be worthwhile to bear in mind that appropriate balancing has to be done between the autonomy given to the Co-operative Societies and its statutory power to draw up its own policies as against the erstwhile jurisdiction of the Registrar to determine the conditions of the employment in the societies. However, we do not

further proceed to consider that aspect of the matter since even without that, the *lis* in hand stands answered against the appellants with reference to the contents of the Registrar's decision relied on by them, as held in paragraphs 5 and 6 above.

8. In the result, these Writ Appeals are dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge