IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.09.2018
CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
W.P.No.10602 of 2016
and
W.M.P.No.9293 of 2016

The Government Telecommunication
Employees' Cooperative Society Limited,
rep.by its Chief Executive Officer E.Kannan
No.37A, Sembudoss Street,
Chennai - 600 001. .. Petitioner

Vs.

1.The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhavan,
H.C.Mathur Lane, Janapath,
New Delhi - 110 001.

2.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Andhra Pradesh Telecom Circle,
Door Sanchav Bhavan Abids,,
Hyderabad - 500 001.

3.The Accounts Officer(Pay and Claims),
Office of the General Manager,
Telecom District,
Bharat Sanchar Nigam Limited,
Tirupati - 517 501. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Letter No.GMTD/TRP/AO(P)/2014-15/Vol.II dated 03.08.2015 and to quash the same and direct the 3rd respondent to recover the dues payable to the petitioner society from 41 members of the petitioner society being the employees of the 3rd respondent and more fully detailed in the Annexure in accordance with the demand raised by the petitioner society and remit the same into the account of the petitioner society within a time frame as may be specified by this Hon'ble Court.

For Petitioner : Mr.P.Wilson, Senior Counsel
For M/s.B.Ullasavelan

For Respondents : Mr.T.Ravikumar

O R D E R

The lis on hand has arisen consequent to the order impugned dated 03.08.2015 issued by the third respondent, holding that with reference to the letters cited in the reference stipulated in the impugned order, it is stated that a final decision of the competent authority of the Bharat Sanchar Nigam Limited (hereinafter referred to as BSNL) was communicated to the writ petitioner in their office letter dated 24.08.2013 and the petitioner was advised to take suitable remedial action as deemed fit for recovery from the borrowers. It is once again stated that the loan applications were not authenticated / authorised by the Accounts Officer(Pay & Claims).

2.The letter referred dated 24.08.2013 states that already the writ petitioner was informed that the loan applications were not authenticated / authorised by the Accounts Officer(Pay & Claims), office of the GM Telecom, Tirupathi for recovery from the pay and allowances of the officials. Accordingly, the petitioner was advised to take suitable remedial action as deemed fit for recovery of the same from the borrowers.

3.On a perusal of the impugned orders, it is made clear that even before the year 2013, the respondents had informed to the petitioners that the loan applications submitted by the respective members of the petitioner society were not authenticated / authorised by the Accounts Officer(Pay & Claims) of BSNL. Thus, they are not obligated to recover directly from the salary of the BSNL employees and pay it to the writ petitioner's Cooperative Society. It seems that such a reply was given to the writ petitioner's Cooperative Society for many times and frequently. However, the petitioner has chosen to challenge the same only in the present writ petition during the year 2016. Thus, there is a delay even on the part of the writ petitioner's Cooperative Society in pursuing their remedy, knowing the fact that the respondent authority had informed them that they have not authenticated / authorised the loan applications submitted by the members to the writ petitioner's Cooperative Society for their borrowings.

4.The writ petitioner is the Government Telecommunication Employees Cooperative Society Limited, registered under the provisions of the Multi-State Cooperative Societies Act, 2002. The Cooperative Society was registered by its members and the members are the employees of the BSNL. The employees together constituted a Cooperative Society and registered the same under the Multi-State Cooperative Societies Act for the welfare of its members. Thus, a Cooperative Society, which is registered under the Multi-State Cooperative Societies Act is absolutely unconnected with the administrative affairs of the BSNL nor the

BSNL had involved in respect of the registration of such Cooperative Societies.

5.The writ petitioner states that the main business of the Society is to issue loans to the members, those who are working in the Department of Telecommunication / BSNL. The area of operation of the writ petitioner Society's is all over the States of Tamil Nadu, Puducherry, Kerala, Karnataka and Andhra Pradesh. The petitioner society is disbursing jewel loans to the needy members and granting them loans as per the terms and conditions. The funds of the society are raised by way of obtaining loans from various Banks and from, thrift deposit from the members besides interest derived from loans. As on date, about 17,000 members have been registered with the society. As per the bye-laws of the society, the loans are disbursed to the members and the maximum limit of Rupees Six Lakh according to their repaying capacity i.e., 20 times of their Basic Pay + Dearness Allowance or 20 times of share capital paid by the member, whichever is less payable in 90 monthly instalments. The writ petitioners have stated membership details and the bye-laws in relation to the activities of the Cooperative Society, which has no much relevancy in respect of the issues raised in this writ petition.

6.The learned Senior Counsel appearing on behalf of the writ petitioner mainly contended that Section 60 of the Multi-State Cooperative Societies Act 2002, which reads as follows:

> "60. Deduction from salary to meet multi-State co-operative society's claim in certain cases.—
>
> (1) Notwithstanding anything contained in any law for the time being in force, a member of a multi-State cooperative society may execute an agreement in favour of that society providing that his employer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand the member owes to the society.
>
> (2) On the execution of such agreement, the employer disbursing the salary or wages of the members shall, if so required by the multi-State co-operative society, by a requisition in writing and so long as the society does not intimate that the whole of such debt or other demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within a period of fourteen days of the date on which deduction has been made, as if it were a part of the salary or wages payable on the

day as required under the Payment of Wages Act, 1936 (4 of 1936), and such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

(3) If after the receipt of a requisition made under sub-section (2), the employer disbursing the salary or wages of the member at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the multi-State co-operative society, the society shall be entitled to recover any such amount from such employer as arrears of land revenue and the amount so due from such employer shall rank in priority in respect of the liability of such employer equal to that of the salary or wages in arrears.

7.Section 104 of the said Act stipulates Offences and Penalties, which reads as under:

"104. Offences and penalties.—

(1) A multi-State co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees.

(2) Any employer who, without sufficient cause, fails to pay to a multi-State co-operative society the amount deducted by him under section 60 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five thousand rupees.

(3) Any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a multi-State co-operative society of which he is an officer or custodian, to a person entitled under section 54, or section 70, or section 78, or section 79, or section 89 shall be punishable with fine which may extend to two thousand rupees and in the case of a continuing breach, with a further fine which may extend

to five thousand rupees for every day during which the breach is continued after conviction for the first such breach.

(4) Whoever, before, during or after the election of delegates under the proviso to sub-section (1) of section 38 or election of members of the board,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or 39

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity; or

(d) without due authority supplies any ballot paper to any person or received any ballot paper from any person or is in possession of any ballot papers; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes, with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts;

(h) offers any gift or promises to offer any gratification to any person with the object, directly or indirectly, of including—

(i) a person to stand or not to stand as, or to withdraw or not to withdraw from, being a candidate at an election; or

(ii) a member to vote or refrain from voting at an election, or as a reward to a person for having so stood or not stood or for having withdrawn or not having withdrawn his candidature; or

(iii) a member for having voted or refrained from voting, shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

8.The learned Senior Counsel relying on the above two provisions, contended that the 3rd respondent has mandated under the Act to deduct the salary and remit the same to the writ petitioner's Cooperative Society and the same is the statutory obligation on the part of the respondents. However, the 3rd respondent is deducting only Rs.910/-(Rupees Nine Hundred and Ten only) from its employees, who all are the members of the petitioner's society towards Thrift Fund, Family Welfare Scheme and Surety Relief Fund per month as per the requirement. However, the loan dues of the members/employees of the BSNL have not been recovered from their respective salary and deposited to the accounts of the writ petitioner's society by the 3rd respondent. Thus, the writ petitioner is constrained to move the present writ petition.

9.The learned Senior Counsel is of an opinion that similar Cooperative Societies are functioning in respect of many other Central Government Departments including the Postal Department. In all such societies, the respective Pay Disbursing Officer of the Government of India of that Department is recovering the salary from the employees and depositing the same to the concerned Multi-State Cooperative Society in accordance with the Act. Thus, the respondents herein are also obligated under the provisions of the Act to recover the loan dues of the Cooperative Society from the salary of its employees, who all are the members of the Society and deposit the same in the Society on the basis of the demand raised by the Cooperative Society on monthly basis. The petitioner's Society is sending demands every month to the respondents. However, they have sent a reply by stating that there is no authentication / authorization and therefore, they are not duty bound to recover the same from the employees of the BSNL.

10.The learned Senior Counsel contended that at the time of submission of membership application, the Accounts Officer (Pay & Claims) endorsed the application for membership. Thus, the respondents are bound by that endorsement and therefore, they have to recover the loan dues from the salary of the BSNL employees and pay the same to the petitioner's Cooperative Society. It is contended on behalf of the writ petitioners that once the membership application is signed by the Accounts Officer, then it is implied that the respondents are aware of the membership of the employees of BSNL in the writ petitioner's Cooperative Society and therefore, they are bound to recover the loan dues also from the employees of the BSNL.

11.The learned counsel appearing on behalf of the respondents assailed the arguments of the learned Senior Counsel appearing on behalf of the writ petitioner in entirety. The learned counsel for the respondents emphasized that the factual aspects projected by the writ petitioner in the writ petition are incorrect and not in accordance with the provisions of law. At the first instance, the learned counsel for the respondent states that they are not proper and necessary parties to the present writ proceedings as they are no way connected with the loan transactions as it is a private affair between the petitioner's society and its members, who have not been made parties herein and therefore, no relief can be granted as against these respondents. The learned counsel is of an opinion that the members of the Cooperative Society, who borrowed the loan by signing the agreement with the petitioner's society are not even impleaded as a party respondent in the writ petition. In such an event, no writ petition can be entertained in view of the fact that the entire issues are in relation to the borrowings by the members of the writ petitioner's Cooperative Society. When the matter of recovery, they are all necessary parties and they have not been impleaded in the writ petition. Thus, the writ petition is liable to be dismissed in limini.

12.The application of 41 members for enrollment into the petitioner's Society alone were forwarded to the 3rd respondent as it was purely for saving purposes and not for disbursement of loans. Consequently, the monthly recovery of Rs.910/-(Rupees Nine Hundred and Ten only) was done from the salary of the said member and remitted to the society, which was not for any loans sanctioned. The allegations made by the petitioner that for 91 applications for the purpose of loan were processed by the 3rd respondent is factually incorrect and far from truth. Only 41 applications were considered for membership purpose only and that too for saving of salary as deposit and not for seeking any loans from the Cooperative Society. The pay slips are H.R.System generated ones and does not contain the signature and seal of authorised officials, which was submitted for loan purposes. Thus, the H.R.Portal was used for personal use of each employee to update leave and to get personal information and for knowing the salary particulars and for downloading their monthly pay slips and not for the purpose of obtaining any loans.

13.It is pertinent to state that the pay slips produced along with the loan application by the employees were computer generated one, which is not counter signed and scrutinized by the Accounts Officer(Pay), who is the drawing and disbursing officer, and therefore, the sanction of the loan of Rupees Three Lakh given to the employees are not known or disclosed to the drawing and disbursing officer as it is a private transaction entered between the petitioner society and its members. No mandate for the same was given by these respondents. Thus, in the impugned order dated 03.08.2015, it was mentioned that the applications were not authenticated and not authorized for any loan processing done by the respondents.

14.The learned counsel for the respondents states that if the loan applications were processed by the 3rd respondent for the purpose of sanctioning loans, then alone the recovery is mandatory from their end as enshrined in the bye-laws and also in the Multi-State Cooperative Societies Act. However, no such execution of an agreement legally took place before sanctioning of loans to the members of the writ petitioner's society. The loans, if any granted by the petitioner's society are unauthorized and the documents produced now by the petitioner are forged by some other persons and the drawing and disbursing officer had not counter signed the said loan application forms, which is mandatory.

15.It is stated that in the writ petition affidavit that the 3rd respondent / DDO had signed only the membership application and hence to that effect, thrift deposit and family member and surety relief funds per month to the tune of Rs.910/- (Rupees Nine Hundred and Ten only) is being deducted and sent to the Employees society, which is as per existing agreement entered between the Society and the 3rd respondent. No mandate / agreement had been entered for disbursing of loan between the petitioner's society and the 3rd respondent nor any prior intimation before disbursement of the loans, which were given to the employees were done by the writ petitioner.

16.No agreements were counter signed by the respondents for any loan purposes and the documents now produced before this Court are fabricated documents, which was signed by somebody else other than the 3rd respondent and given to the society, based on which, loans have been disbursed by the petitioner and only later this fact has been intimated to the department for effecting recoveries, which is not permissible as per law. The agreement now produced by the writ petitioner's Cooperative Society are not genuine and fabricated one since the signature and seal of the DDO has been forged based on which the writ petitioner had disbursed the loans. Only if the agreement is genuine and routed through proper channel, then it is mandatory to recover from the employees salary and these facts were also conveyed to the writ petitioner when they had intimated that recovery is to be made.

17.In respect of the letter written by the Chief Executive of the Petitioner Society, proper reply was given disclosing the above facts, which all are suppressed and thereafter, the present writ petition is filed. Courts would not entertain the writ petitions on disputed question of facts, especially when forged and fabricated documents have been filed by the writ petitioner before this Hon'ble Court and consequently, the Writ Court would not adjudicate these issues and only the competent Civil Court will go into such disputed facts by adducing evidences and verifying the original documents.

18.The third respondent sought for the copies of the application and records from the writ petitioner and after perusing the same, it was found that the said loan applications were fabricated and forged before disbursement of loans and therefore, no fault could be found with the 3rd respondent for not making recovery of the loan amounts as there was no authorization given by the respondents in the first instance before the disbursement of any loan to the individuals. All these cases require detailed investigations to be conducted before any action is to be taken and therefore, at this juncture, no relief can be granted to the writ petitioner. The impugned order dated 03.08.2015 is proper and valid, issued to the Chief Executive of the writ petitioner's society as they had disbursed the loans to its members without following due procedure before granting loans nor obtaining concerned / mandate from the drawing and disbursing officer before disbursement of loans to the individuals.

19.Another Cooperative Society called the Chittoor District Cooperative Credit Society is serving for the employees of the office of the officials, working in BSNL, Tirupati. As per standing procedures, the 3rd respondent is authorizing loans to the employees, who are the members of the Chitoor District Cooperative Credit Society, Chittoor after reviewing the officials pay and allowances and recoveries made and the applications are being forwarded to the Chittoor District Cooperative Credit Society from this office. The 3rd respondent after following the above procedures authorizes the Chittoor Cooperative Credit society to grant loan to the employees. The petitioner society had included 91 members, who are the existing members and loan granted ones in Chittoor Cooperative Credit Society, Chittoor and recoveries for the said loans are being made for the same employees and remittances are made to the Chittoor District Cooperative Society. Thus, the petitioner’s society is solely liable for its acts as it had disbursed loans without obtaining proper authorization / information from the respondents nor ascertaining the repayment capacity of each employee from the 3rd respondent / DDO. The writ petitioner’s Cooperative Society had sanctioned loans without following the proper procedure and as such recovery is not possible for such huge amount from the salary of the employees when there are other recoveries that are made on the loan sanctioned from another Society and Banks.

20.It is stated that membership applications are authorized since the same was counter signed by the DDO and no loan application were signed by the DDO or the Accounts Officer (Cash) and the documents produced before this Court are fabricated documents, which have been placed before the Court. None of the loans were issued through the Respondent's office as the same was directly given to the Employees, who had not been made parties herein and therefore, the question of recovery does not arise as it is purely a private transaction between the writ petitioner and the individuals, who had taken loans. Thus, none of the respondents are connected with the alleged transaction and therefore, the writ petition is liable to be dismissed.

21.Considering the arguments as advanced by the learned Senior Counsel for the writ petitioner and the learned counsel for the respondents, this Court has to find out in the absence of any authorization / authentication by the respondent authorities, whether the agreement signed by the employees / members of the writ petitioner's Cooperative Society is binding on the respondents for the purpose of recovering the loan dues directly from the salary of its employees and repay the same to the writ petitioner's Cooperative Society.

22.In this regard, let us now look into the very spirit of Section 60 of the Multi State Cooperative Societies Act, 2002. The Act enumerates that "A member of a Multi State Cooperative Society may execute an agreement in favour of their society providing that his employer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand the member owes to the society."

23.On reading of the above provision, this Court is of an opinion that the nature of the agreement is certainly tripartite i.e., that whenever a member of a Cooperative Society, who is an employee of BSNL submits a loan application to the Cooperative Society for sanctioning of loan, the first aspect is that the member should sign the loan application and the Cooperative Society also should acknowledge the application and the Pay Disbursing Officer / the competent authority of BSNL, should also declare that they will deduct the monthly loan dues from the salary of the BSNL employees and repay the same towards debt. The importance of such a tripartite agreement is that the administration of a Cooperative Society is entire independent and a private one. A Cooperative Society, registered under the provisions of the Multi State Cooperative Societies Act is not a "State" within the meaning of Article 12 of the Constitution of

India. The entire reading of the provisions of the Multi State Cooperative Societies Act is clear that few members shall constitute a society and register the same under the provisions of the Multi State Cooperative Societies Act.

24.Section 5 of the Multi State Cooperative Societies Act stipulates that Multi State Cooperative Societies, which may be registered; Section 6 of the Multi State Cooperative Societies Act denotes Application for Registration; Section 6(2)(a) of the said Act states that in the case of a multi-State co-operative society of which all the members are individuals, by at least fifty persons from each of the state concerned; Section 7 of the Act deals with Registration and as per Section 9 of the Act, the Multi State Cooperative Society to be body corporate and the bye-laws are approved by the Central Registrar. Thus, for all purposes, the writ petitioner is a Cooperative Society, functioning pursuant to its registration under the provisions of the Multi State Cooperative Societies Act and the controller of the Society is the Central Registrar. The administration of the Cooperative Societies are done by the elected members of the society and the decisions are taken with the approval of the General Body members. Thus, the affairs and the administration of the writ petitioner Cooperative Society is absolutely unconnected with the BSNL, which is a Government of India organization. In such an event, the private affairs between the writ petitioner's Cooperative Society and its members can neither be controlled by the respondent authority nor can be inspected or checked by the respondent authority. When there is no administrative control or otherwise in respect of the petitioner society by the Government of India organization, it is to be construed that the Government of India organizations such as BSNL and other organization are not obligated to recover the loan dues of its employees in respect of Cooperative Societies only on the demand of such Cooperative Societies. If any authorization or authentication is provided by the competent authorities of the Government of India organization to the Cooperative Society, then only the respondents are obligated to recover the same from its employees and repay the money to the Cooperative Society towards its loan dues / debts.

25.Section 60 of the Multi State Cooperative Societies Act cannot be interpreted in isolation to the nature of the transactions carried out. Section 60 of the said Act cannot be interpreted, so as to provide that any Multi State Cooperative Society or other Cooperative Societies Act directly grant loan to its members without any authentication / authorization by the Pay Disbursing Officer and thereafter, submit a demand for recovery of the loan dues from the salary of the employees and repay the same to the Cooperative Society. Such a concept if implemented would certainly be in violative of the very basic principles enunciated in the Indian Contract Act.

26.Any agreement or contract requires declaration / authorization / authentication by all the parties concerned. In the absence of any authorization / authentication, obligation cannot be fixed on the person, who is not a party to such contract or agreement. Thus, it is a pre condition that the signatories to the agreement alone is obligated to implement the terms and conditions of the agreement and one can enforce the terms and conditions in respect of the third parties, who all are not the signatories of the agreement or the contract. This being the basic principles of the law of Contract / agreement, the very concept mooted out by the learned Senior Counsel is that even in the absence of any authorization / authentication by the Pay Disbursing Officer, the Government of India organization like BSNL is bound to deduct the loan dues from the salary of its employees and pay the same to the writ petitioner's Cooperative Society is absolutely contrary to the basic principles of law. The argument has no enforceability at all in the eye of law, more specifically, Section 60 of the Multi State Cooperative Societies Act. In the present context is to be interpreted with reference to the nature of transaction to be carried out by the respective parties and not for the purpose of recovering the loan dues as it is. Constructive interpretation of the statutes are to be followed in such circumstances, where the agreements and contracts are involved. Interpretations cannot be provided to defeat the basic principles and contentions of the Indian Contract Act. Thus, this Court has to analyse the nature of the transactions along with the provisions of law, so as to provide a positive way of dealing with the matter in the interest of all parties, and to uphold the rule of law and justice.

27.The respondents, at the outset, contended that right from the year 2011, they are submitting reply to the writ petitioner's Society that they are not obligated to recover the loan dues from its employees as there is no authorization / authentication by the competent authority / Pay Disbursing Officer. The 1st Letter now submitted before this Court dated 25.02.2011, the said Letter reads as follows:

> “It is noticed that loans are being sanctioned to the BSNL employees of Tirupati SSA by the Chennai Society without any mandate from the concerned AO of this office. And demand statements are being received from you for recovery of loan installments and

remittance w.e.f Jan-2011 onwards. In this connection it is to inform that the loan recoveries proposed by you in Feb-2011 demand statement are not recovered by this office(except Sri.A.Natesan, DGM(F & A) whose loan application was sent duly signed by the AO concerned of this office) since the loan applications/mandate were not signed by the concerned AO. Moreover all employees have availed loan from Chittoor Telecom Coop Society, Chittoor. You are aware that Telecom employees can avail loan from only one society.

Therefore, it is not possible to effect loan recoveries now onwards by this office since this office is no way connected with the loans sanctioned by you. Further, Sri.V.Reddanna, T.M.of this SSA(Sl.No:43 of Feb-2011 recovery list) has complained to CGMT-Hyderabad that even though he repaid all loan to you, recovery of Rs.7935-00 has been proposed in this month. Enquiry has been made from Vigilance Wing of Circle office, Hyderabad with DGM Finance, Tirupati in this regard.

This issues with approval of DGM Finance, Chittoor SSA.

Kindly acknowledge the receipt of this letter.

28.The said Letter unambiguously states that it is not possible to effect loan recoveries as the respondents are no way connected with the loans sanctioned by the writ petitioner’s Society. However, the writ petitioner’s society have not taken any action from the year 2011 onwards. Contrarily, they were keeping silence till the year 2016. When the present writ petition was filed on 15th March 2016, what all are the actions taken by the writ petitioner's Cooperative Society for recovering of such loan dues during the Interregnum period have not been explained before this Court. This Court is of a prima facie doubt that there is a possibility of collusion both on the part of the Administrators of the Writ petitioner's Cooperative Society and its members, who all are the employees of the BSNL.

29.Surprisingly, the respondents have emphatically stated that the signature of the Pay Disbursing Officer in the loan application are forged one and the same has been verified by the respondents, while calling for the files from the writ petitioner's Society, the respondents found that the signatures of the Pay Disbursing Officer / competent authorities were forged. If that is the decision conveyed to the writ petitioner’s society, what all are the actions taken by the writ petitioner's cooperative society in respect of such fraudulent signatures in the loan application submitted by the members and in respect of their illegal acts. If the respondents have expressed their opinion that the signatures of the competent Government officials are forged in the loan applications, certainly appropriate actions ought to have taken by the writ petitioner's society.

30.However, the learned Senior Counsel for the writ petitioner is unable to convey anything in respect of penal actions initiated against all such forged signatures. Contrarily, in the year 2016, the writ petitioner has filed the present writ petition for a direction to recover the loan dues from the salary of all those employees and repay the same to the Cooperative Society. The entire circumstances narrated creates a strong doubt in the mind of this Court that there is a possibility of nexus and collusion between the administration of the writ petitioner's Cooperative Society and its members at the time of sanctioning of such loans. These aspects are to be investigated by the Central Registrar of the Multi State Cooperative Societies Act, by ordering for an enquiry under the provisions of the Act and if there is any irregularity, illegality or malpractice or financial loss caused to the Cooperative Society, then the authorities competent are bound to initiate prosecution, disciplinary action for recovery of the financial loss caused to the Cooperative Society.

31.The respondents, right from the year 2011 onwards repeatedly sending reply letters to the writ petitioner's Cooperative Society by stating that the competent authorities have no knowledge or consent in respect of sanction of loans to the writ petitioner's society. Further, they have conveyed their decision that they cannot recover the salary in the absence of any authentication / authorization from the Pay Disbursing Officer. Several Letters were placed before this Court including the one dated 25.06.2015, it is clearly stated that the loans were sanctioned to the employees without the knowledge and consent of the DDO of the BSNL office. Thus, they are not responsible for recovery of such loan dues from the salary of the respective employees in the BSNL. In spite of several communications sent by the respondents to the writ petitioner's society, no action has been taken by the Writ petitioner's Society either to prosecute the defaulted members or to initiate action in respect of forged signatures and submission of fraudulent documents. There is no such averment in the writ petition itself and even there is no submission in this regard by the learned Senior Counsel appearing on behalf of the writ petitioner. Thus, the entire transaction of sanctioning of loan in respect of certain members based on the forged signatures in the loan application are at the first instance of the writ petitioner’s cooperative society and there is a possibility of collusion between the staffs of the Cooperative Society and its members. All these aspects require a detailed enquiry and investigation by the competent authorities.

32.Chapter VIII of the Multi State Cooperative Societies Act, 2002 deals with Audit, Enquiry, Inspection and Surcharge. Section 78 of the Act empowers the Central Registrar to order for an Inquiry; Section 79 of the Act provides Inspection of Multi State Cooperative Societies; Section 80 of the Act provides Inspection of books of indebted Multi-State Co-operative Societies; Section 83 of the Act deals with Repayments, etc.,. The Act provides actions to be initiated in respect of such fraudulent activities means appropriations, irregularities, illegalities in respect of the administration etc.,.

33.This being the factum, even the writ petitioner's society would have requested the Central Registrar to order for an enquiry into the affairs of the administration, other irregularities if any occurred. Contrarily, they have moved the writ petition only with an idea to recover the amount from the salary of its members through the respondents in the absence of any authorization / authentication from the Pay Disbursing Officer of the BSNL. Such an action of the writ petitioner’s society are certainly improper. At the first instance, when the writ petitioner's Cooperative Society came to understand that the signatures of the Pay Disbursing Officer in the loan applications are forged one, they are obligated to initiate immediate Penal action by registering a Police Complaint against all such persons, who submitted such forged loan applications. However, no such actions are initiated. This Court is unable to understand how such fraudulent signatures of the Government officials are tolerated by the officials of the writ petitioner’s Cooperative Society. Thus, this creates a doubt in the mind of the Court in respect of the functioning and the activities of the writ petitioner’s Cooperative Society. Any officials of a Cooperative Society in the event of any knowledge about such forgeries in the signature or submission of fraudulent document, they are duty bound to initiate immediate actions by registering a complaint before the Police or at least they should have conducted an enquiry through Enquiry officer to be appointed by the Central Registrar under the provisions of the Multi State Cooperative Societies Act, 2002. However, nothing happened.

34.It is a great surprise that when so much of fraudulent applications are submitted for the purpose of grant of loan in the writ petitioner’s Cooperative Society, no action has been taken against all such fraudulent applications. Thus, this Court is of an opinion that the very ground raised in this writ petition for a direction to direct the respondents to recover the loan dues from the salary of its employees and repay the same to the writ petitioner's Cooperative Society is unsustainable and not supported with any legal backing. In the absence of specific authentication / authorization on the part of the Pay Disbursing Officer / the competent authorities by way of an agreement, which is required under the provisions of the Multi State Cooperative Societies Act. No such direction as such sought for in the present writ petition can be granted. Thus, it is left open to the writ petitioner's Cooperative Society to initiate all penal and other actions provided under the provisions of the Multi State Cooperative Societies Act, 2002 and its rules, bye-laws of the society to recover the loan dues directly from its members and by following the procedures as contemplated. The writ petitioner's Cooperative Society also shall submit an application to the Central Registrar for the purpose of conducting a statutory enquiry / inspection into the affairs of the Cooperative Society and on submission of the enquiry report, all further actions shall be taken in this regard against the irregularities, illegalities or financial loss caused to the Writ petitioner's Cooperative Societies. As far as respondents in the the present writ petition are concerned, they are no way connected with the sanctioning of loan to the members of the writ petitioner's Cooperative Society nor authenticated / authorized loan applications submitted before the writ petitioner's Cooperative Society. Thus, the private loan transactions undertaken between the writ petitioner's society and its members would not be binding on the respondents/officials, who have no knowledge or given consent in respect of grant of any such loan to the members of the writ petitioner's Cooperative Society.

35.Thus, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhavan,
H.C.Mathur Lane, Janapath,
New Delhi - 110 001.

2.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Andhra Pradesh Telecom Circle,
Door Sanchav Bhavan Abids,,
Hyderabad - 500 001.

3.The Accounts Officer(Pay and Claims),
Office of the General Manager,
Telecom District,
Bharat Sanchar Nigam Limited,
Tirupati - 517 501.

+1cc to Mr.B.Ullagavelan, Advocate, S.R.No. 60767
+2cc to Mr.T.Ravikumar, Advocate, S.R.No. 61131

W.P.No.10602 of 2016

GJII(CO)
GN(20/09/2018)