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W.P.No.18191 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :11.11.2022

PRONOUNCED ON: 06.01.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.18191 of 2018 &
WMP.Nos.21496 & 21497 of 2018 & 23913 of 2022

Air Corporation Employees Co-operative Credit Society Ltd.
(CR.25/86)

Rep. by President,
AIR Lines House,
Meenambakkam, Chennai-600 027.

...Petitioner

Vs.

1.The Central Registrar,
Central Registrar of Co-operative Societies,
Ministry of Agriculture,
Department of Agriculture and Corporation,
(Cooperation Division),
Krish Bhavan, New Delhi 110 001.

2.The Registrar of Cooperative Societies,
170 EVR Road,
Dr.Radhakrishnan Nagar,
Razaak Garden, SBI Officers Colony,
Arumbakkam, Chennai-600 106.

3.The Additional Registrar,
Office of the Additional Registrar of Cooperative Societies,
Chennai Region,
Chennai – 600 018.



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4.The Cooperative Sub-Registrar/Managing Director,
(Inspection Officer),
Civil Supplies Corporation Employees Cooperative Society,
Chennai 600 001.

5.B.Sundaramoorthy

...Respondents

(R5 impleaded as per order dated 12.02.2020
made in WMP.No.22577 of 2019 in
WP.No.18191 of 2018)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorari, to call for the records of 1st Respondent letter
dated 8.12.2017 vide No.R-11017/90/2017-L & M, the 2nd Respondent letter
No.Rc.85210/2017 BI-3 dated 20.12.2017 and the letter of the 3rd
Respondent in Rc.No.64/2018/C2, dated 10.01.2018 and to quash the same.

For Petitioner : Mr.AL.Somayaji, Senior Counsel
For Mr.A.Jenasenan

For Respondents : Mr.J.C.Durairaj (for R2 to R4)
Additional Government Pleader

Mr.Arun Kumar Rajan (for R5)
For Ms.S.Bhargavi

No appearance – R1

ORDER

The petitioner is the Air Corporation Employees Cooperative Credit
Society Limited, a thrift society comprising of members of Air India and



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erstwhile Indian Airlines Limited including Pilots, Cabin Crews, Managerial staff, Ground staff and other sections of employees, hereinafter referred to as 'Society'. It is registered under the Multi-State Co-operative Societies Act, 2002, hereinafter referred to, in short as 'Act'.

2. The petitioner challenges a communication from the third respondent, i.e., the Additional Registrar of Cooperative Societies, Chennai/R3 dated 10.01.2018 proposing to conduct an inspection to enquire into the records of the Society including the conduct of the General Body Meeting held in 2015 including the election of office bearers and the subsequent expulsion of members.

Facts

3. The impugned proceedings have been instigated by two complaints dated 19.03.2016 and 28.10.2016 filed by members, and forwarded by the Air Corporation Employees Union to R1 alleging serious irregularities in the conduct of elections. One of the members who had expressed disgruntlement has been impleaded as R5 and has filed a separate counter as well as vacate stay petition in support of his stand.

4. R5, who was an employee of an Air India had been expelled from membership and this was also one of the causes for complaint. The



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complainants urged that an inspection of the books and accounts of the Society be conducted in terms of Section 108 of the Act.

5. R5 has cast various allegations upon the conduct of the general body election conducted in 2004. He alleges that the then President had claimed his tenure to be of 5 years which is itself contrary to the bye-laws. The conduct of proceedings during his tenure was also opposed to the bye-laws and several records were fabricated. Those of the members who had raised objections to the improper manner in which the proceedings were being conducted were simply expelled.

6. On 18.02.2016, some members had sent a joint representation to R2 highlighting the alleged irregularities and asking for the appointment of a Special Officer. Since there was no action taken on the representation filed, W.P.No.20521 of 2016 had come to be filed praying for a mandamus to direct R2 to consider the representation.

7. The Writ Petition was dismissed on 17.06.2016, this Court observing that since the matter pertained to election, it was always open to the aggrieved parties to move the concerned authorities by way of an election petition.

8. 485 members of the society thereafter wrote to R2 on 04.07.2016



seeking the conduct of an enquiry in regard to the alleged irregularities in the functioning of the petitioner society. As a measure of forestalling the action initiated by the members including R5, a show cause notice was issued to R5 on 23.07.2016 levelling various allegations against him.

9. Despite an explanation tendered by R5, he was expelled under cover of letter dated 13.08.2016 pursuant to a resolution purported to have been passed in a special general body meeting held on 13.08.2016.

10. Undaunted by the expulsion, R5 made representations again on 29.07.2016 and 28.10.2016 to R2 and Central Vigilance Commission (CVC) to look into the irregularities in the matter. The CVC forwarded the representation to the Department of Agriculture, Cooperation and Farmers Welfare, who thereafter initiated the impugned train of proceedings.

11. The Petitioner, upon enquiry, had come to know that though proceedings had, in fact, been initiated by the Central Registrar of Co-operative Societies, New Delhi/R1, R1 had, vide letter dated 08.12.2017 deputed the Registrar of Cooperative Societies, Chennai/R2 to conduct the inspection.

12. R5 also claims to have appeared before the authorities in the course of enquiry and states that R4 has prepared his report and submitted



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the same to R1 in June, 2018. It is at that juncture that the present Writ Petition had been filed by the petitioner and interim protection obtained.

13. In turn R2, vide letter dated 20.12.2017, had deputed the Additional Registrar of Co-operative Societies, Chennai/R3 to conduct the same and R3 further sub-delegated the conduct of enquiry to the Co-operative Sub-Registrar/Managing Director (Inspection Officer), Civil Supplies Corporation Employees Cooperative Society, Chennai/R4, who has penned the impugned communication proposing to conduct the inspection.

14. Heard the detailed submissions of Mr.AL.Somayaji, learned Senior Counsel for Mr.A.Jenasenan, learned counsel on record for the petitioner, Mr.J.C.Durairaj, learned Additional Government Pleader for R2 to R4 and Mr.Arun Kumar Rajan, learned counsel for Ms.S.Bhargavi, learned counsel on record for R5.

Submissions of the petitioner

15. The petitioner does not question the authority of R1 to conduct inspection under Section 108 of the Act. However, it is the act of sub-delegation down the ranks by R1 to R2 to R3, ultimately culminating in the hands of R4, which is the subject matter of challenge in this Writ Petition.



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16. Section 4 of the Act deals with 'Central Registrar' and sub-section

(1) states that the central Government may appoint a person to be the Central Registrar of Co-operative societies and such person to assist him. Section 4(2) elucidates upon the methodology to be followed by the Central Government in the matter of delegation of powers of a Central Registrar.

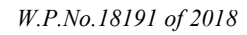
17. The methodology prescribed under Section 4(2) is by way of notification issued by the Central government authorizing an officer of the central/state government to exercise the powers of the Central Registrar, excluding the power of registration. The provision reads thus:

4. Central Registrar.-(1) *The Central Government may appoint a person to be the Central Registrar of Co-operative Societies and may appoint such other persons as it may think fit to assist the Central Registrar.*

(2) *The Central Government may, by notification, direct that any power exercisable by the Central Registrar under this Act (other than the power of registration of a multi-State co-operative society) shall, in relation to such society, and such matters as may be specified in the notification, be exercisable also by any other officer of the Central Government or of a State Government as may be authorised by the Central Government subject to such conditions as may be specified therein:*

Provided that no officer of a State Government shall be empowered to exercise such power in relation to a national co-operative society.

Provision has been made under this clause for the appointment of a Central Registrar with a proper scheme of delegation of powers to any officer of the Central Government



18. The provisions of Section 108 deal with the conduct of inspection multi-state societies. The petitioner draws specific attention to sub-sections (1) and (6) thereof. The provision, to the extent it is relevant for the purposes of this writ petition, reads thus:

• • • •

(iii) inspection of any books, register and other documents of the multi-State co-operative society at any place.



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(6) Where an inspection of the books of account and other books and papers of the multi-State cooperative society has been made under this section, the Central Registrar or an officer authorised under clause (ii) of sub-section (1), making the inspection shall make a report to the Central Government.

19. The power of inspection under Section 108 is vested with two authorities (i) the Central Registrar or (ii) any other person authorised by notification issued by the central government. Notification is defined under Section 3(s) to mean a notification published in the official gazette. There is no provision vesting authority in R1 to sub-delegate the power of inspection.

20. Section 108(6) specifically refers to either the Central Registrar or the person authorised under clause (ii) of sub-section (1), who shall submit a report of inspection to the central government. Thus, only R1, or in the alternative such officer who was authorised by the Central Government in that behalf, could have issued notice for the conduct of enquiry. The petitioners rely upon several cases to buttress their submissions and I have discussed the same in the paragraphs to come.

Submissions of the respondent

21. For their part, the respondents maintain that the delegation has



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been properly made. They place reliance on a notification issued by the Ministry of Agriculture and Co-operation on 24.02.2003. The Notification, in S.O.216(E) has been issued by the Joint Secretary and, in exercise of the powers conferred by sub section (2) of Section 4 of the Act directs that the powers exercisable by the Central Registrar under Section 84 of the Act shall also be exercisable by the Registrar of Co-operative Societies of the States and Union Territories in respect of the Societies located in their jurisdictions.

22. They also rely on a Circular in F.No.L-11017/10/2013L&M dated 29.05.2013 issued by the Central Registrar of Co-operative Societies and Joint Secretary to the Government of India. By virtue of this Circular, the Government has authorised the Registrar of Cooperative Societies of various States/Union Territories to exercise the powers under Section 108 of the Act in respect of multi-state Cooperative Societies located or operational within their State. The Registrar of Co-operative Societies or any other officer of the State Government, as the RCS may deem appropriate, *'shall carry out inspection of books of Accounts and other activities of the society'*.

23. Since the above Notification and Circular form the substratum of



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their arguments, the same are extracted below in full:

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'F.No.L-11017/10/2013L&M
Government of India
Ministry of Agriculture
Department of Agriculture & Cooperation
Krishi Bhavan, New Delhi
Dated the 29th May, 2013
CIRCULAR

Sub: Inspection of Multi State Cooperative Societies u/s
108 of the MSCS Act 2002.

With a view to ensure effective monitoring of the multi-state cooperative societies located in various states and union territories, the Government has decided to authorize the Registrar of Cooperative Societies of the states/union territories by delegating powers to them under section 108 of the MSCS Act 2002 of the multi-state cooperative societies located/operational within their state. The Registrar of Cooperative Societies or any other officer of the State Government, as the RCS may deem appropriate shall carry out inspection of books of Accounts and other activities of the society.

The list of multi-state societies registered till May 28, 2013 is enclosed with a request to carry out fact finding enquiry to ascertain the operational status of the society covering areas like, business operation, membership position, compliance with statutory provisions, etc. and submit a report to this office.

(Ashish Kumar Bhutam)
Central Registrar of Cooperative Societies
&
Joint Secretary to the Government of India'

'MINISTRY OF AGRICULTURE



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(Department of Agricultural and Co-operation)

NOTIFICATION

New Delhi, the 24th February, 2003

S.O. 216(E).-In exercise of the powers conferred by Sub-section (2) of Section 4 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002), the Central Government hereby directs that the powers exercisable by the Central Registrar under Section 84 of the Act shall also be exercisable by Registrar of Co-operative Societies of the States/UTs in respect of the societies located in their respective jurisdiction, subject to the following guidelines and conditions, that.-

1.Such powers in relation to a National Co-operative Society shall not be exercisable by these officers.

2.The officers shall comply with the directions (other than court cases) as may be given by the Central Registrar, appointed under Sub-section (1) of Section 4 of this Act, from time to time.

3.Appointment of arbitrators by the State Registrar of co-operative societies shall be subject to following guidelines:-

(a) In case of disputes relating to organizational and legal matters, arbitrators should either be a practicing Advocate or retired member of Judicial/Civil services or officers at least of the level of Deputy Registrar and above of co-operative department retired not more than two years prior to the date of appointment.

(b) In case of disputes relating to financial and banking matters including recovery disputes, persons having financial and accounting background like Chartered Accountants/ICWAs/retired bank officers (retired not earlier than two years) may also be considered for appointment in addition to the persons listed in clause 3(a).

4.The list of approved arbitrators shall be submitted to the Central Registrar within 15 days of approval. The updated list of all the approved arbitrators should be sent to the Central Registrar on quarterly basis.



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[F.No.L-11012/3/2002-L&M]
K.S.BHORIA, Jt. Secy. '

24. Learned counsel for R5 also cites in favour of the respondents, a judgment of the Hon'ble Supreme Court in the case of *Sidhartha Sarawgi V. Board of Trustees for the Port of Calcutta and others*¹. This judgment considers the principle of Delegates Non Potest Delegare, meaning that a delegate has no power to further delegate and carves out the exceptions that may be drawn in this regard.

Discussion

25. The Multi-State Co-operative Societies Act, 2002 has been enacted to consolidate the law relating to cooperative societies that have objects spread over different States and that have been set up to serve the interests of the members in more than one State.

26. The statutory scheme under the multi-state co-operative act in regard to the inspection of books of account under Section 108 of the Act is categoric to the effect that it is only the Central Registrar or such other officer, who is authorised by the Central Government, who may undertake such inspection.

¹ (SLP (Civil) No.18347 of 2013 and batch dated 16.04.2014



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27. In this case, the Central Registrar has delegated the powers down the ranks and through R2 and R3 to R4. The scope of such delegation must be set in the context of the authorisation that is envisaged under Section 108(1)(ii). One may take a cue in this regard from the provisions of Section 4(2) of the Act that have been extracted in paragraph 17 supra, wherein it is only by way of notification that the Central Government may authorise other officers of the Central/State Governments to engage in the exercise of power that has been granted to the Central Registrar under the Act.

28. The authority granted under Section 108(1)(ii) is thus explained or rather circumscribed by the mandate under Section 4(2) of the Act. Section 108(1)(ii) cannot be read in isolation of Section 4(2) and the two provisions must be read together and harmoniously to understand the scope of delegation that is permitted under the Act.

29. The definition of Central Registrar under Section 3(d) means, the Central Registrar of Co-operative Societies appointed under sub section (1) of Section 4 and includes any officer empowered to exercise the powers of Central Registrar under sub Section (2) of that Section. The definition also supports my view that the delegation of powers that vest in the Central Registrar must only be in the manner as prescribed under Section 4(2) that



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is, by notification issued by the Central Government.

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30. The term notification is defined under Section 3(s) to mean a notification published in the official gazette and thus it is only upon a cumulative satisfaction of the statutory requirements under Section 4(2) r/w 2(d) and (s) that the authorisation referred to under Section 108(1)(ii) would stand satisfied. I now proceed to test the delegation of authority in this case as against my understand of the law in the previous paragraphs under the head 'discussion'.

31. The respondents rely upon a notification issued in 2003, which, in my considered view, is irrelevant to the matter before me as that notification is specific to the provisions of Section 84 of the Act that deals with reference to disputes under Chapter IX entitled 'settlement of disputes'. The notification authorises State officials to exercise powers under Section 84 and imposes certain guidelines and conditions in that regard. The very fact that the Central Government has issued a notification, duly gazetted dealing with delegation of powers under Section 84 brings to bear upon the position that the respondents are aware of the statutory procedure set out for delegation of powers.

32. Seen in this context, Circular dated 24.05.2013 which forms the



substratum of the case of the respondents has no statutory force or sanction whatsoever. For starters, it is only an internal Circular and not a notification as statutorily defined under Section 2(s) of the Act which requires a notification to have been gazetted.

33. The delegation of authority to inspect in this case, is thus found to be contrary to the statutory scheme and R1 has certainly erred in delegating conduct of inspection to R2 and R3 who have perpetrated the error in delegating the matter to R4.

34. In *State of M.P. V. Bhupendra Singh*², the Hon'ble Supreme Court considered the delegation of power by the Central Government to the District Magistrate in the context of Section 7 of the Explosive Substances Act, 1908. That Act required the consent of the Central Government as a pre-requisite under Section 7 thereof. The Central Government by a Notification had entrusted its functions under Section 7 to the District Magistrate. The District Magistrate had, in turn, delegated the matter to the Additional District Magistrate and it is this train of delegation that had come to be challenged.

35. The Court held that when the power of granting sanction

² (2000) 1 SCC 555



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remained exclusively with the Central Government and had been delegated by way of a Notification to the State Government, it is improper for the latter to have further delegated to Additional District Magistrate such power.

36. In this context, they referred to an earlier judgment of theirs in the case of *Harichand Aggarwal v. Batala Engg. Co. Ltd.*³, wherein the Court was considering the delegation of powers under the Defence of India Act. That Act provided for the delegation of powers under Section 29 thereof by way of Notification issued under Section 20 by the Central Government to a District Magistrate.

37. The Court held that it was improper for the District Magistrate to have further sub-delegated the matter to an Additional District Magistrate and the fact that the Additional District Magistrate had been invested with all powers of District Magistrate under Section 10(2) of that Act was insufficient to sustain the delegation.

38. In the case of *Mathwada University V. Seshrao Balwant Rao Chavan*⁴, the Hon'ble Supreme Court was considering the delegation of powers under the provisions of Section 24(1)(xii) read with Section 84 of

³ AIR 1969 SC 483

⁴ (1989) 3 SCC 132



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the Mathwada University Act. The Court held in conclusion that the Executive Council that had been envisaged with the statutory powers of taking disciplinary action against an officer, could not be delegated to the Vice Chancellor and such action as had been taken by the Vice Chancellor could not be ratified. In fine, the disciplinary action taken by the Vice Chancellor and its ratification by the Executive Council were held to be unsustainable.

39. In *Chairman-cum-Managing Director, Coal India Ltd. V. Ananta Saha*⁵, the question that arose related to a departmental enquiry of an employee of Coal India Limited. Upon application of the maxim of *sublato fundamento cadit opus*, which means that in the event the foundation of a proceeding is vitiated, the entire superstructure would fall, the disciplinary proceedings that had gone on despite the failure of the Chairman and Managing Director to have recorded reasons in a proper manner, were held to have been vitiated.

40. In the case of *Sidhartha Sarawgi* (supra), the issue that arose pertained to the determination of lease that had been granted by the Calcutta Port Trust to those petitioners for 30 years. On 05.02.2008, the Port Trust

⁵ (2011) 5 SCC 142



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initiated action to demolish alleged unauthorized construction by those petitioners and eject their sub-tenants from the premises. This was followed by a notice terminating the lease. The ejectment notice was signed by the land manager and the thrust of the argument on behalf of those petitioners was that the land manager was incompetent to have issued the ejectment notice.

41. The Division Bench held in favour of the Port Trust, as against which, the lessees approached the Hon'ble Supreme Court. The Madras Port Trust Act, 1963 permitted delegation of powers with the approval of the Central Government under Section 21, that reads as follows:

“21. Delegation of powers.-A Board may, with the approval of the Central Government, specify-

a) the powers and duties conferred or imposed upon the Board by or under this Act, which may also be exercised or performed by the Chairman; and

b) the powers and duties conferred or imposed on the Chairman by or under this Act, which may also be exercised or performed by the Deputy Chairman or any officer of the Board and the conditions and restrictions, if any, subject to which such powers and duties may be exercised and performed:

Provided that any powers and duties conferred or imposed upon the Deputy Chairman or any officer of the Board under clause (b) shall be exercised and performed by him subject to the supervision and control of the Chairman.”



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42. Section 34 of the Port Trust Act provides for the mode of execution of contracts on behalf of the Board and stated that every contract was to be made by the Chairman or an officer of the Board not below the rank of Head of a Department as authorized by the Chairman, on behalf of the Board.

43. Resolution No.82 had been passed on 26.05.1988 in exercise of powers under Section 21 of that Act delegating the power to terminate any lease, upon the Chairman. The Chairman was also authorized under the same resolution to issue ejectment notices. Resolution 82 reads as follows:

“.. Resolution No. 82- Resolved to sanction the proposal for delegation of powers to the Chairman by invocation of section 21(a) of the Major Port Trust Act, 1963, the power to terminate leases sanctioned by the Trustees and to authorizing him to issue ejectment notices, subject to the sanction of the Government.”

44. In pursuance of that resolution, an office order had been issued by the Chairman, wherein, the Chairman had identified the Deputy Chairman (Calcutta) and the Land Manager in Calcutta as well as the Deputy Chairman (Haldia), General Manager (Mas) and Manager (I&C.F) in Haldia to issue ejectment notices in respect of the lease determined, with his approval.



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45. The ejectment notices that had been issued by the Land Manager were thus held to be a mere ministerial exercise and not a case of sub-delegation. The Chairman had been delegated the power to terminate a lease. That decision had been taken by the Chairman only and it is only in pursuance of him having taken such a decision that the Land Manager had been authorized, to merely carry out an administrative act, ie., issuance of ejectment notices.

46. The conclusion arrived at was that the delegation of powers by the Chairman of the Port Trust to the Land Manager could not be impugned, and that delegatee had exercised power as duly authorized by the Chairman.

47. In the present case, the impugned notice is not a mere ministerial function but is a substantive act, of conduct of investigation itself. The substantive authority vested in R1 under Section 108 read with Section 4(2) has been passed on to the authorities far below the Central Registrar in rank and this does not constitute a ministerial or administrative act. To put it colloquially, R1 is seen to have passed the buck down the ranks, unsupported by any statutory authority in this regard.

48. The maxim Delegata Potestas non potest delegari has been



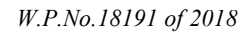
referred to by Story in his Commentaries on the Law of Agency⁶, where he sets out the following statement of the governing principle.

One, who has a bare power or authority from another to do an act, must execute it himself, and cannot delegate his authority to another; for this being a trust or confidence reposed in him personally, it cannot be assigned to a stranger, whose ability and integrity might not be known to the principal, or, if known, might not be selected by him for such a purpose 3 ... The reason is plain; for, in each of these cases, there is an exclusive personal trust and confidence reposed in the particular party. And hence is derived the maxim of the common law; Delegata potestas non potest delegari. And the like rule prevailed, to some extent, in the civil law; Procuratorem alium procuratorem facere non posse....

49. Thus, the delegated authority cannot re-delegate unless there is some reasoning why it should be. In the present matter, the provisions of Section 108 (5)&(6), endow either the Central Registrar or an authority notified by the Central Government to exercise powers under Section 108, with the powers of a Civil Court. It is evident that such authority cannot be exercised by just about any officer and the choice of officer has to be strictly in line with the statutory prescription under Section 4(2) of the Act. Even seen in this regard, the exercise of authority in this case cannot be sustained.

50. The proper and acceptable exercise of delegated power fundamentally depends on the statutory provisions under which the

⁶ 2(1839) § 13



51. In the present case, substantive authority vests in the Central Registrar or a person who the Central Government to be notified in a specific manner, who shall exercise the powers of the Central Registrar. Substantial trust and confidence have been vested in those authorities to carry out the specified functions under the Act. Consciously, legislature has also not endowed the power of registration of a multi-state cooperative society upon any other authority, barring the Central Registrar and thus the prescription to delegate has been carefully and consciously crafted.

52. The judgment relied upon by the respondent must thus be tested in the context of my understanding of the statutory provisions set out in the preceding paragraphs.

53. These principles have been discussed in detail in the judgment relied upon by the respondent in *Sidhartha Sarawgi* (supra). At paragraphs 1 and 2, the Hon'ble Supreme Court deals with the maxim in the following terms:



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1. *Delegatus Non Potest Delegare*: A delegate has no power to delegate, is a well-settled principle. Is there any exception and is there any distinction between delegation of legislative and non-legislative powers, are the moot issues arising for consideration in these cases.

2. Delegation is the act of making or commissioning a delegate. It generally means parting of powers by the person who grants the delegation and conferring of an authority to do things which otherwise that person would have to do himself. Delegation is defined in *Black's Law Dictionary* as "the act of entrusting another with authority by empowering another to act as an agent or representative". In *P. Ramanatha Aiyar's, The Law Lexicon*, "delegation is the act of making or commissioning a delegate. Delegation generally means parting of powers by the person who grants the delegation, but it also means conferring of an authority to do things which otherwise that person would have to do himself". Justice Mathew in *Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd. v. The Assistant Commissioner of Sales Tax and Others*[1], has succinctly discussed the concept of delegation. Paragraph 37 reads as follows:

"37. ... Delegation is not the complete handing over or transference of a power from one person or body of persons to another. Delegation may be defined as the entrusting, by a person or body of persons, of the exercise of a power residing in that person or body of persons, to another person or body of persons, with complete power of revocation or amendment remaining in the grantor or delegator. It is important to grasp the implications of this, for, much confusion of thought has unfortunately resulted from assuming that delegation involves or may involve, the complete abdication or abrogation of a power. This is precluded by the definition. Delegation often involves the granting of discretionary authority to another, but such authority is purely derivative. The ultimate power always remains in the delegator and is never renounced."



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54. The subtle but important distinction between delegation of legislative powers and delegation of administrative powers is also noted by the Bench. In light of the statutory prescription that the conduct of investigation shall be carried out by the Central Registrar or by a person notified by the Central Government in this regard, the extent of delegation permissible, as a general concept, would be in respect of non-legislative/administrative/ministerial functions only.

Conclusion

55. In light of the detailed discussion as above, there is no doubt in my mind that the impugned notice has no authority in the eyes of law and the same is hence quashed. This writ petition is allowed as are the connected Miscellaneous Petitions, i.e., WMP Nos.21496 & 21497 of 2018. Consequently, WMP No.23913 of 2022 stands dismissed. No costs.

06.01.2023

Index : Yes
Speaking Order
sl/vs

To



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1. The Central Registrar,
Central Registrar of Co-operative Societies,
Ministry of Agriculture,
Department of Agriculture and Corporation,
(Cooperation Division),
Krish Bhavan, New Delhi 110 001.
2. The Registrar of Cooperative Societies,
170 EVR Road,
Dr. Radhakrishnan Nagar,
Razaak Garden, SBI Officers Colony,
Arumbakkam, Chennai-600 106.
3. The Additional Registrar,
Office of the Additional Registrar of Cooperative Societies,
Chennai Region,
Chennai – 600 018.
4. The Cooperative Sub-Registrar/Managing Director,
(Inspection Officer),
Civil Supplies Corporation Employees Cooperative Society,
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DR.ANITA SUMANTH,J.

Sl/vs

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