

**IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak**  
And  
**The Hon'ble Justice Md. Shabbar Rashidi**

**MAT 550 of 2023  
IA NO: CAN/2/2023 (already disposed of vide  
order dated 02.08.2023)**

**Kishalay Hazra & Ors.  
Vs.  
The State of West Bengal & Ors.**

|                                         |                                                             |
|-----------------------------------------|-------------------------------------------------------------|
| For the Appellants/<br>Writ Petitioners | : Mr. Manas Kr. Ghosh, Adv.<br>Ms. Susmita Dey (Basu), Adv. |
| For the State                           | : Mr. Amal Kr. Sen, Ld. A.G.P.<br>Mr. Lal Mohan Basu, Adv.  |
| For the Respondent<br>No. 4             | : Mr. Sadhan Kr. Haldar, Adv.<br>Mr. A.K. Sarkar, Adv.      |
| Hearing Concluded on                    | : November 27, 2024                                         |
| Judgement on                            | : November 27, 2024                                         |

**DEBANGSU BASAK, J.:-**

1. Appeal is directed against an order dated January 25, 2023 passed in WPA 603 of 2023 dismissing the writ petition on the ground that, Co-operative Society as against whom the writ petitioner was seeking relief was not an authority within the meaning of Article 12 of the Constitution of India.

2. Learned advocate appearing for the appellants submits that, the issue as to whether the concerned Co-operative Society, namely, Kishan Co-operative Milk Producers' Union Ltd. was an Article 12 authority or not was decided by the coordinate Benchin **(1999) 1 CALLT 102 (HC) (The Kishan Co-operative Milk Producers' Union Ltd. &Anr. vs. Sri Paramananda Patra)**. Consequently, he submits that, the impugned order of the learned Single Judge be set aside.

3. Respondent No. 4 is represented.

4. Learned advocate appearing for the respondent No. 4 submits that, there are judgments of the learned Single Judge's who held that, a writ petition against this Co-operative Society is not maintainable in view of the fact that such Co-operative Society is not an authority within the meaning of Article 12 of the Constitution of India. He also relies upon **(2002) 5 Supreme Court Cases 111 (Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology &Ors.)** in support of his contention that the Kishan Co-operative Milk Producers' Union Ltd. was not an authority within the meaning of Article 12 of the Constitution of India.

5. Appellants filed writ petition against the Co-operative Society concerned seeking reliefs with regard to their service benefits

negated by the decision dated November 4, 2022 passed by the Co-operative Authority.

6. Learned Single Judge, by the impugned order held that, the concerned Co-operative Society was not an authority within the meaning of Article 12 of the Constitution of India and as such did not find the writ petition to be maintainable.

7. The issue as to whether a writ petition against the Co-operative Society for service benefits is maintainable or not, fell for consideration in ***The Kishan Co-operative Milk Producers' Union Ltd. (supra)***. Such issue was answered by holding that a writ petition relating reliefs concerning service of the concerned Co-operative Society was maintainable.

8. Such pronouncement of the coordinate Bench in ***The Kishan Co-operative Milk Producers' Union Ltd. (supra)*** is binding upon this Court. No material was placed before us to suggest that there was a change in circumstances subsequent to the pronouncement of ***The Kishan Co-operative Milk Producers' Union Ltd. (supra)*** taking such Co-operative Society out from the purview of an authority within the meaning of Article 12 of the Constitution of India.

9. It is no longer available to the Kishan Co-operative Milk Producers' Union Ltd. to set up a plea that a writ petition relating to service conditions of its employees is not maintainable in view of the pronouncement of the coordinate Bench.

10. **Pradeep Kumar Biswas (supra)** considered the facts scenario of the institution involved and laid down the parameters for holding whether an institution was an authority within the meaning of Article 12 of the Constitution of India or not. Since the coordinate Bench held in **The Kishan Co-operative Milk Producers' Union Ltd. (supra)** that such Co-operative Society was an authority within the meaning of Article 12 of the Constitution of India and since no further material was produced before us to suggest change in status of such Co-operative Society, we are bound by the decision of the coordinate Bench.

11. In such circumstances, the issue as to whether a writ petition answering service benefits of the employee of Kishan Co-operative Milk Producers' Union Ltd. is maintainable or not is answered in the affirmative and in favour of the appellants/writ petitioners.

12. The impugned order dated January 25, 2023 passed in WPA

603 of 2023 is set aside.

**13.** WPA 603 of 2023 is remanded for disposal on merits.

**14.** MAT 550 of 2023 along with connected applications, if there be any are disposed of without any order as to costs.

**[DEBANGSU BASAK, J.]**

**15.** I agree.

**[MD. SHABBAR RASHIDI, J.]**