**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2903 OF 2024

Sunil Salunke and Associates
Through proprietor
Shri. Sunil Ramrao Salunke
Age 55 years, Occu. Auditor
R/o Laxmi Sankul, 5-6-3, First Floor,
Near Sant Eknath Rangmandir,
Osmanpura, Chhatrapati Sambhajinagar ..Petitioner

Versus

1. The State of Maharashtra
Through Secretary,
Co-operation Department,
Mantralaya Mumbai

2. The Commissioner of Co-operation and
Registrar Co-operative Societies,
Maharashtra State Pune.

3. The Divisional Joint Registrar,
Co-operative Societies
Chhatrapati Sambhajinagar. ..Respondents

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Mr. K. J. Suryawanshi, Advocate for the Petitioner.
Mr. N. S. Tekale, Advocate for Respondent Nos.1 to 3.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**
DATED : 15th MARCH 2024.

JUDGMENT (Per: S. G. Chapalgaonkar, J.):-

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India thereby challenging the decision of the respondents to include the petitioner's name as Grade-B1 Auditor in

panel of Chartered Auditors for the period from 2024 to 2026 under Government Resolution dated 07.02.2024.

3. The petitioner contends that he is a member of Institute of Chartered Accountants of India (ICAI) and possesses the certificate of practice dated 31.10.1998. Section 81(1) of the MCS Act, 1960 requires audit of Co-operative Societies to be conducted through an Auditor or Auditing Firm, empaneled by the Registrar as per approval granted by the State Government. The General Body of the Societies can appoint Auditor from the panel. Section 81(1)(b) of the MCS Act, 1960 provides for manner for preparation, declaration and maintenance of an Auditors panel by the Registrar. Rule 69 of the MCS Rules 1961 provides for an appointments of the Auditors and classification of the Auditors and Societies. The Auditors/Firms having five years experience in auditing of the Co-operative Societies is eligible for classification as Grade-A Auditor. The petitioner had applied in the name of the M/s. Sunil Salunke and Associates to be appointed in panel of Chartered Accountant. Accordingly, his name was empaneled as Grade-A1 Auditor for the period from 28.10.2017 to 31.03.2020. He has conducted the audit of Grade-A Societies in pursuance of his empanelment during the aforesaid period.

4. On 16.10.2023, respondent no.2-Registrar of the Co-operative Societies had invited applications for empanelment of the Chartered Accountants for the period from 2024 to 2026. The petitioner in response to the said circular, submitted his application. On 07.02.2024, respondent no.2 finalized the panel of Auditors and published a list. The State Government issued the Government Resolution dated 07.02.2024 containing the list of panel Auditors for the period from 2024 to 2026. Surprisingly, the petitioner’s name is included at Serial No.1542 as Grade-B1 Auditor with individual name

as Sunil Ramrao Salunke instead the name of the firm i.e. M/s. Sunil Salunke and Associates. According to the petitioner, when he has acquired the eligibility of Grade-A1 Auditor, his empanelment in Grade-B1 Class in individual name is unjust and arbitrary. He would, therefore, urge to direct the respondents to include his name in the panel of Grade-A1 Auditors.

5. We have heard Mr. Suryawanshi, learned Advocate appearing for the petitioner and Mr. Tekale, learned AGP appearing for respondent nos.1 to 3.

6. It appears that the petitioner is Chartered Accountant and holds certificate of membership being admitted as an Associate of the Institute, since 7th September 1998. It is undisputed that the Chartered Accountants having experience of audit of Co-operative Societies for more than five years are entitled for classification as Grade-A1 Auditor and on his empanelment entitled to carry audits of Class-I Co-operative Societies. The petitioner applied for his empanelment for the year 2024-2026 in his individual name as Sunil Ramrao Salunke. The certificate issued by the Institute of Chartered Accountants of India certifies that the firm namely M/s. Sunil Salunke and Associates has been registered under Chartered Accountants Act, 1949 alongwith Chartered Accountants Regulations of 1988. The previous experience of the petitioner shows that he carried audits in the name of firm i.e. M/s. Sunil Salunke and Associates. However, for the empanelment during the year 2024-2026, he applied in his individual name i.e. Sunil Ramrao Salunke. Apparently, respondent-Authorities considered him as an individual Chartered Accountant. In absence of experience of audits in his individual name, he is empaneled as Grade-B1 Auditor. The previous list of empanelment for the period from 2017-2020 shows that M/s. Sunil Salunke and Associates was registered as Grade-A1 Auditor.

However, because the petitioner has applied in the individual name for empanelment during the period from 2024 to 2026, he has been empaneled as Grade-B1 Auditor. No fault can be found with respondent-Authorities. If it is permissible, the petitioner may take remedial steps for empanelment in the name of firm.

7. In view of the above, we do not find any infirmity in the order passed by the respondent-Authorities. Hence, there is no merit in the Writ Petition. Writ Petition stands dismissed.

8. Rule is discharged.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Devendra/March-2024