

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8101 of 2025

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M/s A.K. Mishra and Associates, a firm of Chartered Accountants having its Head Office at Patna, through its Partner, Sri A. K. Mishra. @ Amiy Kumar Mishra aged about 57 years (M), son of Late Tulsi Das Mishra, resident of Road No. 01, North Patel Nagar, Keshari Nagar, P.S.- Patliputra, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department, Government of Bihar, Old Secretariat, Patna - 800015.
2. The Registrar, Co-operative Societies, Bihar, having its office at Vikas Bhawan, Bailey Road, Patna - 800001.
3. The Joint Registrar, Co-operative Societies, Bihar, Vikas Bhawan, Bailey Road, Patna - 800001.
4. The District Audit Officer, Co-operative Societies, Bhagalpur, District - Bhagalpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs.Shama Sinha, Advocate
	:	Mr. Vijayansh Pratap Singh, Advocate
	:	Mr. Surya Prakash, Advocate
For the Respondent/s	:	Mrs. Dimpal Kumari, A.C. to G. P.-11

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 24-02-2026

Heard Mrs. Shama Sinha, learned counsel for the petitioner and Mrs. Dimpal Kumari, learned A.C. to G.P.-11 for the State.

2. The present writ application has been filed for the following reliefs:

*(I) To issue an appropriate writ/order/direction
in the nature of Certiorari for quashing Memo*



No. 2238 dated 07.03.2025 (Annexure- 10), issued by the Registrar, Co-operative Societies, Bihar, whereby the Pecutioner firm, M/s A.K. Mishra & Associates, has been blacklisted and delisted for five years without issuing a valid show cause notice disclosing specific charges, without supplying the documents relied upon, and without granting any effective opportunity of hearing while illegally invoking Section 26 of the Indian Partnership Act, 1932 to extend liability to all other partners, despite there being no express power under the Bihar Co-operative Societies Act, 1935 or the Rules framed thereunder empowering the Registrar to blacklist a firm of Chartered Accountants as the power to deal with alleged professional misconduct lying solely with the Institute of Chartered Accountants of India (ICAI) under the Chartered Accountants Act, 1949;

(II) To issue an appropriate writ/order/direction in the nature of



Mandamus, restraining the Respondents from giving effect to or acting upon Memo No. 2238 dated 07.03.2025, and from circulating or relying on the same to prejudice the Petitioner firm's right to profession and livelihood during the pendency of this writ petition;

(III) To award costs of litigation in favour of the Petitioner firm, which has been compelled to repeatedly approach this Hon'ble Court for enforcement of basic procedural safeguards, due to the continued and deliberate violation of principles of natural justice and non-compliance with the binding directions of this Hon'ble Court rendered in CWJC No. 18220/2017 and CWJC No. 1665/2019;

(IV) To hold and declare that the Registrar, Co-operative Societies, Bihar, not being a statutory authority under the Chartered Accountants Act, 1949, or the Bihar Co-operative Societies Act, 1935, has no jurisdiction to determine professional misconduct or to blacklist a Chartered



Accountant firm thereof for alleged lapses in audit, particularly when the petitioner firm was neither empanelled after 30.09.2020 under the fresh panel of Chartered Accountant firms issued by the Registrar, Co-operative Societies, Bihar, nor was its name restored in the said empanelment list, and had not been allotted any audit assignment post-2017, despite subsisting favourable orders of the Hon'ble High Court

(V) To direct the Respondents to pay appropriate damages to the Petitioner firm for the financial loss, reputational harm, and professional hardship suffered as a result of the continued de facto blacklisting and delisting since 2017, despite no proven misconduct by the Petitioner firm or its partners and in view of the fact that no adverse findings were ever returned by the CBI or the ICAI, and further as the impugned order seeks to rely upon an alleged interpretation issued by ICAI, which was neither disclosed to



the Petitioner nor ever issued, as confirmed by ICAI itself.

(VI) To past an appropriate order/direction for fixing responsibility and accountability on the officials concerned who deliberately and wilfully disobeyed judicial orders, causing unnecessary litigation and injury to the Petitioner firm;

(VII) To grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

3. This is the 3rd round of litigation on behalf of the petitioner in which the petitioner has challenged the legality and validity of order dated 07.03.2025 which was issued under Memo No. 2238 by the respondent No.2 i.e. the Registrar, Cooperative Society, Bihar whereby the petitioner's firm M/s A.K. Mishra & Associates, has been blacklisted and delisted for five years without issuing a valid show cause notice disclosing specific charges, without supplying the documents relied upon, and without granting any effective opportunity of hearing.

4. Earlier, vide order dated 18.10.2017, the Registrar, Cooperative Society, Patna had blacklisted the petitioner' firm and



had delisted it from the panel of the Department and further, recommended to the Institute of Chartered Accountants of India (ICAI) for cancellation of registration of the petitioner's firm. The same was challenged by the petitioner in CWJC No.18220 of 2017, on the ground that the order of blacklisting has been passed without proper show cause as well as blacklisting has been made effective for an indefinite period.

5. A Single Bench of this Hon'ble Court vide order dated 11.01.2018 after taking note of the submission of the parties, quashed the impugned order dated 18.10.2017 and remanded the matter to the Registrar, Cooperative Societies, Bihar, Patna for taking a fresh decision with respect to the period of blacklisting to be imposed upon the petitioner after grant of opportunity of hearing to the petitioner in accordance with law.

6. Thereafter, the respondent No.2 after hearing the parties had issued an order dated 02.11.2018 passed by the respondent No.2. Again the respondent No.2 had been pleased to blacklist the petitioner's firm for 30 years. The same was challenged in CWJC No.1665 of 2019 and was allowed by a Single Bench of this Hon'ble Court vide order dated 13.02.2024 and a Coordinate Bench of this Hon'ble Court had been pleased to set aside the order dated 02.11.2018 which was issued under



memo No.9347 and after setting aside the order dated 02.11.2018 the matter was remanded back to the respondent authority to issue a fresh show cause upon the petitioner and pass a fresh order after giving an opportunity of hearing to the petitioner.

7. Learned counsel for the petitioner submits that thereafter the petitioner has been given show cause and the petitioner has replied to the same, and without considering the show cause on behalf of the petitioner, the respondent No.2 has passed the present impugned order dated 07.03.2025 (Annexure-10) by which the petitioner's firm was again blacklisted for five years and was also delisted from the panel of the Department.

8. The question that arises for consideration in the present writ application before this Court is whether, in the facts and circumstances of the case the "*Registrar, Cooperative Society has the power under the statute to pass an order in respect of blacklisting of a firm of the petitioner under the Bihar Cooperative Societies Act, 1935*".

9. Learned counsel for the petitioner submits that from a bare perusal of the Bihar Cooperative Societies Act, 1935, there is no such provision/power to the Registrar, Bihar Cooperative Society under the statute to pass an order in respect to blacklisting of a firm in question. She further submits that Section 33 of the



Bihar Cooperative Societies Act, 1935 talks about audit of a Cooperative Society. Section 33 of the Bihar Cooperative Societies Act, 1935 is extracted hereinbelow:

“[33. Audit – (1) A Co-operative Society shall get its accounts audited by Auditor from a panel approved by State Government or the authority authorized by the State Government, at least once in every financial year. Such Auditor shall either be Chartered Accountants within the meaning of the Chartered Accountants Act, 1949 or Auditor from the office of the Registrar.

(2) The minimum educational qualification of the Auditors from a panel approved by State Government or an authority authorized by the State Government shall be Graduate (with Mathematics) or commerce Graduate from any recognised University. Such Auditor or Chartered Accountants firm shall be required to have at least three years of audit experience. Only such Auditor or Chartered



Accountants firm shall be eligible for the audit of the accounts of Co-operative Society.

(3) The audit of the accounts of every Co-operative Society shall be done by the Auditor or Chartered Accountant firm, specified under sub-section (2), appointed by the General Body of Co-operative Society.

(4) It shall be mandatory to audit the accounts of every Co-operative Society within six months of the end of the financial year to which accounts is related to.

(5) Apex Co-operative Society, with the approval of General Body, shall compulsorily submit the Audit Report, after the audit of its statement of accounts, to the Registrar within thirty day's which shall be placed before the State Legislature in accordance with the procedure laid down for this purpose by the State Government.

(6) The Auditor's Report in addition to the report on the accounts of the Co operative Society shall also contain report on the



attendance at Board meeting, by Directors, the loans and advances sanctioned to or the business done with the Co-operative Society by the Directors, expenditure on Board Meetings, remuneration paid to Directors, expenditure reimbursed to Directors, expenditure on education and training for members, staff, Directors and others.

(7) It shall be the duty of the Board to ensure that annual financial statements are prepared and presented for audit within forty-five days of closure of the financial year.

(8) The remuneration of an Auditor shall be fixed by the General Body; Provided that if audit is done by the Auditor of the office of Registrar, the Co operative Society shall pay the audit fee fixed by the Registrar.

(9) The General Body may, at a special meeting, remove an Auditor from office by a resolution passed by a majority of the members present and voting.



(10) Upon the demand of the Auditor of a Co-operative Society the present or former Office-bearers, Board members or employees of the Co-operative Society shall furnish-

(a) such information and explanation, as may be considered necessary, and

(b) each of the record, documents, books, accounts and vouchers of the Co-operative Society as are, in the opinion of the Auditor, necessary to enable him to make the examination and report.

(11) Where a Co-operative Society fails to get its Annual Accounts audited when due, Registrar shall get the accounts of the Co-operative society audited within a period of ninety days from the date when the audit was due.

(12) The cost of conducting such audit shall be borne by the Co-operative society.]”

10. Learned counsel for the petitioner submits that from a bare perusal of the aforesaid, it appears that the Registrar, Bihar



Cooperative Society, Patna has only power to delist the petitioner's firm from the panel of the Department. Neither the Bihar Cooperative Societies Act, 1935 nor the Rules, 1959 confer any specific power on the Registrar to blacklist or delist Chartered Accountant Firm. The Registrar, Bihar Cooperative Society may revise the audit report under Rule 57 (2) and order re-auditing. Any penal action against a Chartered Accountant or a C.A. firm for alleged professional misconduct lies exclusively within the jurisdiction of the Institution of the Chartered Accountants of India(ICAI) under the Chartered Accountant Act, 1949. The impugned order has caused continued de facto blacklisting since 2017, as the petitioner's firm has not sought any other assignment from any Government Department, despite repeated quashing earlier orders. Other Government Department have also cancelled work and full payment, relying on blacklisting that no longer holds legal validity in the present case.

11. Learned counsel for the State submits that the petitioner's firm was authorized to conduct audit for the Cooperative Societies assigned at Bhagalpur. The petitioner's firm conducted audit of Srijan Mahila Cooperative Society, Sabour for the year 2003-04 to 2012-13 and for the year 2014-2015 to 2015-16. The petitioner's firm ignored/deliberately overlooked several



omission and commission committed by the said society which led to financial irregularity and fraud siphoning Government money. It is presumed that a Chartered Accountant Firm plays role of auditing of financial activities of an institution and in the present matter, the petitioner's firm failed to play its statutory duty which paved the way for such a big financial irregularity. A show cause was asked from the petitioner's firm vide letter No.7457 dated 14.09.2017. After considering the show cause reply filed by the petitioner's firm and having found the same unsatisfactory and taking into consideration the defective audit report, the petitioner's firm has been delisted and blacklisted and so far as question raised with respect to the authority of Registrar, Cooperative Society, Bihar, Patna in blacklisting the petitioner's firm is concerned, it is in accordance with letter No. 4234 dated 24.09.2005 wherein guidelines were already issued in respect of empanelled Chartered Accountants. The order under challenge has been passed by the answering respondents keeping in view of the Departmental Circular dated 24.09.2005.

12. We have heard the learned counsel for the parties and perused the material available on the record, considering the aforesaid facts, it transpires that the respondent No.2 has no power under the Bihar Cooperative Society Act, 1935 to blacklist the



petitioner’s firm for a period of five years. In fact, the respondent No.2 has only power to delist the petitioner’s firm as per letter No. 4234 dated 24.09.2005.

13. Accordingly, the order dated 07.03.2025 as contained in Annexure-10 is set aside to the extent of blacklisting of petitioner-firm, and this writ application stands partly allowed as indicated above.

14. Pending application(s), if any, stands disposed of.

(Sudhir Singh, J)

I agree.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	12.02.2026
Uploading Date	24.02.2026
Transmission Date	NA

