IN THE HIGH COURT OF JHARKHAND AT RANCHI

**W.P. (C) No. 2131 of 2026**

Society for Rural Industrialization, (S.R.I) having its office at Bariatu, Ranchi-834009, a registered society, registered under society registration act, 1860 through its Secretary, Debatosh Paria, aged about 49 yrs. Son of Hari Charan Paria, Resident of 153, Joda Talab Road, Bariatu, P.O. & P.S.: Bariatu, District: Ranchi, Jharkhand.

… … … Petitioner

Versus

1. The State of Jharkhand through Secretary Department of Revenue Registration Land Reforms, Govt. of Jharkhand, Project Bhawan, Dhurwa, P.O. & P.S.: Dhurwa, District: Ranchi.
2. The Inspector of General of Registration, Department of Registration Govt. of Jharkhand, Project Bhawan, Dhurwa, P.O. & P.S.: Dhurwa, District: Ranchi.
3. The Additional Inspector of General of Registration, Department of Registration Govt. of Jharkhand, Project Bhawan, Dhurwa, P.O. & P.S.: Dhurwa, District: Ranchi.
4. India Overseas Bank, Bariatu Road Branch, Branch through Branch Manager, Indian Overseas Bank, Bariatu Road, Amrapali Building, P.O. & P.S.: Bariatu, District: Ranchi, Jharkhand.
5. India Overseas Bank, Main Branch through Branch Manager, Indian Overseas Bank, Main Branch, Atma Ram Bhawan, 3rd Floor, Radhye Shyam Lane, Main Road, P.O.- G.P.O, P.S.- Kotwali Ranchi-834001.
6. State Bank of India, RMCC Bariatu Branch, though Branch Manager, State Bank of India, RMCC, Bariatu Branch, Rajendra Medical College Campus (RMCC) Branch, P.O. & P.S.: Bariatu, District: Ranchi, Jharkhand.
7. Rini Sinha, self-declare Secretary, Wife of Sri Manish Ranjan, having its resident of Qtr. No. CD/483, Sector-3, HEC Colony, VTC-Dhurwa, P.O. & P.S.: Dhurwa, District: Ranchi-834004.

… … … Respondents

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**CORAM: HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Petitioner: Mr. Abhay Kumar Mishra, Advocate
Ms. Adya Mishra, Advocate
For the State: Mr. Gaurav Raj, A.C. to A.A.G-II
For the SBI: Mr. Rajesh Kumar, Advocate

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**06/Dated: 04.05.2026**

1. Heard Mr Abhay Kumar Mishra, learned counsel for the petitioner and Mr Gaurav Raj, learned A.C. to A.A.G-II for the State.

2. This petition challenges the Jharkhand Society Registration Rules, 2025 (the said Rules), on the grounds that the said Rules are *ultra vires* the parent act i.e. the Societies Registration Act, 1860, as applicable to the State of Jharkhand.

3. On 29.04.2026, when this matter was first heard, Mr Abhay Kumar Mishra had raised only one ground namely that the laying down procedures prescribed under Section 24(3) of the said Act not being complied with, the said Rules should be declared as *ultra vires*.

4. Therefore, we adjourned the matter to enable Mr Gaurav Raj to obtain instructions concerning the above-referred sole ground.

5. Mr Gaurav Raj obtained instructions and made submissions on the above ground today. Mr Mishra, however, today argues that, in addition to the above challenge, Rule 9 of the said Rules is *ultra vires* because it provides a mechanism for the adjudication of disputes in relation to the members of the Society. He submits that there is no such substantive provision in the said Act, and in the absence of any substantive provision in the said Act, no such mechanism could have been introduced through Rule 9 of the said Rules. He submitted that Rule 9 of the said Rules is therefore, plainly *ultra vires* the parent act, i.e. the said Act.

6. We have considered both the submissions made by Mr Mishra and Mr Gaurav Raj's response thereto, and now we proceed to dispose of this petition.

7. As regards the first ground of challenge, we refer to Section 24 of the said Act as applicable in the State of Jharkhand and transcribe for the same herein below for the convenience of reference: -

> ***"24. Power of the State Government to make Rules**. - (1) The State Government may, after previous publication, make rules hot inconsistent with this Act for carrying out the purposes of this Act.*
>
> *(2) In particular and without prejudice to the generality of the foregoing power, the State government may make rules*
>
> *(a) prescribing the form of the register of society, and the mode in which entries relating to registration are to be made therein and the mode in which such entries are to be amended or notes made therein;*
>
> *(b) regulating the filling of documents received by the Inspector General of Registration;*
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> *(c) prescribing the authority before whom and the time within which an appeal shall be preferred under sub-section (2) of section 23 and the manner in which such appeals shall be considered and disposed of;*
>
> *(d) prescribing conditions for the inspection of original documents;*
>
> *(e) regulating grant of copies of document; and*
>
> *(f) providing for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government necessary for giving effect to the purposes of this Act.*
>
> *(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."*

8. Section 24(3) provides for the laying procedures. Upon considering this provision, it is apparent that it provides for the laying of the Rules

before the Legislature, subject to the Legislature passing a negative resolution.

9. When Rules are laid before the Legislature and subject to a negative resolution, there is no requirement to place a draft of the Rules before the Legislature or to secure prior affirmative approval for the Rules to be effective. Section 24(3) also expressly protects the "*validity of anything previously done under that Rule prior to any such modification or annulment"*. The *'save and except'* clause further reinforces the ex-post facto nature of Legislative oversight, implying that the Rules are in effect even before they are presented to the Legislature.

10. In the case of clauses like the clause in Section 24(3) of the said Act, the Hon'ble Supreme Court has held that they should be construed as directory and not mandatory.

11. In **Jan Mohammad Noor Mohammad Bagban Vs. In State of Gujarat and another, AIR 1966 SC 385,** the Hon'ble Supreme Court considered the issue of failure to lay Rules before the Houses of Provincial Legislatures and whether such failure would invalidate the Rules. The Hon'ble Supreme Court, in the context of the clause materially similar to Section 24(3) of the present Act observed as follows: -

> *"18. Finally, the validity of the rules framed under the Bombay Act 22 of 1939 was canvassed**. By Section 26(1) of the Bombay Act the State Government was authorised to make rules for the purpose of carrying out the provisions of the Act. It was provided by sub-section (5) that the rules made under Section 26 shall be laid before each of the Houses of the Provincial Legislature at the session thereof next following and shall be liable to be modified or rescinded by a resolution in which both Houses concur and such rules shall, after notification in the Official Gazette, be deemed to have been modified or rescinded accordingly**. It was urged by the petitioner that the rules framed under the Bombay Act 22 of 1939 were not*

*placed before the legislative Assembly or the legislative Council at the first session and therefore they had no legal validity. The rules under Act 22 of 1939 were framed by the Provincial Government of Bombay in 1941. At that time there was no Legislature in session, the Legislature having been suspended during the emergency arising out of World War II. The session of the Bombay Legislative Assembly was convened for the first time after 1941 on May 20, 1946 and that session was prorogued on May 24, 1946. The second session of the Bombay Legislative Assembly was convened on July 15, 1946 and that of the Bombay Legislative Council on September 3, 1946 and the rules were placed on the Assembly Table in the second session before the Legislative Assembly on September 2, 1946 and before the Legislative Council on September 13, 1946. Section 26(5) of Bombay Act 22 of 1939 does not prescribe that the rules acquired validity only from the date on which they were placed before the Houses of Legislature. The rules are valid from the date on which they are made under Section 26(1).* ***It is true that the legislature has prescribed that the rules shall be placed before the Houses of Legislature, but failure to place the rules before the Houses of Legislature does not affect the validity of the rules, merely because they have not been placed before the Houses of the Legislature. Granting that the provisions of sub-section (5) of Section 26 by reason of the failure to place the rules before the Houses of Legislature were*** **violated,** ***we are of the view that sub-section (5) of Section 26 having regard to the purposes for which it is made, and in the context in which it occurs cannot be regarded as mandatory.*** *The rules have been in operation since the year 1941 and by virtue of Section 64 of the Gujarat Act 20 of 1964 they continue to remain in operation.*"

*12.* The Hon'ble Supreme Court rejected the contention based upon the use of the word "shall" under the said Act. Incidentally, even Section 24(3), *inter alia* provides that every Rule made under this Section *"shall be laid as soon as may be after it is made, before each House of the*

*State Legislature while it is in session for a total period for 14 days which may be comprised in one session or in two successive sessions".*

13. The Hon'ble Supreme Court held that the mere use of the expression "shall", even when coupled with the provision for Rules to be "modified or rescinded", does not elevate the directory procedural requirement to a mandatory character. The Hon'ble Supreme Court clarified that unless the statute expressly makes the validity of the Rules contingent upon the Act of laying, the Rules acquire legal force the moment they are duly made.

14. The ratio in **Jan Mohammad (supra)** was analysed and reaffirmed by the Hon'ble Supreme Court in the case of **Prohibition & Excise Superintendent, A.P. and others Vs. Toddy Tappers Coop. Society, Marredpally and others, (2003) 12 SCC 738**.

15. In this case, the Hon'ble Supreme Court was concerned with Section 72 of the Andhra Pradesh Excise Act, 1968, which read as follows:-

> *"72. (3) Any rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement to be laid before both Houses of the State Legislature.*
>
> *(4) Every rule made under this Act, shall, immediately after it is made be laid before each House of State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be; so however, that any such*

*modification or annulment shall be without prejudice to the validity of anything previously done under that rule."*

16. From the perusal of Section 72(4) of the Andhra Pradesh Excise Act, 1968, it is apparent that the same is similar to, if not entirely identical to, Section 24(3) of the said Act. In fact, for all material purposes, the two provisions are of identical import. The challenge to the Rules on the grounds of failure to place them before the houses of legislature was, however, rejected by the Hon'ble Supreme Court.

17. The Hon'ble Supreme Court, at paragraph 28, observed as follows:

*"28.* ***Sub-section (3) of Section 72 of the Act merely provides for, laying down the rules before both the Houses of the legislature with the reasons for giving a retrospective effect. The said provision does not speak of the necessity to obtain permission or prior approval therefor by the Houses of the legislature. Only in the event the legislature is not satisfied with the sufficiency or otherwise of the reasons assigned, it may direct that the same would operate prospectively. Sub-sections (3) and (4) of Section 72 must be read in such a manner that both may be given effect to Sub-section (3) deals with only a special situation, whereas sub-section (4) is general in nature. In the event, a negative resolution is adopted the rules will cease to have the force of law****. Difference between sub-sections (3) and (4) of Section 72 lies in the fact that whereas in case the rule is given retrospectivity, the members of both the Houses of the legislature shall be apprised of the reasons therefor, whereas in case of a rule which is prospective in nature, simple laying down before both the Houses would serve the statutory object."*

18. Reference can also be usefully made to the Hon'ble Supreme Court's decision in the case of **Bank of India and others Vs. O.P. Swarnakar and others**, **(2003) 2 SCC 721**, where the Hon'ble Supreme Court was concerned with Section 19(4) of the Banking Companies

(Acquisition and Transfer of Undertakings) Act, 1970. This provision is transcribed below for the convenience of reference:

> *"19(4) Every regulation **shall,** as soon as may be after it is made under this Act by the Board of Directors, of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in **making any modification in the regulation or both Houses agree that the regulation should not be made,** the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."*

19. Again, even Section 19(4) of the 1970 Act is almost similar to Section 24(3) of the said Act. The challenge that the Rules containing the voluntary retirement scheme had not been placed before the Parliament pursuant to the provisions of Section 19(4) of the 1970 Act was rejected by the Hon'ble Supreme Court, relying on the **Jan Mohammad case (supra)**.

20. The Hon'ble Supreme Court held that the Punjab and Haryana High Court erred in holding that the entire scheme was *ultra vires* for violating Section 19(4) of the 1970 Act. The Court held that it was not necessary for the Central Government to place the scheme before Parliament, and, in any event, the laying down Rule is merely directory and not mandatory.

21. The relevant extract from the Hon'ble Supreme Court's decision in **O.P. Swarnakar (supra)** is transcribed below for the convenience of reference:

> *"We do not agree with the decision of the High Court on that count for more than one reason. Firstly, the scheme is not a part of the*

> *statutory regulation. It was in the realm of contract. That being so it was not necessary for the Central Government to place the same before Parliament. Secondly, even if the same was a regulation, the laying-down rule is merely a directory one and not mandatory….. We, therefore, are of the opinion that the scheme in question cannot be said to be bad in law."*

22. In this case, Mr Gaurav Raj pointed out that the said Rules entered force on 21st July 2025. He further submitted that after this date, there were three sessions of the Legislature, each lasting 5 days, 4 days, and 17 days respectively. He, on instructions, stated that the Rules would be placed before the Legislature in its next session. This statement is accepted.

23. However, considering the law laid down by the Hon'ble Supreme Court in the case of **Jan Mohammad (supra), Prohibition & Excise Superintendent, A.P (supra)** and **O.P. Swarnakar (supra)** we cannot accept the petitioner's first ground of challenge namely that the said Rules are *ultra vires* because of failure to comply with Section 24 (3) of the said Act or because of failure to lay the Rules before the House. The first ground of challenge, therefore, fails, and the Rules cannot be declared as ultra vires on the said ground.

24. As regards the second challenge, we again refer to the provisions of Section 24(1) and 24(2) of the said Act quoted above. Section 24(1) provides that the State Government may, after previous publication, make rules not inconsistent with this Act for carrying out the purposes of this Act. For this Rule to be attracted, the petitioner must show that there is a provision under the parent act that conflicts with the Rule whose validity is questioned. Merely stating that there is no provision in the parent act for adjudication of disputes relating to adjudication of disputes, is not sufficient.

*25.* In any event, Section 24(2) of the said Act provides that in particular and without prejudice to the generality of the foregoing power, prescribed under Section 24(1), the State Government may make rules, *inter alia*, providing for *any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government necessary for giving effect to the purposes of this Act.*

26. Certainly, the provision in Section 24(2)(f) referred to above is sufficiently wide to sustain the impugned Rule or impugned Rules providing for an adjudication machinery. Such a provision is certainly for giving effect to the purposes of the said Act, and the opinion of the State Government in this regard cannot be easily questioned or dissented based on the pleadings and the submissions made.

27. Thus, given the provisions of Section 24(1) and 24(2) of the said Act, we do not agree with the submissions of the learned counsel for the petitioner that the impugned Rules travel beyond the letter and spirit of the parent act and, for this reason, are liable to be declared as *ultra vires*. The Rules are, in fact, quite consistent with the provisions of the said Act and give effect to the purposes of the said Act. The rule-making authority, therefore, cannot be said to have exceeded its powers.

28. Mr Mishra, also referred to the position in Orissa, Goa and Uttar Pradesh to submit that the Legislature of four States deemed it appropriate to amend the parent act to provide for adjudication before any provision was made for an adjudicating machinery in the corresponding Rules.

29. The alleged circumstance that these Legislatures have allegedly adopted such a course is not a ground to set aside the impugned Rule or the impugned Rules in the present case. To sustain a challenge that the

Rules are *ultra vires* the parent act, the burden is on the petitioner to plead and then demonstrate how exactly the Rule travels beyond the scope of the parent act. As noted earlier, there is no question of inconsistency and further, Section 24(2)(f) of the Said Act, clearly empowers the Government to frame Rules for any other matters for which there is no provision or any sufficient provision under the said Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the purposes of the said Act.

30. For the above reasons, we are unable to accept even the second challenge raised on the petitioner's behalf in this matter.

31. Since no further challenges were raised before us, we dismiss this petition. No costs.

32. Pending Interlocutory Applications, if any, do not survive and are disposed of.

**(M.S. Sonak, C.J.)**

**(Rajesh Shankar, J.)**

**May 04, 2026**

A.F.R.

APK/VK

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