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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 6459 OF 2025 (CS-RES)

BETWEEN:

BHERYA PRIMARY AGRICULTURE
CREDIT CO OPEARATIVE SOCIETY LTD
REP BY CEO
BHERYA VILLAGE
K.R NAGARA TALUK
MYSURU DISTRICT-571602
REP UNDER SOCITIES REGISTRATION ACT 1956.

...PETITIONER

(BY SRI. SANDESH T B.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO-OPERATION,
M.S BUILDING, AMBEDKAR VEEDHI
BENGALURU-560001
REPRESENTED BY CHEET SECRETARY
2. DEPUTY REGISTRAR OF
CO-OPERATIVE SOCIETIES,
MYSURU SUB-DIVISION,
MYSURU DISTRICT-570001
3. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES,
HUNSURU SUB-DIVISION
HUNSURU TALUK
MYSURU DISTRICT- 571105
4. JOINT DIRECTOR OF AUDIT
MYSURU DISTRICT
MYSURU-570001.

...RESPONDENTS





(BY SRI. YOGESH D.NAIK., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI SET ASIDE THE NOTICE BEARING NO. SANI-43/ADALITHA/64ENQUIRY/CR-26/2024-25 DTD. 26.09.2024 PASSED BY THE R-3 VIDE ANNEX-B AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. Learned AGA accepts notice for respondents No.1 to 4.
2. The petitioner is before this Court seeking for the following reliefs:
 - a. *Issue a writ in the nature of certiorari set-aside the notice bearing No.SaNi-43/Adalitha/64 enquiry/CR-26-2024-25 dated 26.09.2024 passed by the R3 vide Annexure-B.*
 - b. *Such other writ or order as direction as deemed fit as circumstances of the case including an order for costs.*
3. The grievance of the petitioner is that a notice of enquiry under Section 64 of the Karnataka Cooperative Societies Act, 1959 ['Act' for short] has



been ordered by respondent No.3-Asst. Registrar of Cooperative Societies on 26.09.2024 at Annexure-B when a re-audit had already been ordered on 25.10.2023.

4. The submission of the Sri.Sandesh.T.B, learned counsel for the petitioner is that both re-audit under section 63(10) and inquiry under Section 64 of the Act cannot be carried out simultaneously. Heard Sri. Shankar T.B., and perused papers. Subsection (10) of Section 63 is reproduced hereunder for easy reference:

63 Audit.-(10) *If the result of the audit held under subsection(1) discloses any defects in the working of the society, the board shall take steps to rectify the defects and remedy the irregularities pointed out in the audit report and place the audit report along with the action taken report before the general meeting to be held before the twenty-fifth day of the September every year and explain therein the said defects or the irregularities. The board shall continue to take steps for rectification of all the defects and remedying of all the irregularities in the audit report and appraise the general meetings every year till all the defects are rectified and the irregularities are remedied. The board shall send report of action taken to the Registrar and Director of Co-operative Audit within thirty days from the date of the general meeting.*



5. A perusal of the said provision would indicate that defects having been pointed out in the audit carried, an order can be passed for correcting the said defects.
6. Section 64 is reproduced hereunder for easy reference:

64. Inquiry by Registrar.- (1) *The Registrar may, of his own motion, by himself or by a person authorized by him, by order in writing, hold an inquiry into [any matter specified in the order touching] the constitution, working and financial condition of a co-operative society.*

(2) An inquiry of the nature referred to in sub-section (1) shall be held on

the application of,—

(a) a co-operative society to which the society concerned is affiliated;

*(b) a majority of the members of the *board* of the society;
or*

(c) not less than one-third of the total number of members of the society.

(2A) An inquiry under sub-section (1) shall be completed (within a

period of twelve months which may however be extended [by the Registrar

for the reasons to be recorded in writing] for a further period of six months]

[Provided that the State Government shall, on a report made by the Registrar, shall have power to extend the period for



holding the enquiry beyond eighteen months if it is satisfied that, there are genuine grounds for the extension.]

(3) The Registrar, or the person authorized by him under sub-section (1) shall, for the purposes of an inquiry under this section have the following powers, namely:—

(a) he shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office at the headquarters of the society or any branch thereof;

[(b) the inquiry officer may also summon any officer of a financing bank or a credit agency as the case may be or any person having any kind of business relationship with the society or any person who is connected with the functioning of and who has knowledge about the affairs of the society to produce any records or documents, if any, related to the transactions with and working of the society and furnish such information and the explanations, at the registered office or branch of the society or at any public office at the headquarters of the society, as the inquiry officer may require for the purpose of the inquiry.]

(c)(i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the [office bearers] of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the [office bearers] of the society refuse or fail to call such a meeting he shall have power to call it himself;

(ii) any meeting called under clause (i) shall have the powers of the general meeting called under the bye-laws of the society and its proceeding shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall [send a copy of the inquiry report and communicate] 2 the result of the inquiry to the society and to the co-



*operative society, if any, to which that society is affiliated
[and also to the Director of Co-operative Audit]*

[(4A) On receipt of the inquiry report and the result of the inquiry from the Registrar, it shall be the responsibility of the board to initiate immediate necessary action for rectification of deficits, if any, therein and place the report before the annual general meeting or a special general meeting convened for the purpose at the earliest.

Provided that the general body of the cooperative society shall not be competent to pass a resolution negating the findings of the inquiry]

[(5) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within [forty five days] from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein.]

7. Section 64 relates to an enquiry to be conducted by the Registrar on his own motion by himself or by a person authorized by him as regards the matters touching the Constitution, working and financial condition of the Cooperative Society. The enquiry under Section 64 is a larger enquiry as regards the constitution, working and financial condition of the Cooperative Society, whereas a re-audit under



Subsection (10) of Section 63 of the Act is only for correcting the defects and or rectifying the defects in the audit report already filed. Thus, I am the considered opinion that pending the re-audit under Subsection (10) of Section 63 of the Act, the enquiry under Section 64 cannot be interdicted.

8. In that view of the matter, no grounds being made out, the petition stands dismissed at the stage of admission itself.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE