

**Ashok And Ors Vs. The State Of Karnataka And Ors**

**Ashok And Ors Vs. The State Of Karnataka And Ors**

**SooperKanoon Citation :** [sooperkanoon.com/1232943](https://sooperkanoon.com/1232943)

**Court :** Karnataka Kalaburagi

**Decided On :** Oct-16-2020

**Judge :** R.Nataraj

**Appeal No. :** WP 226320/2020

**Appellant :** Ashok And Ors

**Respondent :** The State Of Karnataka And Ors

**Judgement :**

1 IN THE HIGH COURT OF KARNATAKA KALABURAGI BENCH DATED THIS THE16H DAY OF OCTOBER, 2020 BEFORE THE HONBLE MR.JUSTICE NATARAJ RANGASWAMY WRIT PETITION NO.226145 OF2020(CS-EL/M) C/W WRIT PETITION NO.226141 OF2020(CS-EL/M), WRIT PETITION NO.226146 OF2020(CS-EL/M), WRIT PETITION NO.226148 OF2020(CS-EL/M), WRIT PETITION NO.226191 OF2020(CS-EL/M), WRIT PETITION NO.226192 OF2020(CS-EL/M), WRIT PETITION NO.226193 OF2020(CS-EL/M), WRIT PETITION NO.226194 OF2020(CS-EL/M), WRIT PETITION NO.226198 OF2020(CS-EL/M), WRIT PETITION NO.226205 OF2020(CS-EL/M), WRIT PETITION NO.226259 OF2020(CS-EL/M), WRIT PETITION NO.226271 OF2020(CS-EL/M), WRIT PETITION NO.226320 OF2020(CS-EL/M) WRIT PETITION NO.226338 OF2020(CS-EL/M), WRIT PETITION NO.226341 OF2020(CS-EL/M), WRIT PETITION NO.226364 OF2020(CS-EL/M) & WRIT PETITION NO.226342 OF2020(CS-EL/M) IN W.P. NO.226145/2020 BETWEEN:

1. GURUNATH REDDY S/O PARWATREDDY, AGE:

48. YEARS, OCC: AGRICULTURE/PRESIDENT, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, 2 SHAHAPUR, R/O AT POST HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201.

2. ASHOK REDDY S/O MADIVALAPPA AGE:

42. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O KARKALLI VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201.

3. YANKAPPA S/O HANAMANTH, AGE:

64. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O BILAR, TQ. WADAGERA, DIST. YADGIRI-585201.

4. BASAVARAJ S/O BHIMARAYA MOOLIMANI, AGE:

55. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O AT POST HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201.

5. VIJAYAKUMAR PATIL S/O MAHADEVAPPAGOUDA AGE:

53. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O HALGERA, TQ. WADAGERA, DIST. YADGIRI-585201. 3

6. HANAMANTH S/O YENKAPPA YAKSHANTI, AGE:

50. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O AT POST HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201.

7. GADIGEPPA S/O SHARANAPPA DESAI, AGE:

67. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O AT HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201.

8. SMT. SHARANAMMA W/O CHANDRASHEKHAR AVANTI, AGE:

45. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O AT HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201.

9. SMT. KRISHANAMMA W/O BHIMARAYA YAKSHANTI, AGE:

60. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O AT HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI.

10. BASAVARAJ S/O DHARMANNA, AGE:

60. YEARS, 4 OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, R/O AT POST HALLI SAGAR VILLAGE, TQ. SHAHAPUR, DIST. YADGIRI-585201. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE, REPRESENTED BY ITS PRINCIPAL SECRETARY-01.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-586101.

5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, YADGIRI-585201.
6. THE ASSISTANT DIRECTOR OF COOPERATIVE AUDIT/RETURNING OFFICER, YADGIR-585201. 5
7. THE TALUK AGRICULTURE PRODUCE MARKETING COOPERATIVE SOCIETY, SHAHAPUR-585223, REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.
8. THE ADMINISTRATOR/STENOGRAPHER, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHAHAPUR, OFFICE OF THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, YADGIRI-585201. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO6 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28A(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226141/2020 BETWEEN:
  1. VEERAREDDY S/O SIDRAM REDDY PATIL, AGE:  
  
28. YEARS, C/O. DR. PRAHLADRAO PATIL, HANI PLOT NO.14, GANESH NAGAR, NEAR MUKTA TAKES NEW-JEWARAGI ROAD, KALABURAGI-585103.
  2. RAVINDRAKUMAR S/O GUNDAPPA 6 AGE:  
  
51. YEARS, R/O REVANASIDDDESHWAR COLONY, NEAR T.V. STATION, HUMNABAD ROAD, KALABURAGI-585102. ... PETITIONERS (BY SRI. I.R.BIRADAR, ADVOCATE) AND:
    1. THE STATE OF KARNATAKA BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BENGALURU-01.
    2. THE REGISTRY CO-OPERATIVE SOCIETY, ALI-ASKAR ROAD, BENGALURU-560052.

3. THE COMMISSIONER, STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTI NAGAR, BENGALURU-27.

4. THE DEPUTY COMMISSIONER AND DISTRICT ELECTION OFFICER, STATION MAIN ROAD, KALABURAGI-585105.

5. THE KALABURAGI-YADAGIRI DISTRICT CO- OPERATION UNION LTD., KARNATAKA INSTITUTIVE OF CO-OPERATION MANAGEMENT BUILDING, ADARSH NAGAR, SEDAM ROAD, KALABURAGI-585102 7 REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER (CEO).

6. THE JOINT REGISTRAR CO-OPERATIVE SOCIETY, KALABURAGI DIVISION, VENKATESHWAR COLONY LINGASAGUR ROAD, RAICHUR-584101.

7. THE ASSISTANT REGISTRAR, CO-OPERATIVE SOCIETY, YADAGIR SUB-DIVISION, YADAGIR AND ALSO ADMINISTRATOR KALABURAGI-YADAGIR DIST. CO-OPERATIVE UNION LTD., KALABURAGI-585102. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28 (5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226146/2020 BETWEEN:

1. BHEEMARAYA S/O BASAPPA GUDDAD, AGE:

55. YEARS, OCC: AGRICULTURE/PRESIDENT, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI, 8 R/O JIGJINAGI VILLAGE, TQ. INDI, DIST. VIJAYAPUR-586101.

2. ANNASAHEB S/O BALACHANDRA PATIL, AGE:

51. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI, R/O HALAGUNAKI VILLAGE, TQ. INDI, DIST. VIJAYAPUR-586101.

3. SHIVARAYA S/O CHANDRAM NIDAGUNDI, AGE:

55. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI, R/O NIMBAL VILLAGE, TQ. INDI, DIST. VIJAYAPUR-586101.

4. LAXMAN S/O DHARMU RATHOD, AGE:

48. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI, R/O JIGJINAGI VILLAGE, TQ. INDI, DIST. VIJAYAPUR-586101.

5. SHIVANAGOUDA S/O RACHAPPAGOUDA PATIL, AGE:

58. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI, R/O GOLASAR VILLAGE, TQ. INDI, DIST. VIJAYAPUR-586101. 9

6. RAJENDRA S/O CHANDRAKANTH PATIL, AGE:

55. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI, R/O SALOTAGI VILLAGE, TQ. INDI, DIST. VIJAYAPUR-586101. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S. BUILDING, BANGALORE-01, REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, BELAGAVI-590001.
5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, VIJAYAPUR-586101. 10
6. THE TAHASILDAR/THE RETURNING OFFICER, INDI, DIST. VIJAYAPUR-586101.
7. THE TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, APMC YARD, AGARKHED ROAD, INDI, DIST. VIJAYAPUR-586101, REPRESENTED BY ITS MANAGER.
8. THE ADMINISTRATOR/ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, INDI-586101. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO6 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226148/2020 BETWEEN:
  1. BASAVARAJ S/O SIDDRAMAPPA WALI, AGE:  
  
53. YEARS, OCC: AGRICULTURE/PRESIDENT, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O SNEHA SANGAM APARTMENT, 2ND FLOOR, SANGAMESHWAR COLONY, KALABURAGI-585102. 11
  2. SHARANAGOUDA S/O SHIVASHARANAPPA PATIL, AGE:  
  
56. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O PETH-SHIROOR VIA MALKHED, PETH-SHIROOR, TQ. CHITTAPUR, DIST. KALABURAGI-585317.
  3. KEDARLINGAYYA S/O SANGANBASAYYA HIEMATH, AGE:

62. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O PLOT NO.70, TAYI NERALU, SHIVA MANDIR, GODUTAI NAGAR, KALABURAGI-585103.

4. SOMASHEKHAR S/O GURUSHANTAPPA GONAYAK, AGE:

55. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O H.NO.39, SWASTIC NAGAR (BILAGUNDI LAYOUT), SEDAM ROAD, KALABURAGI-585105.

5. MALLIKARJUN REDDY S/O SIDDARAMAPPA REDDY PATIL KAULOOR, AGE:

65. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, 12 KALABURAGI, R/O STATION ROAD, YADGIRI-585202.

6. VITHAL S/O VENKANNA YADAV, AGE:

58. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O CHENNAMMA NILAYA, H.NO.5-2-76, SHETTY MOHALLA, SHORAPUR-585224.

7. SHAMBUREDDY S/O SHARANAPPA NARASGOL, AGE:

57. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O POST KODLA, TQ. SEDAM, DIST. KALABURAGI-585222.

8. BAPUGOUDA S/O DUNDAPPAGOUDA PATIL AGE:

55. YEARS, OCC: AGRICULTURE/DIRECTOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O NEAR SBH BANK, HUNASAGI, TQ. SHORAPUR, DIST. YADGIRI-586202.

9. MALLIKARJUN S/O YESHWANTRAO PATIL, AGE:



75. YEARS, OCC: AGRICULTURE/DIRECTOR, 13 KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, KALABURAGI, R/O H.NO.84, SHANTI NAGAR, KALABURAGI-585103. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-01, REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE560052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27 REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-584101.

5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, KALABURAGI-585101.

6. THE ASSISTANT COMMISSIONER/ RETURNING OFFICER, KALABURAGI.  
14

7. THE KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, MAIN ROAD, JAGAT, KALABURAGI-585102. REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

8. THE ADDITIONAL DEPUTY COMMISSIONER/ ADMINISTRATOR, KALABURAGI-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK LIMITED, OFFICE OF THE DEPUTY COMMISSIONER, KALABURAGI-585 102. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO6 THIS WRIT PETITION IS FILED UNDER ARTICLES226AND227OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P.

NO.226191/2020 BETWEEN:

1. BHIMSEN S/O MAHADEVAPPA KOKARE, AGE:

62. YEARS, OCC: AGRICULTURE & PRESIDENT, HOPCOMS LTD., VIJAYAPURA, R/O K.H.B. COLONY, VIJAYAPURA. 15

2. SHARANAPPA S/O PUNDALIKAPPA BIRADAR, AGE:

75. YEARS, OCC: RTD. GOVT. SERVANT & DIRECTOR, HOPCOMS LTD., VIJAYAPURA. ... PETITIONERS (BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE) AND:

1. THE STATE OF KARNATAKA REP. BY ITS SECRETARY, CO-OPERATIVE DEPARTMENT, M.S.BUILDING, BENGALURU-1.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKAR ROAD, BENGALURU-585101.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, BELGAVI-590 001.

4. THE DISTRICT REGISTRAR, CO-OPERATIVE SOCIETIES, VIJAYAPURA-586 101. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO4 THIS WRIT PETITION IS FILED UNDER ARTICLE226OF THE CONSTITUTION OF INDIA PRAYING TO (A) ISSUE A WRIT OR

ORDER

, WRIT IN NATURE OF CERTIORARI, QUASHING THE

ORDER

GOVERNMENT

ORDER

DATED1407.2020 IN NO.CO.32.CLM.2020, ISSUED BY RESPONDENT NO.1, VIDE ANNEXURE-F AND ETC. 16 IN W.P. NO.226192/2020 BETWEEN:

1. SRI. BASANNA S/O MALLIKARJUN KORE, AGED ABOUT 73 YEARS, OCC: PRESIDENT, VIJAYAPURA DISTRICT CO-OPERATIVE UNION LTD., OPP. CENTRAL BUS STAND, VIJAYAPURA.

2. SRI. KRISHNA GOUDA S/O BHIMANGOUDA PATIL, AGED ABOUT 55 YEARS, OCC: VICE PRESIDENT, VIJAYAPURA DISTRICT CO-OPERATIVE UNION LTD., OPP. CENTRAL BUS STAND, VIJAYAPURA.

3. SRI. SHIVANGOUDA, S/O SHIVASHANKARAYAGOUA BIRADAR, AGED ABOUT 66 YEARS, OCC: DIRECTOR, VIJAYAPURA DISTRICT CO-OPERATIVE UNION LTD., OPP. CENTRAL BUS STAND, VIJAYAPURA.

4. SRI. MD ISHAK S/O CHANDSAB MULLA, AGED ABOUT 66 YEARS, OCC: DIRECTOR, VIJAYAPURA DISTRICT CO-OPERATIVE UNION LTD., OPP. CENTRAL BUS STAND, VIJAYAPURA. ... PETITIONERS (BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE) 17 AND:

1. THE STATE OF KARNATAKA REP. BY ITS SECRETARY, CO-OPERATIVE DEPARTMENT, M.S.BUILDING, AMBEDKAR VEEDI, BENGALURU-1.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKAR ROAD, BENGALURU-585101.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, RANI CHENNAMMA CIRCLE, BELAGAVI, DIST: BELAGAVI-590 008.

4. THE DISTRICT REGISTRAR CO-OPERATIVE SOCIETIES, VIJAYAPURA, DIST: VIJAYAPURA-586101.

5. THE COMMISSIONER, CO-OPERATIVE ELECTION AUTHORITY, K.H.ROAD, SHANTI NAGAR, BENGALURU-560 027. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) ISSUE A WRIT OR

ORDER

, WRIT IN NATURE OF CERTIORARI, QUASHING THE

ORDER  
GOVERNMENT

ORDER

DATED 14.07.2020 IN NO.CO.32.CLM.2020, ISSUED BY RESPONDENT NO.1, VIDE ANNEXURE-H AND ETC. 18 IN W.P. NO.226193/2020 BETWEEN:

1. SRI. PEERAGOND M. GADYAL S/O MALAKAPPA GADYAL, AGED ABOUT 57 YEARS, OCC: AGRL & PRESIDENT, THE BIJAPUR DIST. GRAPE GROWERS PROCESSING & MARKETING CO-OPERATIVE SOCIETY, BIJAPUR R/O KALLAKAVATAGI, VIJAYAPURA.

2. SRI. URESH BIRADAR S/O ALGOUD, AGE 56 YEARS, OCC: AGRL. & DIRECTOR, THE BIJAPUR DIST. GRAPE GROWERS PROCESSING & MARKETING CO-OPERATIVE SOCIETY, BIJAPUR R/O BABA NAGAR, VIJAYAPURA.

3. SRI. MAHAVEER KUSANAL S/O LAGAMANNA, AGED ABOUT 53 YEARS, OCC: AGRL. & DIRECTOR, THE BIJAPUR DIST. GRAPE GROWERS PROCESSING & MARKETING CO-OPERATIVE SOCIETY, BIJAPUR R/O HOUSE NO.212/02, BABA NAGAR, VIJAYAPURA.

4. SRI. SIDDAPPA ATHANI, S/O SHIVAPPA ATHANI, AGED ABOUT 66 YEARS, OCC: AGRL. & DIRECTOR, THE BIJAPUR DIST. GRAPE GROWERS PROCESSING & MARKETING CO-OPERATIVE SOCIETY, BIJAPUR R/O LOHAGAON, VIJAYAPURA. ... PETITIONERS (BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE) AND:

1. THE STATE OF KARNATAKA REPRESENTED BY ITS SECRETARY, CO-OPERATIVE DEPARTMENT, M.S.BUILDING, BENGALURU-1.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKAR ROAD, BENGALURU-585101.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, BELAGAVI-590001.

4. THE DISTRICT REGISTRAR, CO-OPERATIVE SOCIETIES, VIJAYAPURA-586101.

5. THE COMMISSIONER, CO-OPERATIVE ELECTION AUTHORITY, K.H.ROAD, SHANTI NAGAR, BENGALURU-560027. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) ISSUE A WRIT OR

ORDER

, WRIT IN NATURE OF CERTIORARI, QUASHING THE GOVERNMENT

ORDER

DATED 14.07.2020 IN No.CO.32.CLM.2020, ISSUED BY RESPONDENT NO.1, VIDE ANNEXURE-F AND THE CONSEQUENTIAL

ORDER

DATED 15.07.2020 IN NO.JRL.XM.C/AaNe/CR-07/2020-21 VIDE ANNEXURE-H AND ETC. IN W.P. NO.226194/2020 BETWEEN:

1. SIDDAPPA S/O SHARANAPPA HOTTI, AGE:

64. YEARS, OCC: AGRICULTURE/ TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI, R/O KAJARGADI VILLAGE, TQ. AND DIST. YADGIRI-585201.

2. R. VEERANNA S/O KALLAPPA RYAKHA, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI, R/O HONIGERA VILLAGE, TQ. AND DIST. YADGIRI-585201.

3. RACHANNAGOUDA S/O SIDDANAGOUDA POLICEPATIL, AGE:

67. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI, 21 R/O SANGAVARU VILLAGE, TQ. AND DIST. YADGIRI-585201.

4. SWAMIDEVA S/O HANAMANTH DASANKERI, AGE:

45. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI, R/O AMBEDKAR NAGAR, YADGIRI-585201.

5. SHIVALEELA W/O CHANNAYYASWAMI MULABHAGIMATH, AGE:

63. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI, R/O SHARANANAGAR, YADGIRI-585201.

6. SMT. SANGAMMA W/O SHARANAPPA AKKI, AGE:

64. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI, R/O KAJAGARWADI, TQ. AND DIST. YADGIRI-585201. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, 22 M.S.BUILDING, BANGALORE-01, REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-586101.

5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, YADGIRI-585201.

6. TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, YADGIRI-585201. REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

7. THE ADMINISTRATOR/ COOPERATIVE DEVELOPMENT OFFICER, HUNASAGI, DIST. YADGIRI-585201. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO5AND7) THIS WRIT PETITION IS FILED UNDER ARTICLES23226 AND227OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226198/2020 BETWEEN:

1. BASAVARAJ S/O SIDDLINGAPPA KALASGOND, AGE:

48. YEARS, OCC: AGRICULTURE/PRESIDENT, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O UTNAL, DIST. VIJAYAPUR-586101.

2. SIDDAPPA S/O MALLAPPA KABADAGI, AGE:

57. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O MADABHAVI, DIST. VIJAYAPUR-586101.

3. NANDAKISHORE S/O RAMKISAN RATHOD, AGE:

62. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O VIJAYAPUR-586101. 24

4. SANJAYA S/O BASANAGOUDA PATIL, AGE:

48. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O VIJAYAPUR-586101.

5. ANNARAYA S/O KALLAPPA DASHYAL, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O BOMMANAHALLI, DIST. VIJAYAPUR-586101.

6. CHANNAPPA S/O SIDGONDA KOPPAD, AGE:

48. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O YAKKUNNDI, DIST. VIJAYAPUR-586101.

7. BHIMAPPA S/O SANGAPPA BAJENI, AGE:

57. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O BABALESHWAR, DIST. VIJAYAPUR-586101. 25

8. BAPURAJ S/O SHANMUKHAPPA YADWAD, AGE:

64. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR, R/O BABALESHWAR, DIST. VIJAYAPUR-586101. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-01 REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, BELAGAVI-590001. 26

5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, VIJAYAPUR-586101.



6. THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES/ RETURNING OFFICER, VIJAYAPUR SUB-DIVISION, VIJAYAPUR-586101.

7. TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, VIJAYAPUR -586101. REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

8. THE ADMINISTRATOR/ ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES, VIJAYAPUR (ADDITIONAL), VIJAYAPUR-586101. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO6 THIS WRIT PETITION IS FILED UNDER ARTICLE226OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISION OF SECTION28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226205/2020 BETWEEN:

1. SMT. SUNANDA W/O SHARANAPPA GOUDA PATIL, 27 AGE:

52. YEARS, OCC: AGRICULTURE/ TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR, R/O YALAGI VILLAGE, TQ. SHORAPUR, DIST. YADGIRI-585201.

2. SMT. VIJAYALAKSHMI W/O HANAMANTRAYA PATIL, AGE:

53. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR, R/O YALAGI VILLAGE, TQ. SHORAPUR, DIST. YADGIRI-585201.

3. BAPUGOUDA S/O DUNDAPPAGOUDA PATIL, AGE:

58. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR, R/O HUNASAGI, TQ. SHORAPUR, DIST. YADGIRI-585220.

4. TIPPANNA S/O MALLAPPA KURLI, AGE:

59. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR, R/O

TINTHANI, TQ. SHORAPUR, DIST. YADGIRI-585220. 28

5. BALABHIMARAYA S/O YANKANNA YADAV, AGE:

54. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR, R/O MANGALORE, TQ. SHORAPUR, DIST. YADGIRI-585220.

6. VITHAL YADAV S/O YANKANNA YADAV, AGE:

52. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR, R/O PETH AMMAPUR VILLAGE, TQ. SHORAPUR, DIST. YADGIRI-585220. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-01, REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BENGALURU-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, 29 SHANTHI NAGAR, BANGALORE-27. REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-584101.

5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, YADGIRI-585201.

6. TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, SHORAPUR-585220. REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER  
7 THE COOPERATIVE INSPECTOR, OFFICE OF THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES, YADGIRI-585201. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO5AND7 THIS WRIT PETITION IS FILED UNDER

ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO. 226259/2020 BETWEEN:

1. SHRI. H.KUMARAPPA S/O VEERABHADRAPPA, 30 AGE:

70. YEARS, OCC: BUSINESS/PRESIDENT, RADDI PATTINA SOUHAARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O MUSLIKARALAKUNTI, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

2. SHRI. BASAVARAJ KAREKAL S/O AMARAPPA, AGE:

70. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDI PATTINA SOUHAARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O ANKUSHADODDI, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

3. SHRI BASSANNA KANNAL S/O MALLIKAJAPPA, AGE:

68. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDI PATTINA SOUHAARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O MUDUGAL, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

4. SHRI. NAGANAGOUDA KAMBALIHALL S/O PUNDANAGOUDA, AGE:

60. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDI PATTINA SOUHAARDHA SAHAKARI NIYAMITA, 31 LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O 213-148, BASAVA NILAYA, BASAVA NAGAR, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

5. SHRI SURENDRAGOUDA ADAPUR S/O MAHANTHAGOUDA, AGE:

50. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDI PATTINA SOUHAARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O MUDUGAL, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

122.

6. SHRI VIRUPANAGOUDA PATIL S/O MUDUKANAGOUDA, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O ANWARI, TQ:LINGASUGUR, DIST. RAICHUR-584 122.

7. SHRI BHIMANNA KAREKAL S/O MALLAPPA, AGE:

65. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, LINGASAGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O ANKUSHADODDI, TQ:LINGASUGUR, DIST. RAICHUR-584 122. 32

8. SHRI CHANNAGOUDA PATIL S/O HANUMANAGOUDA, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O YARADONA, TQ:LINGASUGUR, DIST. RAICHUR-584 122.

9. SHRI MALLANNA HANDRAL S/O DODDAPPA, AGE:

54. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O CHIKKA LEKKIHAL, TQ:LINGASUGUR, DIST. RAICHUR-584 122.

10. SHRI NINGANAGOUDA MALIPATIL S/O HANUMANAGOUDA, AGE:

44. YEARS, OCC: BUSINESS/DIRECTOR, RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O NAGARAHAL, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

11. SHRI MALLIKARJUN HUVINBHAVI S/O BASANAGOUDA H, AGE:

62. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDAR PATTINA SOUHANDHA SAHAKARI NIYAMITA, 33 LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O MASKI, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

12. SHRI. VEERANAGOUDA PATIL S/O SHARANAGOUDA, AGE:

59. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDAR PATTINA SOUHANDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O KANNAL, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

13. SMT. SHIVABASSAMMA PAGD W/O SHARANABASSAPPA, AGE:

41. YEARS, OCC: HOUSE WIFE/DIRECTOR, RADDAR PATTINA SOUHANDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O ADAPUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

14. SMT. KAVITA PATAVARI W/O PRABHUDEV, AGE:

39. YEARS, OCC: HOUSEWIFE/DIRECTOR, RADDAR PATTINA SOUHANDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O HIRE NAGANUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. 34

15. SHRI NAGAPPA BANGI S/O BASSAPPA, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDAR PATTINA SOUHANDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O CHIKKA UPPERI, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

16. SHRI. MOUNUDDIN S/O NABISAB, AGE:

48. YEARS, OCC: AGRICULTURE/DIRECTOR, RADDAR PATTINA SOUHANDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O BANNIGOLA, TQ: LINGASUGUR, DIST. RAICHUR-584 122.

17. SHRI. ANAND NAYAK S/O HANUMATHA, AGE:

26. YEARS, OCC: AGRICULTURE / DIRECTOR, RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122. R/O YARAGUNTA, TQ:LINGASUGUR, DIST. RAICHUR-584 122. ... PETITIONERS (BY SRI. ARUNKUMAR AMARGUNDAPPA, ADVOCATE) 35 AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-560 001 REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-560 027. REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR, DIST. RAICHUR-584 123.

5. THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES, DIST. RAICHUR-584 123.

6. RADDER PATTINA SOUHARDHA SAHAKARI NIYAMITA, NO.2-33/3&4, BEHIND HORTICULTURE DEPT. OLD TAHASIL OFFICE ROAD, LINGASUGUR, TQ: LINGASUGUR, DIST. RAICHUR-584 122 REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) 36 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226271/2020 BETWEEN:

1. BHIMANNA S/O SHIVALINGAPPA KHANDRE, AGE:

96. YEARS, OCC: AGRICULTURE/CHAIRMAN, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O KHANDRE GALLI, GUNJ AREA, BHALKI-585328, DIST. BIDAR2 AMARKUMAR S/O BHIMANNA KHANDRE, AGE:

56. YEARS, OCC: AGRICULTURE/VICE-CHAIRMAN, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O KHANDRE GALLI, GUNJ AREA, BHALKI-585328, DIST. BIDAR3 VAIJINATHRAO S/O MADHAVRAO PATIL, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O JANTHI, TQ. BHALKI, DIST. BIDAR-585 328 37 4. BABURAO S/O JAGADEVRAO PATIL, AGE:

72. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O HORANDI, TQ. AURAD (B), DIST. BIDAR-585 328.

5. BABURAO S/O SHANKREPPA TUMBA, AGE:

71. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O GADWANTI VILLAGE, TQ. HUMNABAD, DIST. BIDAR-585 328 6. MANOHARRAO S/O VENKATRAO NITTURE, AGE:

76. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O EKALASPURWADI, TQ. BHALKI, DIST. BIDAR-585328 7. SHRAVANKUMAR S/O MALLAPPA GAYAKWAD, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O PANCHSHEELA GALLI, OPP. RAILWAY STATION, 38 BIDAR ROAD, BHALKI, DIST. BIDAR-585328.

8. LIYAKAT ALI S/O AHAMAD ALI, AGE:

68. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O H.NO.1-4-127, KUMBAR GALLI, (NEAR CHAWADI) OLD TOWN BHALKI, DIST. BIDAR-585 328

9. SANGAREDDY S/O SIDDAREDDY GONDE, AGE:

66. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O KAPLAPUR, TQ. AND DIST. BIDAR-585328 10. SMT. SUREKHA W/O BHEEMRAO SHETKAR, AGE:

45. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O HEDGAPUR, TQ. AURAD (B), DIST. BIDAR-585328 11. SMT. NALINI W/O SUNIL PATIL, AGE:

47. YEARS, OCC: AGRICULTURE/DIRECTOR, 39 MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O HALLI, TQ. BASAVKALYAN, DIST. BIDAR-585328 12. SHIVAKUMAR S/O ANNEPPA MALLASURE, AGE:

54. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O NEAR KHB COLONY, GUNJ, BHLAKI, DIST. BIDAR-585328.

13. SHIVASHANKAR S/O BHEEMRAO PATIL, AGE:

62. YEARS, OCC: AGRICULTURE/DIRECTOR, MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR, R/O KARDIYAL, BHALKI, DIST. BIDAR-585 328 ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BENGALURU-560 001 REPRESENTED BY ITS PRINCIPAL SECRETARY. 40



2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.
3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY.
4. THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-584101.
5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, BIDA-585401.
6. THE ASSISTANT COMMISSIONER/ RETURNING OFFICER, BASAVA KALYAN, DIST. BIDAR-585327.
7. MAHATMA GANDHI SAHAKARA SAKKARE KARKHANE (NIYAMITA), BHALKI, DIST. BIDAR-585328, REPRESENTED BY ITS MANAGING DIRECTOR. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO6 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. 41 IN W.P. NO.226320/2020 BETWEEN:

1. ASHOK S/O PANDAPPA LENKANNAVAR, AGE:

54. YEARS, OCC: AGRICULTURE & THE PRESIDENT, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O160 GIRGOAN, HANCHINAL, BILAGI, DIST: BAGALKOT-587 117.

2. HANAMANT S/O DUNDAPPA NYAMAGOUD, AGE:

63. YEARS, OCCU: AGRICULTURE & THE VICE PRESIDENT, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O #117, REDDY ONI, KUNCHANUR, TQ.: JAMAKHANDI, DIST: BAGALKOT-587 301.

3. HANAMANT S/O SHANKARAPPA KORADDI, AGE:

65. YEARS, OCCU: AGRICULTURE & DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O JAMABAGI VILLAGE, TQ. & DIST: VIJAYAPURA-586 112.

4. SMT. SAROJINI W/O RAYAPPA MANTUR, AGE:

51. YEARS, OCCU: AGRICULTURE & THE DIRECTOR, 42 NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O KANABUR VILLAGE, TQ.: BABALESHWAR, DIST: BAGALKOT-586 113.

5. GAUDAPPA GOUDA S/O KALLAPPA GOUDA PATIL, AGE:

62. YEARS, OCC: AGRICULTURE & THE DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O BADAGI VILLAGE, TQ: BILAGI, DIST: BAGALKOT-587 117.

6. DUNDAPPA S/O HANAMAPPA DEVANAL, AGE:

63. YEARS, OCCU: AGRICULTURE & DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O YADAHALLI VILLAGE, TQ.: BILAGI, DIST: BAGALKOT-587 117.

7. BASAVARAJ S/O SANGANAGOUDA PATIL, AGE:

41. YEARS, OCCU: AGRICULTURE & DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O KAVATAGI VILLAGE, TQ.: JAMAKHANDI, DIST: BAGALKOT-587 301.

8. BASAPPA S/O DUNDAPPAGOUD PATIL, AGE:

47. YEARS, 43 OCCU: AGRICULTURE & DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O KRISHNA NAGAR, HOSUR VILLAGE, TQ.: BABALESHWAR, DIST: VIJAYAPURA-587 113.

9. SUBHAS S/O DUNDAPPA SAVAKAR, AGE:

50. YEARS, OCCU: AGRICULTURE & DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O BIDARI VILLAGE, TQ.: JAMAKHANDI, DIST: BAGALKOT-586 125.

10. TIMMANAGOUDA S/O KRISHNAGOUDA PATIL, AGE:

51. YEARS, OCC: AGRICULTURE & DIRECTOR, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, R/O GALAGALI VILLAGE, TQ.: BILAGI, DIST: BAGALKOT-587 117.  
... PETITIONERS (BY SRI. R.S.LAGALI, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-560001 REPRESENTED BY ITS PRINCIPAL SECRETARY. 44

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560 052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-560 027. REPRESENTED BY ITS SECRETARY.

4. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, BELGAVI-590 006.

5. THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES, VIJAYAPURA-586 102.

6. NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, KRISHNA NAGAR, , AT

POST. HOSUR, TQ. BABALESHWAR, DIST. VIJAYAPURA-586 113, REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

7. THE SUPERINTENDENT/ADMINISTRATOR, OFFICE OF THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES / VIJAYAPURA, NANDI SAHAKARI SAKKARE KARKHANE KABBU BELEGARARA SADASYAR PATTIN SAHAKARI SANGH NIYAMITA, KRISHNA NAGAR, , AT POST. HOSUR, TQ. BABALESHWAR, DIST. VIJAYAPURA-586113. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) 45 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226338/2020 BETWEEN:

1. SHIVANAND S/O SAHEBGOU DA DYAMGONDA, AGE:

48. YEARS, OCC: AGRICULTURE/PRESIDENT, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O KALLUR (K) VILLAGE, TQ. JEWARGI, DIST.KALABURAGI-585310.

2. KEDARLINGAYYA S/O SANGANBASAYYA HIEMATH, AGE:

60. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O HULLUR VILLAGE, TQ. JEWARGI, DIST.KALABURAGI-585310.

3. CHANDRASHEKHAR S/O MALLARADDEPPA HOSAMANI, AGE:

45. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O MALLABAD VILLAGE, 46 TQ. JEWARGI, DIST.KALABURAGI-585310.

4. PRAKASH S/O HANAMANTRAYAGOUDA PATIL, AGE:

43. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O YATNAL VILLAGE, TQ. JEWARGI, DIST.KALABURAGI-585310.

5. MAHIMOOD S/O HYDERSAB NOORI, AGE:

52. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O SHANTANAGAR, JEWARGI, DIST.KALABURAGI-585310.

6. GURUNATH S/O BASANNA KALLUR, AGE:

65. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O MAYUR VILLAGE, TQ. JEWARGI, DIST.KALABURAGI-585310.

7. SMT. DEVAKKI W/O CHANNAMALLAYYA HIEMATH, AGE:

59. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, 47 JEWARGI, DIST. KALABURAGI, R/O HULLUR VILLAGE, TQ. JEWARGI, DIST.KALABURAGI-585310.

8. SMT. SHRUTI W/O MAHANTAYYA HIEMATH, AGE:

37. YEARS, OCC: AGRICULTURE/DIRECTOR, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI, R/O HULLUR VILLAGE, TQ. JEWARGI, DIST.KALABURAGI-585310. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-01 REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560052.
3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY4 THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-586101. 48
5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, KALABURAGI-585 104.
6. THE TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI-585104 REPRESENTED BY ITS MANAGER.
7. THE ADMINISTRATOR/SENIOR INSPECTOR OF COOPERATIVE SOCIETIES, OFFICER OF THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES, KALABURAGI, TALUK AGRICULTURE PRODUCE COOPERATIVE MARKETING SOCIETY, JEWARGI, DIST. KALABURAGI-585104 ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION 28(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226341/2020 BETWEEN:
  1. GUNDAPPA S/O PEERAPPA LONDONKAR, AGE:  
58. YEARS, OCC: AGRICULTURE/PRESIDENT, 49 DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., KALABURAGI, R/O SANCHI NIVAS, PLOT NO.282, MAHAVEER NAGBAR, KOTTARI BHAVAN, NEW JEWARGI ROAD, KALABURAGI-585104.
  2. MOHAMMED SAMEE AGE:  
62. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI,

R/O JAMIA MASJID, SHAHABAD, TQ. CHITTAPUR, KALABURAGI-585104.

3. APPA RAO PATIL S/O MALEKAPPA AGE:

65. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI, R/O H.NO.10/2A/65, ANAND NAGAR, NEAR S.B. COLLEGE, KALABURAGI-585103.

4. MOHAMMED YASIN S/O ABDUL RAHIMAN, AGE:

50. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI, R/O H.NO.11-1041/91/43, IQBAL COLONY, MSK MILL, HUSSAINI GARDEN, KALABURAGI-585105. 50

5. MOHAMMED SHABEER S/O KHASIM ALI, AGE:

62. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI, R/O ISLAMABAD COLONY, NEAR WATER TANK, KALABURAGI-585104.

6. SMT. RATANMALA W/O V.KINAGI, AGE:

46. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI, R/O MAHATMA BASAVESHWAR COLONY, KALABURAGI-585104.

7. CHANNABASAPPA B., AGE:

33. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI, R/O SRINIVAS SARADAGI, AT AND POST SRINIVAS SARADAGI, TQ. AND DIST. KALABURAGI-585104.

8. RAJKUMAR G. KOTI, AGE:

40. YEARS, OCC: AGRICULTURE/DIRECTOR, DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI, R/O PRASHANTH NAGAR-A, NAIDU LAYOUT, RAJAPUR ROAD, KALABURAGI-585104. ... PETITIONERS (BY SRI. AMRESH S. ROJA, ADVOCATE) 51 AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION, M.S.BUILDING, BANGALORE-01 REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKER ROAD, BANGALORE-560052.

3. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR, SHANTHI NAGAR, T.T.M.C. A BLOCK, SHANTHI NAGAR, BANGALORE-27, REPRESENTED BY ITS SECRETARY<sup>4</sup> THE JOINT REGISTRAR OF COOPERATIVE SOCIETIES, RAICHUR-584101.

5. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, VIJAYAPURA-586101.

6. THE TAHASILDAR/RETURNING OFFICER, GRADE-2, KALABURAGI-585103.

7. DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), SUPER MARKET, KALABURAGI-585103. REPRESENTED BY ITS MANAGER.

8. THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES/ADMINISTRATOR<sup>52</sup>DISTRICT CENTRAL COOPERATIVE WHOLESALE STORES LTD., (JANATA BAZAR), KALABURAGI-585103. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) THIS WRIT PETITION IS FILED UNDER ARTICLES<sup>226</sup>AND<sup>227</sup>OF THE CONSTITUTION OF INDIA PRAYING TO (A) STRIKE DOWN PROVISIONS OF SECTION<sup>28</sup>(5), 28-B(2) OF THE ACT AS BEING UNCONSTITUTIONAL AND UNWORKABLE AND ETC. IN W.P. NO.226364/2020 BETWEEN: SRI. APPASAHEB S/O SHIVALINGAPPA PATTANSHETTY, AGED ABOUT<sup>67</sup>YEARS,



OCC: PRESIDENT, TALUKA AGRICULTURAL PRODUCE MARKETING CO-OPERATIVE SOCIETY LTD., SINDHAGI, TQ: SINDHAGI DIST: VIJAYAPURA ... PETITIONER (BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE) AND:

1. THE STATE OF KARNATAKA REP. BY ITS SECRETARY, CO-OPERATION DEPARTMENT, M.S.BUILDING, BENGALURU-1.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, 53 ALI ASKAR ROAD, BENGALURU-585101.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, BELGAVI-590001.

4. THE DISTRICT REGISTRAR, CO-OPERATIVE SOCIETIES, VIJAYAPURA-586101.

5. THE COMMISSIONER CO-OPERATIVE ELECTION AUTHORITY, K.H.ROAD, SHANTI NAGAR, BENGALURU-560003. ... RESPONDENTS (BY SMT. ANURADHA M. DESAI, GOVERNMENT ADVOCATE) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) ISSUE A WRIT OR

ORDER

, WRIT IN NATURE OF CERTIORARI, QUASHING THE GOVERNMENT

ORDER

DATED 14.07.2020 IN NO.CO.32.CLM.2020, ISSUED BY RESPONDENT NO.1, VIDE ANNEXURE-E AND THE CONSEQUENTIAL

ORDER

DATED 15.07.2020 IN NO.DRJ/RSR/KALAM28(5)/CR-19/2020-21 PASSED BY RESPONDENT NO.4 VIDE ANNEXURE-G AND ETC. IN W.P. NO.226342/2020 BETWEEN:

1. S.VIJAYAKUMAR S/O BASAVARAJ PATIL AGED ABOUT 50 YEARS, OCC: DIRECTOR OF KARNATAKA CO-OPERATIVE FEDERATION (LTD.), R/O: SHAVANTHGIRI H.NO.:10/1/76 MAKTALPETH, RAICHUR.

2. SIDRAMA REDDY S/O VEERANAGOUDA PATIL, AGED ABOUT 56 YEARS, OCC: DIRECTOR OF KARNATAKA CO-OPERATIVE FEDERATION (LTD.), R/O: C/O: PRALAHADRAO K. PATIL, HONEY PLOT NO.14, GANESH NAGAR, OPP: MUKTA THEATER, NEW JEWARGI ROAD, KALABURAGI-585102. ... PETITIONERS (BY SRI. JAYAKUMAR S. PATIL, SENIOR COUNSEL FOR SRI. I.R.BIRADAR, ADVOCATE) AND:

1. THE STATE OF KARNATAKA, DEPT. OF CO-OPERATIVE VIKAS SOUDHA, DR. B.R.AMBEDKAR ROAD, BENGULURU-01 REPRESENTED BY ITS SECRETARY.

2. THE KARNATAKA STATE CO-OPERATIVE ELECTION COMMISSION, REPRESENTED BY ITS COMMISSIONER, TTMC BUILDING, 3RD FLOOR, A-BLOCK, SRI. KENGAL HANMANTAIAH ROAD, SHANTHINAGAR, BANGALORE-560027.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, ALI ASKAR ROAD, BANGALORE-560001. 55

4. THE KARNATAKA STATE CO-OPERATIVE FEDERATION LTD., NO.32, 3RD FLOOR, D.DEVARAJ URS ROAD, (RACE COURSE ROAD) BANGALORE-560001. REPRESENTED BY ITS MANAGING DIRECTOR/ CHIEF EXECUTIVE OFFICER.

5. THE RAICHUR DISTRICT CO-OPERATIVE UNION LTD., RAICHUR REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER RAICHUR-584101.

6. THE KALABURAGI-YADGIRI DISTRICT CO-OPERATIVE UNION LTD., KARNATAKA INSTITUTE OF CO-OPERATIVE MANAGEMENT BUILDING, ADARSHA NAGAR, SEDAM ROAD, KALABURAGI-585103, REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER ... RESPONDENTS (BY SRI. SHIVAKUMAR R. TENGALI, ADDITIONAL GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO 5 THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO (i) DECLARE THAT SECTION 28A (4) AND (5) OF THE KARNATAKA CO-OPERATIVE SOCIETIES

ACT 1959 ARE ULTRA THE CONSTITUTION OF INDIA AND STRIKE DOWN THE SAME AS UNCONSTITUTIONAL AND ETC. THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR

ORDER

S ON 30.09.2020 AND COMING ON FOR PRONOUNCEMENT OF

ORDER

THIS DAY THROUGH VIDEO CONFERENCE, THE COURT MADE THE FOLLOWING:

56.

ORDER

The petitioners in all these petitions are erstwhile elected members of the Board of Primary, Secondary, Federal Societies in the Districts of Yadgiri, Vijayapura, Kalaburagi, Raichur, Bidar and an Apex Co-operative society and they have all completed five years in office. While the petitioners in W.P. Nos.226145/2020, 226141/2020, 226146/2020, 226148/2020, 226194/2020, 226198/2020, 226205/2020, 226259/2020, 226271/2020, 226320/2020, 226338/2020 and 226341/2020 have challenged the Constitutional validity of Section 28-A(5) and Section 28-B(2) of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as the Act of 1959 for the sake of brevity) on the touchstone of Article 243-ZI and Article 19(1)(c) of the Constitution of India, the others (petitioners in W.P. Nos.226191/2020, 226192/2020, 226193/2020 and 226364/2020) have not. The petitioners in W.P.No.226342/2020 has challenged the constitutional validity of Section 28-A(4) and (5) of the Act 57 of 1959. The petitioners in the above petitions have contemporaneously sought for a Writ in the nature of Mandamus to direct the concerned respondents not to interfere with the functioning of the existing Board of Directors of the respective societies till a Board of Directors is newly elected. However, the petitioners in W.P. Nos.226145/2020, 226141/2020, 226146/2020, 226148/2020, 226194/2020, 226198/2020, 226205/2020, 226259/2020, 226271/2020, 226320/2020, 226338/2020 and 226341/2020 have sought for a direction to respondent Nos.1 and 3 therein (the State and State Co-operative Election Authority) and petitioners in W.P. Nos.226191/2020,

226192/2020, 226193/2020, 226364/2020 and 226342/2020 have sought for a direction to respondents therein to conduct elections to the respective Societies by quashing the impugned Order dated 14-07-2020 by which administrators were ordered to be appointed to all Primary / Secondary / Federal / Apex Societies. While the petitioners in W.P. Nos.226145/2020, 226141/2020, 226146/2020, 226148/2020, 226193/2020, 58 226194/2020, 226198/2020, 226205/2020, 226338/2020, 226341/2020 and 226364/2020 have challenged the consequent Orders dated 15.07.2020 appointing administrators, the petitioners in W.P. No.226320/2020 has challenged the consequent Order dated 20.08.2020 and the petitioners in W.P. No.226342/2020 has challenged the consequent Order dated 18.08.2020.

2. In W.P. No.226259/2020, the petitioners have challenged the Order dated 22.05.2020 by which election to the Board of Management was postponed by the Deputy Registrar of Co-operative Societies and in W.P. No.226271/2020, a corrigendum dated 21.07.2020 issued by the Special Officer and Joint Registrar of Co-operative Societies is challenged, by which the Government order dated 16.06.2020 was made applicable to Sugar Factories also.

3. The foundational facts stated in the writ petitions are that the petitioners are all the erstwhile elected members of the Board of Co-operative societies whose term in office terminated during March, May, June, 59 August and September 2020. Thus in compliance with Rule 13-D of the Karnataka Co-operative Societies Rules, 1960 (Rules of 1960 in short), the petitioners had all furnished the draft of eligible list of members to the concerned Registrar, who in turn forwarded it to the Co-operative Election Authority so as to enable the State Election Authority to conduct the elections in accordance with Section 39-A of the Act of 1959. In some cases, respondent No.3 had appointed Returning Officers to conduct the elections in terms of the Orders dated 22.01.2020, 10.02.2020, 17.02.2020 and 26.02.2020. However, in order to tackle the Covid-19 pandemic, the State Cabinet met on 18.03.2020 and decided to postpone the elections to Panchayaths and Co-operative Societies and to extend the term of the members of the Board. Thus an executive Order dated 21.03.2020 was issued postponing the elections to the Boards of all societies in Karnataka until further orders and extended the term of

the outgoing Managing committees of all Co-operative societies till new Managing committees are elected. 60 Following the above, the Registrar of Co-operative Societies sought directions from the Government regarding the conduct of elections to the managing committee of co- operative societies where elections had to be conducted by May, June and July 2020. This prompted an Order dated 16.06.2020 by the Government directing the Registrar of Co-operative Societies to conduct elections to the Primary and Secondary Societies in the State of Karnataka. However, in respect of Sugar Co-operatives where the term of the committee had expired or to expire, the Government in exercise of its powers under Section 121 of the Act of 1959, took a decision to exempt them from the application of Section 39-A and Section 28-B of the Act of 1959 and extended the term of the committees of Sugar Co-operative Societies until further Orders or till 30.09.2020, whichever was earlier. This was as per the executive instructions approved by the State Cabinet on 11.06.2020. Later, in view of the exponential spread of Covid-19, the Registrar of Co-operative Societies in terms of his letter dated 13.07.2020 sought directions to 61 postpone the elections to Primary / Secondary / Federal Co-operatives / Apex Co-operatives and Souharda co-operatives till December 2020 and to cancel the elections where calendar of events was issued and where process of elections was pending and in respect of those societies where the term of managing committee had expired / to expire, to authorise jurisdictional Registrars to appoint administrators under Section 28-A(5) of the Act / a special officer under Section 38-A(1) of the Karnataka Souharda Sahakari Act, 1997. The State Cabinet thus took a decision in terms of the impugned Order dated 14.07.2020 to postpone the elections to Primary / Secondary / Federal Co-operatives / Apex Co-operatives till the end of December 2020 by exempting the application of Sections 39-A and 18-B of the Act of 1959. Such exemption was in exercise of the power under Section 121 of the Act of 1959. It also cancelled the elections where calendar of events was issued and where the process of election was on. Further, it directed the jurisdictional Registrars that wherever the term of the managing committee has expired 62 or to expire, they should take steps to appoint administrators in accordance with Section 28-A(5) of the Act of 1959. However, in respect of Sugar Co-operatives, the term of the committee of management was extended as per the earlier order of

the Government dated 16.06.2020. Following the above, the jurisdictional Registrars have appointed administrators under Section 28-A(5) of the Act of 1959.

4. The petitioners contend that the autonomy of co-operative societies is recognised under the Constitution of India under Article 243ZI and Article 19(1)(c) and thus Section 28-A(5) of the Act of 1959 is a transgression of the autonomy conferred on a co-operative society by the Constitution of India. They contend that the term of the committee of management of a co-operative society is not five years but is dependent on the conduct of elections to elect a new committee in view of the words subject to the provisions of Sections 29-A and 39-A and save as otherwise found in Section 28-A(4) of the Act of 1959. 63 Thus, one of the petitioners contend that in the facts and circumstances of these cases, the automatic vacation of office of the members of the board, if they failed to make arrangement for election within the time specified under Section 39-A as mandated by Section 28-B of the Act of 1959 as unconstitutional.

5. The official respondents have filed their counter in W.P.No.226341/2020 and the learned Government Advocate requested that the same may be treated as common to all the writ petitions. The official respondents contend that the petitioners have no locus standi as their term had expired as provided under Section 28-A(4) of the Act of 1959 and that the petitioners, being mere shareholders, could only speak through the co- operative Society in view of Section 9 of the Act of 1959. Further, in view of the deeming fiction contained in Section 28-A(4) of the Act of 1959, it operates from the date of the completion of term of five years. It is contended that if the interpretation of the petitioners is accepted, then it 64 would be perpetuating the mischief that Section 28-A(5) sought to avoid. Further, the rigor of not conducting elections within time is well baked in Section 28-B of the Act of 1959. The respondents relied on the Judgment of this Court in Mahesh and others vs. Deputy Registrar of Co-operative Societies reported in ILR 2010 KAR5131to contend that this Court had interpreted Section 28-A(4) and (5) of the Act of 1959 and is therefore, a binding precedent. Further, it is claimed that the impugned notification is in consonance with the notification issued by the Government in view of Covid-19 pandemic. Further, it is stated that

Rule 14-H of the Rules of 1960 provides for postponement of elections. However, it is stated that the Election Authority had taken steps to conduct the elections by appointing returning officers, but the elections had to be postponed due to the pandemic and the nationwide lockdown. Further, it is claimed that by appointing an administrator, the term of office is not curtailed and as the term of the members is coterminous with the term of the Board, the petitioners cannot have any grievance. The 65 largesse bestowed by the Government by continuing the Board is beyond the pale of law as neither the Act of 1959 nor the byelaws of the co-operative societies, permit a term longer than five years. Therefore, it is contended that the attempt of the petitioners is to resuscitate a dead term of office, which is impermissible in law.

6. The learned Senior Counsel, Mr.Jayakumar S Patil, who represented the petitioners in W.P.Nos.226141/2020 and 226342/2020 submitted that the petitioners may be permitted to amend the writ petitions to incorporate grounds under Articles 19(1)(c) and 43-B and Part-IXB of the Constitution of India. However, it is seen that in both the writ petitions, the petitioners have raised substantial grounds touching upon Articles 19(1)(c), 43-B and Part-IXB of the Constitution of India. This Court assured the learned Senior Counsel that if any question of law is not urged in the writ petitions, the same would be considered as additional oral pleadings. Since no grounds other than what was urged in the writ 66 petitions was canvassed during the course of hearing, there was no necessity to permit any oral pleading.

7. The arguments for the petitioners was led by learned Senior Counsel, Mr.Jayakumar S. Patil and Mr.Amaresh S. Roja, which were reiterated by Smt.Ratna N. Shivayogimath, Mr.R.S.Lagali and Mr.Arunkumar Amargundappa. The contentions urged in support of the case of the petitioners are summarised thus: a) That incorporation of a co-operative Society is based on the principles of voluntary formation, democratic member control, member-economic participation and autonomous functioning, which is also the Constitutional endeavour set for the State by the Constitution under Article 43-B. Since right to form a co-operative society is a fundamental right under Article 19(1)(c), invocation of the power under Section 28-A(5) 67 of the Act of 1959 tantamount to interference with the

autonomy of a co-operative Society which is the bedrock of Part IX-B of the Constitution of India. The Judgment of the Apex Court in *Vipulbhai M. Chaudhary vs. Gujarat Co-operative Milk Marketing Federation Ltd.* reported in 2015 (8) SCC 1 is relied on to contend that the design of Part- IXB of the Constitution of India was to make Co-operative Societies autonomous.

b) Appointing an administrator under Section 28-A(5) of the Act amounts to taking over a Society and thus such action should pass the test of save by authority of law under Article 300-A which in the present case does not.

c) The petitioners had done everything expected of them under Section 39-AA (15) of the Act and Rule 13-D of the Rules of 1960 and 68 therefore, the petitioners were not responsible for the delay in the conduct of the elections. The delay was due to the postponement by the State on account of the Covid-19 pandemic. Thus, they contend that the appointment of an administrator was not just but was designed to place a representative of the Government in the administration of the society so that the Government of the day could hold sway over the proceedings.

d) An administrator could be appointed under two situations, namely (i) when a board of members is not constituted under Section 29-A(2) when elections are not held within the time specified under Section 39-A of the Act of 1959. Since the compliance of Section 39-A was exempted by the Government under Section 121 of the Act of 1959, elections could not be held and as no time is stipulated under 69 Section 39-A for the holding of elections, the respondents could not have appointed an administrator on the ground that elections were not held. It is claimed that this amounts to approbating and reprobating.

e) The learned counsel for the petitioners in support of their contention at (d) above contended that Section 39-A was inserted to the Act of 1959 by Karnataka Act 25 of 1998, which specified that elections to the committee should be held 15 days before the expiry of the term of the outgoing committee. This was later amended by Act 24 of 2001 by which Section 39-A(4) was inserted permitting the postponement of elections by six months at a time and not exceeding two years in aggregate. This was again amended by Act 6 of 2010 by which time limits were prescribed for conduct of elections to primary / secondary 70 / federal / Apex Societies. Now consequent to the introduction of Part IX-B in the Constitution of India, Section 39-A of the Act of 1959 is amended by Act 35 of 2014 so as to remove the time line for conduct of elections. Therefore,



it is contended that Section 28-A(5) could have been invoked only prior to the Act 35 of 2014 when time limits for conduct of election was specified in the statute and cannot be invoked now as there is no time limit prescribed for conduct of elections. Therefore, it is claimed that if elections were conducted in time, the outgoing Board would still be helming the society till the incoming board took over. f) The five year term fixed under Section 28-A(4) of the Act of 1959 is not absolute but is subject to elections being held under Section 39-A of the Act of 1959. Further, in view of the impugned order exempting the operation of Section 39-A of the Act of 1959, the elections 71 to the members of the Board of management cannot be held and therefore the term of the managing committee is deemed to be extended. g) The words Save as otherwise found in Section 28-A(4) of the Act of 1959 saves the term of the member of the board, due to any situation contemplated in any other Act which includes the Disaster Management Act, 2005 and thus the term of the members of the Board of management does not expire. It is precisely for this reason that the term of the Board of Management was extended by the official respondents notwithstanding the expiry of the term of the members. h) That instead of appointing an administrator, the respondents could explore the option of holding elections with the board of management in place as this would subserve 72 the intention of holding elections six months prior to the expiry of the term of a board of management under Article 243-ZK and proviso to Section 39-A of the Act so that there is no vacuum between the outgoing and the incoming committee. i) That the Dharwad Bench of this Court in W.P.No.147314/2020 and other writ petitions had prima facie found that the term of the members of the committee is not an absolute five years. The petitioners referred to the term of a Panchayath found in Article 243-E and a municipality found in 243-U as five years from the date of first meeting and no longer and contended that such water-tight term is not provided under Section 28-A(4) of the Act of 1959 and therefore admits of liberal interpretation, more so in view of the philosophy of the Act of 1959 that there should 73 be no vacuum between the outgoing and incoming committee. The Learned Counsel relied upon the Judgment of the Allahabad High Court in Bahori Lal Paliwal vs. District Magistrate reported in AIR1956 All 511. He also relied on the Judgment of Kishansing Tomar vs. Municipal Corporation of the City of Ahmedabad and others reported in 2006 (8) SCC352 to contend that in exceptional

circumstances, the term of a Board can be extended to avoid vacuum. The learned Senior Counsel, Sri Jayakumar S. Patil, contended that it was not uncommon to extend the term of the Board in certain exigencies and brought to the notice of this Court, an Order passed in W.P.No.12893/2015 wherein this Court had continued the existing Board while directing the Election authority to hold elections. He also relied upon an interim order in W.P.No.9274/2015 continuing the Board of 74 members, wherein this Court held that default on the part of the State in enacting law to hold elections shouldnt arm the State to interfere with the management of a co-operative society. j) That the State has discriminated the petitioners vis-a-vis the elected members of Sugar Co-operative Societies by allowing them to continue in the management of the co- operative society pending the holding of elections.

8. On the other hand, Mrs. Anuradha Desai, the learned Government Advocate representing the official respondents, argued in reply which is summarised as below: a) That the Act of 1959 is amended pursuant to introduction of Part IX-B in the Constitution of India. Section 28-A(4) of the 75 Act of 1959 is amended to bring it in line with the constitutional mandate under Article 243- ZJ of the Constitution which says that the term of the elected members of the Board shall be five years from the date of election and the term of the office bearers shall be co-terminus with the term of the Board. b) That the term of all the petitioners had expired and thus, they are deemed to have vacated office under Section 28-A(4) of the Act of 1959 and therefore, they have no locus standi to challenge the appointment of an administrator. c) That there is no provision now under the Act of 1959 to postpone the elections to the Board of management of a co-operative Society and that the postponement of elections became inevitable in view of an imperceivable pandemic and in view of the nationwide lock 76 down imposed by the Government of India on 26-03-2020 and the Standard Operating Procedure (SOP) which mandated observance of norms of social distancing. It is stated that in view of the overriding effect of the Disaster Management Act, 2005 (for short the Act of 2005), every activity in the Country lay in a suspended animation. d) The only circumstance for invocation of Section 28-A(5) of the Act of 1959 is the non-conduct of elections due to any reason whatsoever and this is different from appointment of an administrator under Section 30 of the Act of 1959. An

administrator is appointed only to ensure continuity and avoid vacuum. Further under Section 28-B(3) of the Act of 1959, an administrator appointed under Section 28-A(5) should arrange to constitute a Board within six months. Thus, the petitioners would not in any way be affected. Moreover, 77 the elections would be conducted by an authority constituted under Section 39-AA of the Act of 1959 and therefore, the apprehension of the petitioners that the administrator would hold sway over the elections, is unfounded. e) The words Subject to the provisions of Section 29A and 39A appearing in Section 28- A(4) of the Act of 1959 does not mean that the term of the committee is extended till a new committee is elected. She contended that since elections has to be conducted six months prior to the expiry of the Board of a co-operative society, there could be a delay in the majority of the elected members of the Board assuming office. Therefore, the words shall commence on the date on which the majority of the elected members of the board assume office or the term of the outgoing board expires, which ever is later is used in Section 29-A of the Act 78 of 1959. She contended that even if there is any anomaly in the Act of 1959, in view of the clear language in Article 243-ZJ(2) of the Constitution, the term of the office of the elected members of the board and its office bearers shall be five years from the date of election. Therefore, she submits that even if the interpretation of Section 28-A(4) of the Act of 1959 admits of anything else, the same has to be ignored / read down, in view of it being inconsistent with Part IX-B of the Constitution of India as such inconsistency is weeded out by Article 243-ZT. f) That 97th amendment to the Constitution of India inserting Part IX-B was quashed by the High Court of Gujarat as being violative of Article 368(2) and therefore Part IX-B does not exist in view of the Judgment of the Hon`ble Supreme Court of India in the case of M/s. 79 Kusum Ingots and Alloys Ltd. vs. Union Of India And Another reported in 2004 (6) SCC254 Therefore, she contended that the appointment of an administrator under Section 28-A(5) of the Act of 1959 cannot be tested on the anvil of Article 19(1)(c) or Article 243-ZI of the Constitution. g) That the Principal Bench of this Court in W.P.No.9001/2020 and connected writ petitions had refused to grant interim relief in respect of many Primary / Secondary / Federal / Apex Societies / Credit / Souharda Societies which has paved the way for elections. That in W.P.No.8920/2020 and W.P.No.8747/2020, the elections to nearly 1762 Primary, 90 Secondary and 15

Federal Societies are scheduled and this Court permitted the same. Therefore, to maintain uniformity, these petitions may be dismissed to pave the way for elections to be held. The learned Government Advocate placed on record a communication dated 07.09.2020 addressed by the Election Authority to all the Election Officers of Primary, Secondary and Federal Co-operative Societies in the State of Karnataka to conduct elections by 15.11.2010.

9. In reply, the learned counsel for the petitioners contended as follows: That the Judgment of the Gujarat High Court in the case of Rajendra N. Shah vs. Union of India and another reported in 2013 SCC Online Guj 2242 is challenged before the Apex Court and the Judgment in Kusum Ingots (supra) did not impact the applicability of Part IX-B of the Constitution. Even assuming that Part IX-B is not on record, then the term of the elected member of a board of management should be determined with reference to the Act of 1959. 81 The only provision that speaks of a term of a board of a co-operative society is Section 28- A(4) of the Act of 1959. Therefore by usage of the words Subject to the provisions of Sections 29A and Section 39A should be understood as Subject to holding elections and subject to they assuming office. Thus, even by a purposive interpretation, it is inevitable that the term of the outgoing committee is extended till a new committee is elected.

10. After carefully considering the submissions of the learned counsel for the petitioners and the learned Government Advocate, in the opinion of this Court, the following questions arise for consideration:

1. Whether, the petitioners have locus standi to challenge the appointment of an administrator?. 82 2. Whether Part-IXB is still a part of the Constitution of India in view of the Judgment of the Gujarat High Court in Rajendra N. Shahs case (supra) and in view of the Judgment of the Apex Court in Kusum Ingots case (supra)?.

3. Whether Section 28-A(5) of the Act of 1959 impairs the autonomy of a Co-operative Society conferred on it under Article 243-ZI and whether it violates the fundamental right guaranteed under Article 19(1)(c) of the Constitution of India?. Whether Sections 28- A(5) and 28-B of the Act of 1959 are unconstitutional?.

4. When the non-conduct of elections to elect members of a Board is a condition precedent for appointment of an Administrator under Section 28-A(5) of the Act of 1959 and when the petitioners had all complied with their 83 responsibility to hold elections, could the Government appoint an administrator on the ground that elections could not be held due to the Covid-19 pandemic?. Whether in the facts and circumstances of the case, it was just to appoint an administrator while the Government itself had exempted the compliance of Section 39A of the Act of 1959?. Does this amount to approbate and reprobate?.

5. Whether, there is no time fixed for holding elections to the members of the Board of a Co-operative Society under Section 39-A of the Act of 1959 and therefore Section 28-A(5) cannot be invoked for appointment of an administrator ?.

6. Whether, the term of the elected members of the Board of a co-operative society extends till new members of the Board are elected in view of the words Subject to the 84 provisions of Sections 29A and 39A and save as otherwise found in Section 28-A(4) of the Act of 1959?.

7. Whether, the words subject to the provisions of Sections 29A and 39A and save as otherwise found in Section 28-A(4) have any purpose or are they inconsistent with Part IX-B of the Constitution of India and if yes, whether the said words are to be read down?.

8. Whether, the petitioners are discriminated vis--vis the members of the Board of Sugar Co-operative Societies?. The answers to the above questions are as follows:

11. Question No.1: The petitioners are the erstwhile members of the Board of co-operative Societies and are invariably shareholders of the respective co- operative Societies. In these writ petitions, the reliefs 85 sought for are rooted on the basis of Article 19(1)(c) and Article 243-ZI of the Constitution of India on the ground that the appointment of an administrator runs counter to the autonomy guaranteed to a co-operative society. Coupled with the above, the petitioners claim that notwithstanding the deeming fiction in Section 28-A(4) of the Act of 1959, a plain interpretation of Section 28-A(4) of the Karnataka Co-operative Societies Act,

1959 would indicate that their term would expire only upon the election of an incoming Board of Management of a co-operative Society. There can thus be no gainsaying the fact that the petitioners are aggrieved by the impugned Order appointing an administrator and the obvious corollary would be that they have the locus standi to file the present writ petitions. Another litmus test to determine the locus standi is whether the outcome of the writ petitions impacts the rights / status of the petitioners. In the instant case, if the writ petitions are allowed, the net effect would be that the petitioners would continue as members of the Board of Management. It could be that the petitioners may not 86 succeed in the ultimate analysis but that cannot be a yardstick to non-suit the petitioners on the ground of lack of locus standi. The contention of the learned Government Advocate that in view of Section 28-A(4) of the Act of 1959, the petitioners have deemed to have vacated their office and therefore, have no locus standi cannot be pressed to non-suit the petitioners, as the petitioners have rallied to contend that the deeming clause in Section 28- A(4) of the Act of 1959 is unworkable and that the Government conceding to this position, had continued their term notwithstanding the expiry of their term. Thus, they are in a way interested in the affairs of the respective co- operative societies and being shareholders are entitled to assail the appointment of an administrator by the impugned Order.

12. In *Ayaaubkhan Noorkhan Pathan vs State of Maharashtra and others* reported in 2013 (4) SCC465 the Honble Apex Court held as follows:

87. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of

the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and 88 approaches the Court for relief as regards the same. In view of the above, it is held that the petitioners have the required locus standi to call in question the Orders impugned in these writ petitions.

13. Question No.2: Before this Court examines the Constitutional validity of Sections 28-A(5) and 28-B(2) of the Karnataka Co-operative Societies Act, 1959 on the touchstone of Articles 19(1)(c), 43-B, 243-ZI and 243-ZK of the Constitution of India, it is imperative to first consider whether Part IX-B does not exist in view of the Judgment of the High Court of Gujarat in Rajendra N. Shahs case (supra) and in view of the Judgment of the Apex Court in Kusum Ingots (supra).

14. The High Court of Gujarat while considering the Constitutional validity of Part IX-B held that the Constitutional amendment was not approved by the State Legislatures as provided under Article 368(2) of the Constitution and thus quashed the 97th amendment to the 89 Constitution of India only in so far as insertion of Part IX-B is concerned. This Judgment of the High Court of Gujarat is challenged before the Apex Court and the same is pending consideration in C.A.Nos.9108-09/2014. In Kusum Ingots, the Apex Court was dealing with a jurisdictional issue in the light of Article 226(2) of the Constitution of India. In this case, Kusum Ingots and Alloys was a Company registered in Mumbai had raised loan from State Bank of India, Bhopal which had initiated recovery action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act for short). In a writ petition filed before the High Court of Delhi, the Company challenged the validity of the SARFAESI Act and for other reliefs. The writ petition was rejected on the ground of want of cause of action within the jurisdiction of the High Court of Delhi. This was challenged before the Apex Court which held that in view of Article 226(2) of the Constitution of India, if a part of cause of action arose outside the jurisdiction of the High Court, it would have jurisdiction to issue a writ, but 90 that in itself would not be a determinative factor compelling the High Court to decide the case on merits and in appropriate cases, the Court may refuse to exercise jurisdiction by invoking the doctrine of forum conveniens. The Apex Court dismissed the Special Leave Petition.

15. Following the Judgment of the High Court of Gujarat in Rajendra N.Shahs case, another writ petition was disposed off and a Special Leave Petition No.13215/2018 in the case of Ashaben MahipalSinh Thakore vs The Registrar of Co-operative Societies, Gujarat was admitted and ordered to be listed along with C.A. Nos.9108-09/2014 and an interim stay is granted until further Orders.

16. In view of the fact that the Judgment of the Gujarat High Court is pending consideration before the Apex Court and interim Orders are granted and in view of the fact that the seeds of Part IX-B of the Constitution are sown into the Act of 1959, the case of the petitioners has 91 to be considered from the view point of Part IX-B of the Constitution of India.

17. Question No.3: The controversy in these petitions is not regarding the postponement of elections or the holding of elections to the Board of a co-operative Society. The petitioners are not aggrieved by the postponement of the elections as their term was continued during the interregnum. They are not even aggrieved by the intention of the official respondents to hold elections by 15.11.2020, as one of the reliefs sought for in the writ petitions is to hold elections to the Board of Management of the respective Co-operative Society. The only reason why the petitioners are before this Court is on the purported ground that the Government is pushing an administrator down the gauntlet of the Society upsetting the autonomy that a co-operative society enjoys under Article 243-ZI and Article 19(1)(c) of the Constitution of India. It is for this reason that the petitioners contend that an intermediary, namely, an administrator between the 92 outgoing committee and the incoming committee of management of a co-operative society is unknown under Article 243-ZK. Further, they contend that appointing an administrator is not a reasonable restriction under Article 19(4) of the Constitution of India.

18. In order to appreciate the seminal contention of petitioners, the law relating to elections to the managing committee of a co-operative society and the term of the elected members and the term of the managing committee as it stood immediately prior to the Ninety-seventh (97th) Constitutional amendment, is to be necessarily noticed which is as below: (a) The management of a co-operative society vested in



a committee of management constituted in accordance with the Act of 1959, Rules and the bye-laws of the co-operative society as provided under Section 28-A of the Act of 1959. The term of the members of the committee of management under Section 28- 93 A(4), was five co-operative years from the date of elections under Section 39-A and from the date of majority of the elected members assume office. Likewise, the term of the committee of management was also five co- operative years. Under Section 28-A(5), if the new committee of management was not constituted under Section 29-A, on the date of expiry of the term of office of the committee of management or if the elections were not held within the time limits specified in Section 39-A, the Registrar was deemed to have assumed charge as Administrator, who could perform all functions and take such actions that are necessary in the interest of the co-operative society. Under Section 28-B, the committee of management was bound to make arrangement for election of the members of the co-operative society in accordance with the Act, Rules and bye laws and if the members of the committee 94 failed, they were deemed to have vacated their office and were ineligible to contest for a period of five years. Under Section 29-A of the Act of 1959, the term of the office of the members of the committee was to commence on the date on which the majority of the elected members of the committee assumed office or the term of the outgoing committee expired, whichever was later. Under Section 39-A, the election of members of the committee had to be held 20 days prior to the expiry of the term of the outgoing committee in respect of Primary Societies and 10 days in respect of Secondary societies, 15 days in respect of Federal Societies and 30 days in respect of Apex Societies. The most important provision was Section 39-A(4) which provided that elections could be postponed due to scarcity / drought / flood / fire or any natural calamity or rainy season or any election 95 program of the State legislative Assembly/ Council/ Parliament or local authority or in public interest. Such postponement could be for a period not exceeding six months at a time or two years in aggregate. (b) The Parliament, with a view to enhance public faith in the co-operative institutions and to insulate them from avoidable political or bureaucratic interference brought in the Ninety-seventh (97th) amendment to the Constitution of India. The Statement of objects and Reasons for the amendment is set out below: The co-operative sector, over the years, has made significant

contribution to various sectors of national economy and has achieved voluminous growth. However, it has shown weaknesses in safeguarding the interests of the members and fulfilment of objects for 96 which these institutions were organised. There have been instances where elections have been postponed indefinitely and nominated office bearers or administrators remaining in-charge of these institutions for a long time. (underlining by Court). This reduces the accountability of the management of co-operative societies to their members. Inadequate professionalism in management in many of the co-operative institutions has led to poor services and low productivity. Co-operatives need to run on well established democratic principles and elections held on time and in a free and fair manner. (underlining by Court). Therefore, there is a need to initiate fundamental reforms to revitalize these institutions in order to ensure their contribution in the economic development of the country and to serve the interests of members and public at large and also to ensure their autonomy, democratic functioning and professional management. 97

2. The "co-operative societies" is a subject enumerated in Entry 32 of the State List of the Seventh Schedule of the Constitution and the State Legislatures have accordingly enacted legislations on co-operative societies. Within the framework of State Acts, growth of co- operatives on large scale was envisaged as part of the efforts for securing social and economic justice and equitable distribution of the fruits of development. It has, however, been experienced that in spite of considerable expansion of co- operatives, their performance in qualitative terms has not been up to the desired level. Considering the need for reforms in the Co-operative Societies Acts of the States, consultations with the State Governments have been held at several occasions and in the conferences of State Co-operative Ministers. A strong need has been felt for amending the Constitution so as to keep the co- operatives free from unnecessary outside interferences and also to ensure their 98 autonomous organisational set up and their democratic functioning.

3. The Central Government is committed to ensure that the co-operative societies in the country function in a democratic, professional, autonomous and economically sound manner. With a view to bring the necessary reforms, it is proposed to incorporate a new Part in the Constitution so as to provide for certain

provisions covering the vital aspects of working of co-operative societies like democratic, autonomous and professional functioning. A new article is also proposed to be inserted in Part IV of the Constitution (Directive Principles of State Policy) for the States to endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies. The proposed new Part in the Constitution, inter alia, seeks to empower the Parliament in respect of multi-State co-operative societies and the State Legislatures in case of other 99 co-operative societies to make appropriate law, laying down the following matters, namely- (a) provisions for incorporation, regulation and winding up of co- operative societies based on the principles of democratic member- control, member-economic participation and autonomous functioning; (b) specifying the maximum number of directors of a co- operative society to be not exceeding twenty-one members; (c) providing for a fixed term of five years from the date of election in respect of the elected members of the board and its office bearers;(underlining by court) (d) providing for a maximum time limit of six months during which a board of directors of co-operative society could be kept under supersession or suspension; (e) providing for independent professional audit; (f) providing for right of information to the members of the co-operative societies; 100 (g) empowering the State Governments to obtain periodic reports of activities and accounts of co-operative societies; (h) providing for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on the board of every co-operative society, which have individuals as members from such categories; (i) providing for offences relating to co-operative societies and penalties in respect of such offences.

4. It is expected that these provisions will not only ensure the autonomous and democratic functioning of co- operatives,(underlining by Court) but also ensure the accountability of management to the members and other stakeholders and shall provide for deterrence for violation of the provisions of the law.

19. The relevant Articles in Part IX-B of the Constitution of India are extracted below:

101. Article 243-ZI. Incorporation of co-operative societies.- Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding-up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning. Article 243-ZJ.

Number and term of members of board and its office-bearers.-

(1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law: Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one: Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having 102 members from such class or category of persons.

(2) The term of office of elected members of the board and its office-bearers shall be five years from the date of election and the term of office-bearers shall be conterminous with the term of the board:(underlining by court) Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co- operative society, as members of the board of such society: Provided that the number of such co- opted members shall not exceed two in 103 addition to twenty-one directors specified in the first proviso to clause (1): Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office-bearers of the board: Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total

number of directors specified in the first proviso to clause (1). Article-243-ZK. Election of members of board.-

(1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the office of members of the outgoing board.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the 104 conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law: (underlining by court) Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections. Article 243-ZL. Supersession and suspension of board and interim management.-

(1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months: Provided that the board may be superseded or kept under suspension in case- (i) of its persistent default; or (ii) of negligence in the performance of its duties; or (iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or 105 (iv) there is stalemate in the constitution or functions of the board; or (v) the authority or body as provided by the Legislature of a State, by law, under clause

(2) of Article 243-ZK, has failed to conduct elections in accordance with the provisions of the State Act: (underlining by Court) Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government: Provided also that in case of a co- operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 (10 of 1949) shall also apply: Provided also that in case of a co- operative society, other than a multi-State co- operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words "six 106 months", the words "one year" had been substituted.

(2) In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause

(1) and handover the management to be elected board.(underlining by Court)

(3) The Legislature of a State may, by law, make provisions for the conditions of service of the administrator. Article 243-ZT. Continuance of existing laws.- Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less. 107 The Ninety-seventh (97th) Amendment to the Constitution also recognised the right to form a co-operative society as a fundamental right under Article 19(1)(c) subject however to reasonable restrictions under Article 19(4) of the Constitution.

20. Following the introduction of Part IX-B to the Constitution, the Karnataka Co-operative Societies Act, 1959 was amended by Act 3 of 2013 to bring it in line with Part IX-B of the Constitution of India. Consequent to such amendments, the relevant provisions of the Act of 1959, which were amended are extracted below: Section 28A - Management of co- operative societies vest in the committee - (1) The management of a co-operative society shall vest in a committee constituted in accordance this Act, the rules and the bye laws of such society. The committee shall exercise such powers, discharge such duties and perform such functions as may be conferred or 108 imposed upon it by this Act, the rules and the bye laws. (2) XXXXXX not relevant (3) XXXXXX not relevant (4) Subject to the provisions of section 29A and 39A, the term of office of board shall save as otherwise five years from the date of election and they shall be deemed to have vacated office as such members of the board on the date of completion of the said term. Provided that if an election to the board of any co-operative society had already been held in accordance with the bye laws of such society, prior to the commencement of the Karnataka Co-operative Societies (Amendment) Act 1997, the term of office of the

board of such co-operative society shall be three years including the co-operative year in which such election was held. Provided further - that the first general meeting of a society after registration shall be held within one month from the date of its registration to elect the first board to manage 109 the affairs of the society and the term of office of such committee shall also be five years from the date of election. Provided also that the first general meeting of the co-operative society or societies formed after amalgamation or reorganization or division in accordance with section 14 shall be held within three months from the date of registration to elect the first board to manage the affairs of the co-operative society or societies and the term of office of such board shall also be five years from the date of election. (4-A) XXXXXX not relevant (4-B) XXXXXX not relevant (5) If the new board is not constituted under section 29A, on the date of expiry of the term of office of the board or if the elections are not held within the time limits specified in section 39A, the Registrar or any other officer within whose jurisdiction the society is situated and who is authorized by the Registrar, shall be deemed to have assumed charge as administrator and he shall, for all purposes 110 function as such board of management. The Administrator shall, subject to the control of the Registrar, exercise all the powers and perform all the functions of the board of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required in the interest of the cooperative society. Provided that the Registrar shall appoint an Administrator to a co-operative society or each of the cooperative societies formed after amalgamation or reorganization or division in accordance section 14 for a period of three months and the Administrator so appointed shall arrange for holding elections to a board of such co-operative society or the societies as the case may be. (6) XXXXXX not relevant (underlining by Court) Section 28B. Board to arrange for election (1) The election of a Board, be conducted before the expiry of the term of the Board. 111 (2) The members of the board who have failed to make arrangements for election within the time limit specified in section 39-A, shall be deemed to have vacated their office on the last day of the time limit so specified and such members shall not be eligible for election as members of the board for a period of five years from the date of expiry of their term. (3) The Administrator who shall assume charge under sub-section (5) of section 28-A, shall as early as possible but within a period of six

months arrange for the constitution of a new board of the society in accordance with the Act, rules and the bye laws. Provided that - the Administrator so appointed shall not continue for a period of three months in respect of a society in co-operative credit structure. Section 29A. Commencement of term of office (1) The term of office of the members of the board shall commence on the date on which the majority of the elected members of the board assume office or the term of the outgoing committee expires, whichever is later. 112 (2) Notwithstanding anything contained in this Act, or the rules or the bye laws of a cooperative society, the board shall be deemed to be duly constituted when the majority of elected members of the board are available to function as members of the board after the election (3) The board deemed to be constituted under sub-section (2) shall be competent to exercise all the powers and perform all the functions of the board of the co-operative society. Section 39A - Conduct of elections (1) Every general election of the members of the board and election of the office bearers of a co-operative society including any casual vacancy to the extent applicable shall be held under the superintendence of Co-operative Election Authority. (2) The general elections of the members of the Boards of the co-operative societies shall be held in four stages as under:

113. (a) the elections in respect of primary co-operative societies shall be held in the first stage; (b) the elections in respect of secondary co-operative societies shall be held in the first stage; (c) the elections in respect of Federal co-operative societies shall be held in the first stage; (d) the elections in respect of Apex co-operative societies shall be held in the first stage; Provided that the Co-operative election commission may start the preparatory work for the preparation of the electoral rolls for and the conduct of the elections during the last six months prior to the expiry of the term of the office of the Board of a co-operative society. (underlining by Court) Section 39-AA (2) reads as follows: The superintendence, direction and control of the preparation of the electoral rolls for all elections to the Co-operative Societies in the State shall be vested with the Co-operative Election Authority. 114

21. The Government has traced its power to exempt the holding of elections under Section 39-A of the Act of 1959 to Section 121 of the said Act and the same is



extracted below: Section 121 - Power to exempt societies.-The State Government may, by general or special order published in the official Gazette, exempt any co-operative society or any class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order.

22. The Karnataka Co-operative Societies Rules, 1960 were also correspondingly amended.

23. This Court is mindful of the following principles of law which are now metamorphosed while examining the Constitutional validity of any law or a provision/s of such law. (a) Constitution of India is the Grundnorm and all laws flow therefrom. 115 Thus any law which violates the principles of the Constitution would be tested for legislative competence / violation of the rule of law/ basic structure / abridgement of fundamental rights etc. There is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there is a clear transgression of the principles of the Constitution of India. (Shri Ram Krishna Dalmia and others vs. Shri Justice S.R.Tendolkar and others reported in AIR 1958 SC538. (b) The Courts are reluctant to declare a law invalid or ultra vires on account of unconstitutionality. Instead the Courts would accept an interpretation which would favour the constitutionality than accept an approach which would render the law unconstitutional (Government of Andhra Pradesh vs. P.Laxmi Devi reported in AIR 2008 SC1640. (c) Declaring a law unconstitutional is one of the last resorts to be taken by Courts. Instead the Courts would employ principles of reading down or reading into the provisions to make it 116 effective and workable. (A.R.Antulay vs R.S.Nayak and another reported in 1988 (2) SCC602. (d) In A.R.Antulay vs R.S.Nayak reported in (1988(2) SCC602, the Apex Court held that if two views are possible, one making the law constitutional and the other making it unconstitutional, the former view must prevail and the Court must make efforts to uphold the constitutional validity of a statute.

24. None of the petitioners disputed the underpinnings of Sections 28-A (4), 29-A, 39-A, 39-AA and 28-A(5) respectively of the Act of 1959 by Articles 243-ZJ, 243-

ZK and 243-ZL of the Constitution of India. None of them challenged the amendment Act 3 of 2013 as not being in consonance with Part IX-B of the Constitution of India but were unanimous that the amendment was to give effect to Part IX-B as any inconsistency between the State Laws and Ninety-seventh (97th) amendment is ironed out under Article 243-ZT. 117

25. The petitioners cannot sustain their challenge to Section 28-A(5) of the Act of 1959 on the basis that it infringes Article 19(1)(c) of the Constitution of India, as there is no embargo placed upon the rights of the petitioners to form a society. Further neither the Act of 1959 nor Section 28-A(5) contained therein can be treated as a reasonable restriction under Article 19(4) against exercise of any right conferred by Article 19(1)(c) of the Constitution.

26. If that be so, can the appointment of an administrator under Section 28-A(5) of the Act of 1959 be held unconstitutional on the ground that it violated the autonomous functioning of a co-operative society?.

27. It is pertinent to note that cooperative societies in Karnataka were self-governed institutions but were controlled and regulated by the Act of 1959. As is evident from the Statement of Objects and reasons for the introduction of Part IX-B into the Constitution of India, which is extracted above, the Government of India felt a 118 strong need to amend the Constitution of India so as to keep the co-operatives free from unnecessary outside interferences and also to ensure their autonomous organizational set up and their democratic functioning. Thus, with an avowed object to make these societies autonomous by infusing certainty of term / transparency / accountability / equal participation, the Parliament introduced the Ninety-seventh (97th) amendment to the Constitution exalting the right to form co-operative societies as a fundamental right under Article 19(1)(c) of the Constitution and stipulated an endeavour to the State under Article 43B to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies. Article 243-ZI of the Constitution provided for the incorporation of cooperative societies, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning. 119

28. It is relevant to note that prior to Ninety- seventh (97th) amendment to the Constitution, elections were conducted by the outgoing managing committee under the supervision of the Registrar of societies. Now by virtue of the 97th amendment, a Cooperative Election Authority is constituted for the purpose of conducting elections to the Board of management. The petitioners have not challenged the constitution of such election authority as violating the autonomous functioning of a cooperative society. The words autonomous functioning itself indicates that the autonomy is in the functioning of the society. The autonomy granted to a co-operative society cannot be understood as freedom from regulation by legislation/ scrutiny by the executive. The word "autonomy" or "autonomous" cannot be read either in isolation or in a manner which may defeat the legislative aim to professionalize the working of co-operative societies and ensure their running on economically sound principles. In fact, the Ninety-seventh (97th) Constitutional Amendment reflect the legislative intent to revamp and re-120 energise the co-operative movement as a whole and to ensure that co-operative movement surges towards the achievement of the goals of securing social and economic justice and the equitable distribution of the fruits of developments.

29. One of the purposes of Part IX-B of the Constitution is to ensure a smooth transition by the outgoing board to the incoming board of management so that there is no vacuum between the two. That is the reason why Article 243-ZK of the Constitution provides that the election of a board shall be conducted before the expiry of a term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the office of the members of the outgoing board. Thus, even in the contemplation of the Parliament, the conduct of elections by election authority before the expiry of the term of the board did not impinge the autonomous functioning of a cooperative society. 121

30. Article 243-ZJ of the Constitution mandates that the term of the elected members of the board shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the board. It is in this context that Section 28-A(4) of the Act of 1959 is amended so that the term of office of the elected members is five years from the date of election and they shall be deemed

to have vacated the office thereafter.

31. In the present case, the elected members of the Board have vacated the office and a vacuum is created between the outgoing board and the to-be elected board due to covid-19 pandemic. The learned counsel for the petitioners were unable to point out any provision either in Part IX-B of the Constitution of India or the Karnataka Co- operative Societies Act, 1959 which enabled the Government of the day to extend the term of the elected members of the board. Section 39-A of the Act of 1959 imposes a positive duty on the Election authority to conduct the elections and to ensure strict compliance. It is 122 precisely for this reason that Section 39-AA(15) of the Act of 1959 mandates that the Board of a Society should furnish the list of members in advance. Section 28-B(2) of the Act of 1959 provides that if the Board fails to make arrangements for elections within the time specified in Section 39-A, then the Board would be deemed to have vacated their office and the members of the Board would be disqualified from contesting the elections. It is with a view to avoid such vacuum that Section 28-A(5) of the Act of 1959 provides for the appointment of an administrator if elections are not held under Section 39-A of the Act of 1959. This is clearly in line with Article 243-ZL(v) of the Constitution which provides for supersession of a co- operative society if the Co-operative Election Authority under Section 39-AA of the Act of 1959, fails to conduct elections in accordance with the provisions of the Act of 1959. If Part IX-B of the Constitution of India itself provides for supersession / suspension and interim management of a co-operative society, subject however to certain conditions, the same cannot be construed as 123 affecting the autonomous functioning of a co- operative society. When a statute or provisions thereof owes its emergence to a provision of the Constitution of India, then the question of considering the interplay between the two would not arise, as the examination of the statute is limited to ascertain whether the statute or the provisions thereof adhere to the constitutional mandate. It is the Constitutional mandate that has to be upheld. Thus Section 28-A(5) and Section 28-B of the Act of 1959 cannot be termed unconstitutional as they do not undermine the autonomous functioning of a co-operative society but on the contrary enhances autonomy. Any contra interpretation would result in injuring the purpose of Part IX-B of the Constitution of India as that would have the debilitating effect of restoring the uncertainty of the term of the members of the

Board.

32. Question No.4: In so far as the present case is concerned, it is clear from a reading of the impugned order dated 14-07-2020 that the reason for appointing an administrator was the non-conduct of elections to the Board of co-operative societies before the expiry of the term of the outgoing board. A reading of Section 28-A(5) of the Act of 1959 makes it evident that one of the contingencies when an administrator could be appointed is when elections are not conducted within the time specified under Section 39-A of the Act of 1959. The petitioners have all claimed that they had forwarded the list of eligible members as provided under Rule 13-D of the Rules of 1960, to the Election Officer within time fixed under Section 28-B and 39AA (15) of the Act of 1959, which is not disputed by the official respondents. Thus, they contended that the reason for non-conduct of the elections was not attributable to them and that therefore the Government had continued the existing Board in exercise of its power under Section 121 of the Act of 1959. The learned Government Advocate contended that the postponement was due to a pandemic which resulted in suspended animation of all activities in the Country and elections to the co-operative societies were also affected. 125 However, she pointed out that in several societies, Returning Officers were appointed well before the expiry of the term of the outgoing boards and that in some cases, calendar of events was issued.

33. It is relevant to note that the Disaster Management Act, 2005 which deals with handling man made and natural disasters in India, has a definitive purpose while providing an overriding effect in Section 72 of the Act of 2005 over all other legislations in the Country. This is due to the fact that in the event of a disaster, all the officials of the State are grouped into Disaster Management Authorities at the Taluk, District and State Level and each Authority is expected to chalk out a disaster management plan. Thus, whenever there is a disaster, all other activities are put on the back burner and special thrust is to be given to integrate strategies for the prevention/ mitigation and management of the disaster. In so far as the present pandemic is concerned, the National Disaster Management Authority, Government of India had 126 already declared it as a disaster under the Act of 2005 and imposed a country wide lockdown with effect from 26-03-2020.

Therefore, all the provisions of the Act of 2005 would become applicable. It is, therefore, quite logical that the Government felt it appropriate to postpone the elections to the members of the board of co-operative societies as holding of elections would proliferate the spread of the virus.

34. The extension of the term of the Board of these co-operative societies has to be viewed from the perspective of the pandemic. The learned counsel for all the petitioners did not dispute the fact that there is no provision in the Act of 1959 or Part IX-B of the Constitution which permits the extension of the Board beyond the period of five years. It is relevant to note that conducting elections before the expiry of the term of the outgoing Board is the constitutional mandate under Article 243-ZK. The learned Government Advocate relied on the Judgment of the Full Bench of the Allahabad High Court in 127 Committee of Management of Sahakari Ganna Vikas Samiti Ltd. vs. State of U.P and others reported in AIR2015 Allahabad 1 and contended that the term of the board of a Co-operative society cannot be extended by the Court under Article 226 of the Constitution as that would amount to violating the provisions of the U.P.Co-operative Societies Act, 1966. The Apex Court In Re Presidential Poll reported in 1974(2) SCC33held: 14. If the completion of election before the expiration of the term is not possible because of the death of the prospective candidate it is apparent that the election has commenced before the expiration of the term but completion before the expiration of the term is rendered impossible by an act beyond the control of human agency. The necessity for completing the election before the expiration of the term is enjoined by the Constitution in public and State interest to see that the governance of" the country is not paralysed by non-compliance with the provision that there shall be a President of India. 128

15. The impossibility of the completion of the election to fill the vacancy in the office of the President before the expiration of the term of office in the case of death of a candidate as may appear from Section 7 of the 1952 Act does not rob Article 62(1) of its mandatory character.

35. Further in Kishan Singh Tomar vs. Municipal Corporation of the City of Ahmedabad and others reported in (2006) 8 SCC352 the Apex Court held: It is

true that there may be certain man-made calamities, such as rioting or breakdown of law and order, or natural calamities which could distract the authorities from holding elections to the Municipality, but they are exceptional circumstances and under no circumstance the Election Commission would be justified in delaying the process of election after consulting the State Govt. and other authorities. But that should be an exceptional circumstance and shall not be a regular feature to extend the duration of the 129 Municipality. Going by the provisions contained in Article 243-U, it is clear that the period of five years fixed thereunder to constitute the Municipality is mandatory in nature and has to be followed in all respects. It is only when the Municipality is dissolved for any other reason and the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any elections for constituting the Municipality for such period. In our opinion, the entire provision in the Constitution was inserted to see that there should not be any delay in the constitution of the new Municipality every five years and in order to avoid the mischief of delaying the process of election and allowing the nominated bodies to continue, the provisions have been suitably added to the Constitution. In this direction, it is necessary for all the State governments to recognize the significance of the State Election Commission, which is a constitutional body and it shall abide by the directions of the Commission in the same manner in which it follows the directions of the 130 Election Commission of India during the elections for the Parliament and State Legislatures. In fact, in the domain of elections to the Panchayats and the Municipal bodies under the Part IX and Part IX A for the conduct of the elections to these bodies they enjoy the same status as the Election Commission of India. In *Re Special Reference 1/2002* reported in AIR 2003 SC87 the Honble Apex Court held: The impossibility of holding the election is not a factor against the Election Commission. The maxim of law *impotentia exusat legem* is intimately connected with another maxim of law *lex non cogit ad impossibilia*. *Impotentia excusat legem* is that when there is a necessary or invincible disability to perform the mandatory part of the law that *impotentia* excuses. The law does not compel one to do that which one cannot possibly perform. "Where the law creates a duty or charge, and the party is disabled to perform it, without any default in him, and has no remedy over it, there the law will in general excuse him."

131 Therefore, when it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like the act of God, the circumstances will be taken as a valid excuse. Where the act of God prevents the compliance of the words of a statute, the statutory provision is not denuded of its mandatory character because of supervening impossibility caused by the act of God.. These aspects were highlighted by this Court in Special Reference 1 of 1974 (1975 (1) SCR504. Situations may be created by interested persons to see that elections do not take place and the caretaker government continue in office. This certainly would be against the scheme of the Constitution and the basic structure to that extent shall be corroded. (underlining provided by Court) 36. In view of the Constitutional mandate, the State had no option but to postpone the elections and this could only be done by invoking the power under Section 39-A of the Act of 1959. In view of the fact that there is no 132 provision for extending the term of the board and in view of Article 243-ZL(v) ordaining the supersession of a co-operative society if elections are not held in accordance with the provisions of the Act of 1959, the official respondents were justified in appointing the administrator.

37. Question 5: The contention of the petitioners that there is no time limit prescribed for conduct of elections under Section 39-A of the Act of 1959 is also fallacious since proviso to Section 39-A warrants that the election commission may start the preparatory work for the preparation of the electoral roll and the conduct of elections during the last six months prior to the expiry of the term of office of the Board of a co-operative Society. In M.S. Gill vs. Chief Election Commissioner reported in 1978 (1) SCC405 the word 'election' has been interpreted by the Hon`ble Apex Court to include all the steps necessary for holding election which includes preparation of the electoral roll etc. The petitioners have in all these cases contended that they had complied with the 133 requirement of Section 39-AA(15) of the Act of 1959 and Rule 13-D of the Rules of 1960 by furnishing the eligible list of voters, following which returning officers were appointed in some cases on various dates. None of the petitioners placed on record their bye laws / memorandum of association to determine the term of office of the elected members of the Board and the provisions that the outgoing board has to make for the conduct of the elections. Thus, the petitioners are estopped from claiming that



no time is fixed for conduct of elections to the Board. Having regard to the constitutional mandate in Article 243-ZK and Section 28-B of the Act of 1959 that elections should be conducted before the expiry of the term of the outgoing board and having regard to the fact that elections have to be held at four stages to the Primary/ Secondary/ Federal and Apex Societies and the use of the words may start the preparatory work for the preparation of the electoral rolls for and the conduct of elections during the last six months prior to the expiry of the term of office of the Board of a co-operative society in Section 39-A of the Act of 1959, it is clear that six months prior to the term of the outgoing term is the time prescribed for holding elections. Since Article 243-ZL(v) of the Constitution and Section 28-A(5) of the Act of 1959 contemplates the appointment of an administrator if elections are not held within the time specified, it is invariable that the respondents exercised their power and appoint an administrator.

38. Yet another argument that Section 28-A(5) of the Act of 1959 amounts to depriving a person of his property, it is pertinent to note that Section 28-A(5) is not akin to Section 30 of the Act of 1959. It is also important to note that this argument is available only to a cooperative society and not to the erstwhile members of the board whose term has expired. Be that as it may, the appointment of an administrator would not deprive a Society of any of its rights, as the purpose of appointment of an administrator under 28-A(5) of the Act of 1959 is only to take steps for election of a board of management as provided under Section 28-B(3) of the Act of 1959 and 135 hand over the baton of administration to the incoming board.

39. Question No.6: In so far as the contention that the term of the elected members of the board is not merely five years but is till a new committee is elected, this is based on the words subject to the provisions of Sections 29A and 39A and save as otherwise appearing in Section 28-A(4) of the Act of 1959. The contention of the petitioners that the words no longer found in Article 243-E in relation to term of Panchayaths and in Article 243-U in relation to term of Municipalities, is conspicuously absent in Article 243-ZJ and therefore the term of the Board of a co-operative society extends beyond five years, is absurd. Firstly, 243-E and 243-U deal with the term of the Panchayath and the Municipality while

Article 243-ZJ deals with the term of the elected member of the Board of a co-operative society. Secondly the words five years from the date of election found in Article 243-ZJ would mean five years only and not suffixing it with the words 136 no longer would not make any qualitative or quantitative difference. Thirdly, instead of using the words no longer, the deeming fiction that existed in Section 28-A(4) of the Act of 1959 prior to introduction of Part IX-B to the Constitution, is continued in the Act of 1959 making it apparent that the term does not extend beyond five years.

40. The term of an office of elected member of a board of an institution is the hallmark of democracy and there cannot be any uncertainty in the term of an elected member. It was this uncertainty that was sought to be weeded out by Article 243-ZK of the Constitution and the Statement of Reasons for introduction of Part IX-B to the Constitution bears sufficient testimony to the above. When the Constitution of India mandates that the term of an elected member of a Board is five years from the date of election, the petitioners cannot contend to the contrary. Therefore, to contend that the term of an elected member stood extended till a new committee was elected would militate against the purpose. 137

41. When Courts interpret a statute, it should first attempt at giving the words a plain and simple meaning. If a plain and simple interpretation leads to absurdity, then the Court should adopt the rule of purposive interpretation taking into account the legislative intent and the mischief that the legislation intended to overcome. A literal interpretation, like the one resorted to by the petitioners would be like seeing the skin and missing the soul. If the contentions of the petitioners are to be accepted then the purpose of the legislation which is to maintain continuity by holding election prior to the expiry of the outgoing board, would be defeated. The words subject to the provisions of Sections 29A and 39A have to be interpreted as subject to holding elections and subject to the elected members assuming office and this in a sense would apply to an incoming members of Board and not to an outgoing members of the Board. In the case on hand, the petitioners are elected and have assumed office and their 138 term has come to an end and therefore they cannot claim that their term is till a new Board is elected.

42. Question No.7: As rightly contended by the learned counsel for the petitioners, the words Subject to the provisions of Sections 29A and 39A in Section 28-A(4) of the Act of 1959 existed prior to the Act 3 of 2013 and was so done as time for conduct of elections was fixed in Section 39-A of the Act of 1959. However, even after the 97th amendment to the Constitution of India, when Section 28-A(4) was amended by Act 3 of 2013, the words Subject to the provisions of Sections 29A and 39A is continued in Section 28-A(4), which now has no relevance at all. Likewise the words save as otherwise have no relevance at all, as there is no provision in the Act of 1959 or in Part IX-B of the Constitution of India or in any other legislation, extending the term of the Board of members of a co-operative society beyond five years. The contention of the petitioners that the postponement of elections due to Covid-19 pandemic and the lockdown under the Act of 139 2005 was a situation covered by the words save as provided is a wrong assumption of law as the Disaster Management Act, 2005 does not extend or continue the term of an elected member of the Board beyond five years. Therefore, the words Subject to the provisions of Sections 29A and 39A and save as otherwise found in Section 28-A(4) of the Act of 1959 are liable to be read down as redundant in view of Article 243-ZJ of the Constitution of India.

43. Question No.8: The petitioners cannot contend that they are entitled to a negative equality. As held by this Court, there is no provision in the Act of 1959 or in Part IX-B of the Constitution of India to extend the term of a Board of a co-operative society beyond five years. Thus, the petitioners contention that the Board of Members in respect of Sugar Co-operative Societies is extended while the same benefit is not extended, is an act seeking the extension of negative equality. In Vishal Properties (P) Ltd. Vs. State of Uttar Pradesh reported 2007 (11) SCC172 and in Bondu Ramswamy 140 vs. Bangalore Development Authority and others reported in 2010 (7) SCC129 the Apex Court held that Article 14 of the Constitution is not meant to perpetuate an illegality but provides for positive equality and not negative equality. Any action / order contrary to law does not confer any right upon any person for similar treatment. Hence the petitioners cannot claim to be treated similarly. Even otherwise, the Government Order dated 16.06.2020 exempting the Sugar Factories from the purview of the Order dated 14.07.2020 was rectified by a corrigendum dated 21.07.2020 by which all co-

operatives in Karnataka are now impacted by the Order dated 14.07.2020. In view of the above, the petitioners cannot claim that they are discriminated vis-a-vis., sugar co-operatives.

44. The exercise of power by the State under Section 121 of the Act of 1959 to exempt the operation of Section 18-B and 39-A was only for the limited purpose of insulating the officials of the State Co-operative Election Authority against any punitive action for not conducting 141 the elections before the term of the outgoing board expired. An interpretation of this nature would harmonise the interplay between Part-IXB of the Constitution of India, Disaster Management Act, 2005 and Section 28-A (4) and 28-A(5) of the Act of 1959. The underpinnings of Section 28-A(5) of the Act of 1959 by Article 243ZL (v) of Part IX- B of the Constitution cannot be ignored but has to be assessed from the stand point of the purpose it sought to achieve.

45. In that view of the matter, these writ petitions relating to the challenge to the constitutional validity of Sections 28-A(4), 28-A(5) and 28-B of the Act of 1959 and the interpretation that the term of an outgoing members of the Board of management of a co-operative society extends till an incoming board is elected, lacks merit and the same are dismissed.

46. In order to allay the apprehension of the petitioners that an administrator who is appointed would act as a stooge of the Government, the administrator 142 appointed in respect of the Co-operative Societies in these petitions is directed not to take any policy decision in respect of the co-operative society affecting its constitution / finances and not to admit any new members or remove / suspend any existing members and shall not politicise the co-operative society by taking sides with any group within the cooperative society. He is also directed to assist / co- operate and furnish all records/ documents needed by the respondent - State Co-operative Election Authority for the preparation of all records for the purpose of holding elections to the Members of the Board of the co-operative societies. The State Co-operative Election Authority shall conduct elections to the members of the Board of the co- operative societies involved in these writ petitions within two months from the date of receipt of a certified copy of this order but not later than

31.12.2020. Sd/- JUDGE sma

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