S.S. RANA

v.

REGISTRAR, CO-OPERATIVE SOCIETIES AND ANR.

APRIL 25, 2006

[S.B. SINHA AND P.P. NAOLEKAR, JJ.]

Constitution of India—Article 12—Himachal Pradesh Co-operative Societies Act, 1968—Sections, 31, 34 & 35-B & 36—Himachal Pradesh Co-operative Societies Rules, 1971—Rule 56—Order of termination passed against delinquent employee—Writ Petition by the employee before High Court—Writ Petition dismissed as not maintainable holding that the Co-operative Bank is not a State—Correctness of—Held, regulations of a Co-operative bank under the Act does not render its activities as subject to control of the State—On facts, the co-operative bank is not created under any Statute—State does not exercise any direct or indirect control over the bank—Hence, the bank is not a State—Delinquent employee has not proved any violation of any provisions of the Act by the Bank in passing the order of termination—Hence, the order of termination upheld.

Respondent-Co-operative bank initiated disciplinary proceeding against appellant, who was working as a Branch Manager, under Rule 56(b) of the Kangra Central Co-operative Bank Employees (Terms of Employment and Working Conditions) Rules, 1980 read with Section 35-B(4) of the Himachal Pradesh Co-operative Societies Act, 1968. The appellant was found guilty and an order of termination was passed against him. The appellant filed an appeal before appellate authority which was dismissed. A Writ Petition filed by the appellant before High Court was dismissed as not maintainable on the ground that the co-operative bank is not a 'State' under Article 12 of the Constitution of India.

In appeal to this Court, the appellant contended that the respondent-co-operative bank is a 'State' under Article 12 of the Constitution since its activities is to lend money to the agriculturists; that the respondents did not comply with the principles of natural justice as required under the Rules and the Act; and that the order of termination is violative of the provisions of the Rules since a copy of inquiry report was not furnished to him.

A **The respondents contended that the Co-operative bank is not a 'State' under Article 12 of the Constitution; and that the State has no deep and pervasive control over the affairs of the Society.**

Dismissing the appeal, the Court

B **HELD: 1.1. Respondent Co-operative bank has not been created under any statute. Its functions, like any other Co-operative Society, are mainly regulated in terms of the provisions of Himachal Pradesh Co-operative Societies Act, 1968 except as provided in its bye-laws. The State has no say in the functions of the bank. Membership, acquisition of shares and all other matters are governed by the bye-laws of the bank framed** C **under the Act. Rule 56 of the Himachal Pradesh Co-operative Societies Rules, 1971 does to contain any provision in terms whereof any legal right as such is conferred upon an officer of the Society. [321-G, G; 322-A]**

1.2. It has not been shown that the State exercises any direct or D **indirect control over the affairs of the Society. The State is not a majority shareholders. The State has the power only to nominate one director. It cannot, thus, be said that the State exercises any functional control over the affairs of the Society in the sense that the majority directors are nominated by the State. The general regulations under an Act, like Companies Act or the Co-operative Societies Act would not render the** E **activities of a company or a society as subject to control of the State. Such control in terms of the provisions of the Act are meant to ensure proper functioning of the Society and that State or statutory authorities would have nothing to do with its day-to-day functions. The respondent-bank is not a State within the meaning of Article 12 of the Constitution of India. It has not been shown that in terminating the services of the appellant,** F **the respondent has violated any mandatory provisions of the Act or the Rules framed thereunder. [322-A, B, E, F; 324-B; 325-F]**

Pradeep Kumar Biswas **v.** *Indian Institute of Chemical Biology and Ors.*, **[2002] 5 SCC 111 CB;** *Ajay Hasia* **v.** *Khalid Mujib Sehravardi*, **[1981] 1 SCC** G **722;** *Zoroastrian Coop. Housing Society Ltd.* **v.** *District Registrar, Coop. Societies (Urban) and Ors.*, **[2005] 5 SCC 632;** *Sabajit Tewary* **v.** *Union of India and Ors.*, **[1975] 1 SCC 485;** *Gayatri De* **v.** *Mousumi Cooperative Housing Society Ltd. and Ors.*, **[2004] 5 SCC 90;** *U.P. State Cooperative Land Development Bank Ltd.* **v.** *Chandra Bhan Dubey and Ors.*, **[1999] 1 SCC 741;** *Ram Sahan Rai* **v.** *Sachi Samanaya Prabandhak and Anr.*, **[2004] 3 SCC 323;** H *Nayagarh Cooperative Central Bank Ltd. and Anr.* **v.** *Narayan Rath and Anr.*,

[1977] 3 SCC 576 and *Bholanath Roy and Ors.* **v.** *State of West Bengal and Ors.*, **(1976) Vol. 1 502, referred to.** A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6052 of 2004.

From the Judgment & Final Order dated 6.6.2003 of the High Court of Himachal Pradesh in C.W.P. No. 331/1996. B

Vijay Kumar, Atul Sharma and Mayuri Vats for Vishwajit Singh for the Appellant.

J.S. Attri, AAG, HP and Jodh Singh Mehta for the Respondent.

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The Judgment of the Court was delivered by

S.B. SINHA, J. The petitioner was working as a Branch Manager in the Kangra Central Co-operative Bank Ltd. (Respondent No.2, "Society"). A disciplinary proceeding was initiated against him purporting to be in terms of Rule 56(b) of the Kangra Central Co-operative Bank Employees (Terms of D Employment and Working Conditions) Rules, 1980 (for short the "Rules") read with Section 35-B(4) of the Himachal Pradesh Co-operative Societies Act, 1968 (for short the "Act"). He was found guilty therein. The Managing Director of the Society, by an order dated 18.11.1993, terminated his services purported to be in exercise of his power under Rule 2(p) of Appendix 1(a) of the Rules. In the meantime, an Administrator was appointed by the State E to manage its affairs. The appellant herein preferred an appeal against the said order terminating his services before the Administrator on or about 2.12.1993. However, the Administrator had no occasion to deal with the said appeal. By an order dated 18.11.1995, the Board of Directors of the Respondent No.2 dismissed the said appeal. He reached the age of superannuation on F 30th September, 1996.

The appellant filed a writ petition before the High Court of Himachal Pradesh at Shimla, *inter alia*, praying for quashing of the order of termination dated 18.11.1995, as also the order of the appellate authority dated 16.1.1996. He further prayed for grant of all consequential benefits pursuant to or in G furtherance of the quashing of the said order of punishment.

The writ petition filed by the appellant was based on the premise that the 1st respondent is a 'State' within the meaning of Article 12 of the Constitution of India. A Division Bench of the Himachal Pradesh High Court, by reason of the impugned judgment and order dated 6.6.2003, dismissed the H

A said writ petition holding that the writ petition was not maintainable. The appellant is, thus, before us.

Mr. Vijay Kumar, learned counsel appearing on behalf of the appellant submitted that the High Court committed a serious error in coming to the conclusion that respondent No.1 is not a 'State' within the meaning of Article B 12 of the Constitution of India. According to the learned counsel, the activities of the Co-operative Society being to lend money to the agriculturists, the same would come within the purview of the law laid down by a Seven Judge Bench of this Court in *Pradeep Kumar Biswas* v. *Indian Institute of Chemical Biology & Ors.*, reported in [2002] 5 SCC 111. It was further contended that C in terms of the provisions of the Rules framed under the Himachal Pradesh Co-operative Societies Act, 1968, the respondent No.1 was obligated to comply with the principles of natural justice. It was submitted that the impugned order is violative of the provisions of the Rules as, *inter alia*, a copy of the inquiry report was not supplied to the Appellant, it was wholly unsustainable.

D Mr. J.S. Attri, the learned Additional Advocate General for the State of Himachal Pradesh, on the other hand, would support the judgment contending that it is not a case where the State had deep and pervasive control over the affairs of the Society. It was pointed out that out of three directors in the Board, the State could appoint only one. The decision of the Board of Directors in all matters is final. The membership of the State in the Co-operative E Society was limited.

The legislature of the State of Himachal Pradesh enacted the Himachal Pradesh Co-operative Societies Act, 1968; some of the relevant provisions whereof are:

F "31. *Final authority in co-operative society:-* The final authority in a co-operative society shall vest in the general body of members in a general meeting:

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of G delegates of the society elected or selected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society;

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34. *Managing Committee:-* The management of every society shall vest in a managing committee constituted in accordance with the rules and the bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively, by this Act, the rules and the bye-laws. A

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35-B. *Appointment, powers and functions of Managing Directors:-* (1) Where the Government has subscribed to the share capital of a co-operative society to the extent of rupees five lakhs or more, the Government may, notwithstanding anything contained in the bye laws of the society, nominate another member in addition to those nominated under section 35 and appoint him as Managing Director: C

Provided that no person shall be appointed as Managing Director of a co-operative society unless he is a member of the Indian Administrative Service or Himachal Pradesh Administrative Service or Class-I Officer of the co-operative Department, except the Himachal Pradesh State Co-operative Land Development Bank and the Himachal Pradesh State Co-operative Milk Federation where technical persons may by appointed as Managing Directors. D

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(2) A person nominated and appointed as the Managing Director under sub-section (1) shall be ex-officio member of the committee and shall hold office during the pleasure of the State Government and shall have a right to participate in the deliberations of the committee and shall also have the right to vote.

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(3) The Managing Director appointed under sub-section (1) shall exercise such powers as are assigned to him under the bye-laws or delegated to him by the committee. He shall discharge all such functions, consistent with the bye-laws or delegated to him by the committee. He shall discharge all such functions, consistent with the bye-laws, as are assigned to him by the Government or the Registrar. He shall work under the superintendence and control of the committee. G

(4) The Managing Director of a co-operative society shall be its principal executive officer. All employees of the society shall function and perform their duties under his superintendence and H

A control.

(5) The Managing director appointed under sub-section (1) shall be deemed to be on deputation with the society and his salary and allowances, as determined by the State Government, shall be paid from the funds of the society.

B 36. *Powers to depute Government servant to manage affairs of a co-operative society*:- The State Government may, on the application of a society and on such conditions as may be prescribed, depute a Government servant to the service of the society for the purpose of managing its affairs and the Government Servant so deputed C shall exercise such powers and perform such duties as may be prescribed.

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70. *Access to documents*:- The Registrar and, subject to any restriction prescribed, an auditor, arbitrator or any person conducting D supervision or inspection or audit or inquiry shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties, belonging to or in the custody of a society."

Pursuant to or in furtherance of the rule making power contained in the E said Act, the State made Rules known as the Himachal Pradesh Co-operative Societies Rules, 1971, some of which are relevant for the purpose of this case. Rules are as under:

"38. *Constitution of Managing Committee* :

F (1) The managing committee of a Co-operative society shall be constituted by:-

(a) election from amongst the members of the society at the annual/special general meeting;

G (b) appointment by the Registrar in the manner provided in the Rule 39;

(c) nominees of the Government under section 35 of the Act; and

(d) nominees of the other Co-operative Societies as provided in H the bye-laws.

(2) The managing committee of the society shall have not less than five nor more than twenty-one members, including the Government nominee as may be fixed in the bye-laws. A

(3) The terms of the Managing Committees constituted under sub-rule (1) shall be- B

(a) in relation to Primary Societies .....2 years;

(b) in relation to Secondary Societies and .....3 years;

(c) in relation to apex societies .....4 years; C

Provided that the out-going managing committee shall, unless the State Government otherwise directs, continue to function till another Managing Committee is constituted under these rules;

Provided further that no person shall be eligible to hold office of President or Vice-President or elected Member of the Managing Committee continuously for more than two terms unless a period of two years has elapsed after then expiry of the term of the Managing Committee in which he last hold office of President or Vice-President or Vice-President or elected member. D E

(4) The committee shall, as soon as may be possible, elect from among its members a President, Vice President and such other officers as are specified in the bye-laws unless they provide for such election by general meeting.

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(5) A casual vacancy in the office of an elected member shall be filled up by co-option from amongst the members of the society by the managing committee. The managing committee member so co-opted shall qualify all the conditions laid down in the rules for membership of the committee of a society and shall retire within 90 days or at the next annual general meeting, whichever is earlier, and the vacancy thus caused shall be filled up at such meeting by election of a managing committee member in whose place originally occurred. G

(6) Any dispute relating to the election to a committee of a member H

A or an officer shall be referred to the Registrar under section 72 of the Act within 30 days from the date of declaration of the result of such election.

39. *Appointment of Managing Committee Member by the Registrar-*

B (1) Notwithstanding any limits prescribed in the bye-laws, in order to represent appropriate interest, the Registrar shall have powers to appoint an additional number of members for the Managing Committee, not exceeding one-third of the number of elected member:

C Provided that the total number of committee members so appointed or nominated and elected under clauses (a) (b), (c) and (d) of sub-rule (1) of rule, 38 shall not exceed the maximum limit laid down under sub-rule (2) of rule 38.

1. (1-A) Out of the persons appointed under sub-rule (1) one shall D be a person belonging to scheduled castes, one belonging to scheduled tribes and the remaining, if any, representing other appropriate interests including the interests of women, unless a member each belonging to the Scheduled castes and scheduled tribes and representing other interests has already been elected on such Committee.

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2. (2) The members so appointed under sub-rules (1) and (1-A) shall hold office till the next election of the Managing Committee or till another person is appointed in his place, whichever is earlier and shall have the right to vote. The Registrar shall either confirm their membership to the committee or shall appoint other persons F in their place for the next term of the Committee.

(3) Managing Committee members appointed under this rule may or may not be the members of the society but should have all the qualifications prescribed for membership of a Co-operative Society and the managing committee. G

(4) If a vacancy occurs in the office of an appointed member on the managing committee the vacancy shall be filled up by an appointment by the Registrar, and not by co-option.

The rule empowers the Registrar to make appointments on the H *managing committee of a society to represent certain appropriate*

interests not represented on the committee. The appointments made under this rule shall be subject to the provisions contained under sub-rule 2 of rule No.38.

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40. *Proportion of individuals and societies for constituting committee* - In a Co-operative Society, the membership of which is not exclusively confined to individuals the representation of individuals and societies on the committee and the general body shall be such as may be laid down in the bye-laws of the Co-operative Society.

50. *Duties of Managing Committee.* - The managing committee shall observe in all their transactions the provisions of the Act, rules and bye-laws, and in particular, shall perform the following duties:

(a) to receive and disburse money;

(b) to maintain true accounts of money received and expended, and accounts of the assets and liabilities;

(c) to prepare for submission to the annual general meeting -

(1) Receipt and Disbursement Statement;

(2) Balance Sheet;

(3) Trading and Profit and Loss Account;

(4) Appropriation of Profits;

(d) to prepare the statements of accounts required at audit and to place them before the Auditor;

(e) to prepare, and submit all statements and returns, required by the Registrar in such form as he may direct;

(f) to enter accounts of the society regularly and periodically in proper books;

(g) to maintain a register of members up to date;

(h) to facilitate the inspection of books and audit of accounts of the society by those entitled to inspect/audit them;

(i) to convene general meetings;

A (j) to convene the annual general meeting in due time;

(k) to ensure that loans and advances are applied for the purposes for which they are made, and that they are punctually repaid;

(l) to examine and take prompt action in cases of all arrears and defaults in repayments of loans and advances;

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(m) to perform such other duties as may be entrusted by the general meeting; and

(n) in general to carry on the business of the society in accordance with its bye-laws.

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56. *Officers and employees of Co-operative Societies* -

(1) Notwithstanding anything contained in the bye-laws of a society, no Co-operative Society shall appoint any person as its paid officer or employees in any category of service unless he possesses the qualifications and furnishes the security, if so specified by the Registrar, from time to time, for such category of service in the society, or for the class of society to which it belongs. The conditions of service of the employees of the societies shall be specified by the Registrar.

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(2) No Co-operative society shall retain in service any paid officer or employee, if he does not acquire the qualification or furnish the security as is referred to in sub-rule (1) within such time as the Registrar may direct.

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(3) No Co-operative society shall employ a salaried officer or servant with total monthly emoluments exceeding rupees 'one thousand' without the previous permission of the Registrar. The promotion of an employee to a higher post shall be deemed to be an appointment under this sub-rule.

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(4) The Registrar may for special reasons to be recorded in writing relax in respect of any paid officer or employee. The provisions of this rule in regard to the qualifications he should possess or the security he should furnish.

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(5) "Where, in the course of an audit under section 61, or an

inspection under section 65 or an inspection under section 66, or an inquiry under section 67, it is brought to the notice of the Registrar that the paid officer or servant of the society had committed, or has been otherwise responsible for mis-appropriation breach of trust or other offence, in relation to the society or has willfully neglected or failed to discharge his duties and functions as enjoined on him under the Act, rules or bye-laws or is otherwise responsible for any act or omission thereby adversely affecting the interest of the society, the Registrar if in his opinion there is *prima facie* evidence against the paid officer or servant, and suspension of such paid officer or servant is necessary in the interest of the society, direct the committee of the society, pending the investigation and disposal of the matter, as the case may be, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(6) On receipt of a direction from the Registrar under sub-rule (5), the committee of society shall notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(7) If the committee fails to comply with the direction issued under sub-rule (5), the Registrar may make an order placing such paid officer or servant under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

(8) The officer or servant suspended under this rule shall be re-instated only after the previous approval of the Registrar."

Respondent No.1-Co-operative Society also framed its bye-laws in terms of Rule 2(c) whereof the Board would mean all Directors of the Bank or the Managing Committee.

It is not in dispute that the Society has not been constituted under an Act. Its functions like any other Co-operative Society are mainly regulated in terms of the provisions of the Act, except as provided in the bye-laws of the Society. The State has no say in the functions of the Society. Membership, acquisition of shares and all other matters are governed by the bye-laws framed under the Act. The terms and conditions of an officer of the Co-operative Society, indisputably, are governed by the Rules. Rule 56, to which

A reference has been made by Mr. Vijay Kumar, does not contain any provision in terms whereof any legal right as such is conferred upon an officer of the Society.

It has not been shown before us that the State exercises any direct or indirect control over the affairs of the Society for deep and pervasive control. B The State furthermore is not the majority shareholder. The State has the power only to nominate one director. It cannot, thus, be said that the State exercises any functional control over the affairs of the Society in the sense that the majority directors are nominated by the State. For arriving at the conclusion that the State has a deep and pervasive control over the Society, C several other relevant questions are required to be considered, namely: (1) How the Society was created?; (2) Whether it enjoys any monopoly character?; (3) Do the functions of the Society partake to statutory functions or public functions?; and (4) Can it be characterized as public Authority?

The respondent No.1-Society does not answer any of the afore-mentioned D tests. In the case of a non-statutory society, the control thereover would mean that the same satisfies the tests laid down by this Court in *Ajay Hasia* v. *Khalid Mujib Sehravardi,* [1981] 1 SCC 722. [See *Zoroastrian Coop. Housing Society Ltd.* v. *District Registrar, Coop. Societies (Urban) & Ors.,* reported in [2005] 5 SCC 632.]

E It is well settled that general regulations under an Act, like Companies Act or the Co-operative Societies Act, would not render the activities of a company or a society as subject to control of the State. Such control in terms of the provisions of the Act are meant to ensure proper functioning of the Society and the State or statutory authorities would have nothing to do with F its day-to-day functions.

The decision of the Seven Judge Bench of this Court in *Pradeep Kumar Biswas* (supra), whereupon strong reliance has been placed, has no application in the instant case. In that case, the Bench was deciding a question as to whether in view of the subsequent decisions of this Court, the law was G correctly laid down in *Sabajit Tewary* v. *Union of India & Ors.,* [1975] 1 SCC 485, and it not whether the same deserved to be overruled. The majority opined that the Council of Scientific and Industrial Research (CSIR) was a 'State' within the meaning of Article 12 of the Constitution of India. This Court noticed the history of the formation thereof, its objects and functions, its management and control as also the extent of financial aid received by it. H

Apart from the said fact it was noticed by reason of an appropriate notification issued by the Central Government that CSIR was amenable to the jurisdiction of the Central Administrative Tribunal in terms of Section 14(2) of the Administrative Tribunals Act, 1985. It was on the aforementioned premises this Court opined that *Sabhajit Tewary* (supra) did not lay down the correct law. This Court reiterated the following six tests laid down in *Ajay Hasia* v. *Khalid Mujib Sehravardi,* [1981] 1 SCC 722:

> "(1) One thing is clear that if the entire share capital of the corporation is held by Government, it would go a long way towards indicating that the corporation is an instrumentality or agency of Government.
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> (2) Where the financial assistance of the State is so much as to meet almost entire expenditure of the corporation, it would afford some indication of the corporation being impregnated with Governmental character.
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> (3) It may also be relevant factor....whether the corporation enjoys monopoly status which is State conferred or State protected.
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> (4) Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality.
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> (5) If the functions of the corporation are of public importance and closely related to Governmental functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government.
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> (6) 'Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference' of the corporation being an instrumentality or agency of Government."

This Court further held:

> "This picture that ultimately emerges is that the tests formulated in *Ajay Hasia* are not a rigid set of principles so that if a body falls within any one of them it must, *ex hypothesi*, be considered to be a State within the meaning of Article 12. The question in each case would be whether in the light of the cumulative facts as established, the body is financially, functionally and administratively dominated by or under the control of the Government. Such control must be

A particular to the body in question and must be pervasive. If this is found then the body is a State within Article 12. *On the other hand, when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body a State."*

(Emphasis supplied)

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As the respondent No.1 does not satisfy any of the tests laid down in *Pradeep Kumar Biswas* (supra), we are of the opinion that the High Court cannot be said to have committed any error in arriving at a finding that the respondent-Bank is not a State within the meaning of Article 12 of the Constitution of India.

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We are, however, not oblivious of a three judge Bench decision in *Gayatri De* v. *Mousumi Cooperative Housing Society Ltd. & Ors.*, [2004] 5 SCC 90, wherein this Court held a writ petition to be maintainable against the cooperative society only stating:

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"We have, in paragraphs supra, considered the judgments for and against on the question of maintainability of writ petition. The judgments cited by the learned Senior Counsel appearing for the respondents are distinguishable on facts and on law. Those cases are not cases covered by the appointment of a Special Officer to manage
E the administration of the Society and its affairs. In the instant case, the Special Officer was appointed by the High Court to discharge the functions of the Society, therefore, he should be regarded as a public authority and hence, the writ petition is maintainable."

The said decision, therefore, is of no assistance to us.

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Our attention has also been drawn to *U.P. State Cooperative Land Development Bank Ltd.* v. *Chandra Bhan Dubey & Ors.*, [1999] 1 SCC 741, wherein the writ petition was held to be maintainable principally on the ground that it had been created under an Act. Reliance has also been placed upon *Ram Sahan Rai* v. *Sachiv Samanaya Prabandhak & Anr.*, [2001] 3 SCC
G 323, wherein again the appellant thus was recruited in a Society constituted under the U.P. Cooperative Land Development Bank Act, 1964 and this Court, having examined different provisions of rules, bye-laws and regulations, was of the firm opinion that the State Government exercised all-pervasive control over the Bank and moreover its employees were governed by statutory
H rules, prescribing an entire gamut of procedure of initiation of disciplinary

proceedings by framing a set of charges culminating in inflicting of appropriate punishment, after complying with the requirements of giving a show-cause and an opportunity of hearing to the delinquent.

It is, therefore, evident that in *Ram Sahan Rai* (supra) also the cooperative society was held to be established under a statute. We may notice that in *Nayagarh Cooperative Central Bank Ltd. & Anr.* v. *Narayan Rath & Anr.*, [1977] 3 SCC 576, this Court was of the opinion that:

> "The High Court has dealt with the question whether a writ petition can be maintained against a cooperative society, but we are inclined to the view that the observations made by the High Court and its decision that such a writ petition is maintainable are not strictly in accordance with the decisions of this Court. We would have liked to go into the question for ourselves, but it is unnecessary to do so as Respondent 1 by his writ petition, was asking for relief not really against a cooperative society but in regard to the order which was passed by the Registrar, who was acting as a statutory authority in the purported exercise of powers conferred on him by the Cooperative Societies Act. The writ petition was in that view maintainable."

We may notice in some decisions, some High Courts have held wherein that a writ petition would be maintainable against a society if it is demonstrated that any mandatory provision of the Act or the rules framed thereunder, have been violated by it. [See *Bholanath Roy & Ors.* v. *State of West Bengal & Ors.*, reported in (1996) Vol.1 Calcutta Law Journal 502.]

The Society has not been created under any statute. It has not been shown before that in terminating the services of the appellant, the Respondent has violated any mandatory provisions of the Act or the rules framed thereunder. In fact, in the writ petition no such case was made out.

For the foregoing reasons, the appeal being devoid of any merit is dismissed. However in the facts and circumstances of the case, there shall be no order as to costs.

B.S. Appeal dismissed.