NC: 2025:KHC-K:4790 WP No. 201101 of 2023



## 

### **BEFORE**

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

# WRIT PETITION NO.201101 OF 2023 (CS-RES) BETWEEN:

UMESH R. MULIMANI, AGE: 47 YEARS, OCC: CHARTERED ACCOUNTANT, R/O. CMC NO.8-10-38/2 (61), PLOT NO.41, AKKAMAHADEVI COLONY, BESIDE RANGA MANDIR, BIDAR-585401.

...PETITIONER

(BY SRI. AMRESH S. ROJA, ADVOCATE)

#### **AND:**

- OF ACTOR
- 1. THE STATE OF KARNATAKA,
  DEPARTMENT OF CO-OPERATION,
  M.S. BUILDING,
  BANGALORE-560001,
  BY ITS SECRETARY.
- 2. THE ADDITIONAL CHIEF SECRETARY, DEPARTMENT OF CO-OPERATION, MULTI-STORIED BUILDING, BANGALORE-560001.
- 3. THE DIRECTOR OF COOPERATIVE AUDIT, NO.173, JAYA NIVAS, SHANKAR MATH ROAD, BASAVANA GUDI, BANGALORE-560004.



4. THE GULBARGA-YADGIRI DISTRICT CENTRAL COOPERATIVE BANK, REPRESENTED BY ITS MANAGING DIRECTOR, JAGAT, KALABURAGI-585101.

...RESPONDENTS

(BY SRI. MALLIKARJUN SAHUKAR, AGA FOR R1 TO R3; SRI. B. SHARANAVEER, ADVOCATE FOR SRI.GOURISH S.KHASHAMPUR., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, AN ORDER IS MADE AS UNDER:

#### **ORAL ORDER**

Sri.Amresh S.Roja., counsel for the petitioner, Sri.Mallikarjun Sahukar., AGA for respondents 1 to 3 and Sri.B.Sharanaveer., counsel on behalf of Sri.Gourish S.Khashampur., for respondent No.4 have appeared in person.

#### 2. The short facts are these:

It is said that the petitioner is a Chartered Accountant registered in the Institute of Chartered Accountant of India, Southern Region, Chennai. In response to the Notification for panel of auditors and auditing firms (Chartered Accountant and



Chartered Accountant Firms) for taking up the audit of accounts of cooperative Societies, the petitioner applied and empanelled in the list which was published in the official website. The empanelment of the petitioner was made in terms of Chapter-VI, i.e., Rule 29-A and B of the Karnataka Cooperative Societies Rules, 1960. The petitioner was entrusted with the audit of Kalaburagi and Yadgiri District Cooperative Central Bank Limited, Kalaburagi for the year 2016-17. Complying the contemplation of provision under Section 63 of the Karnataka Cooperative Societies Act, 1959, the petitioner prepared the final audit report and submitted to the Bank. The audit was prepared in terms of the provision as well as in terms of the audit instruction.

As things stood thus, after a lapse of 3½ years, the third respondent issued a show cause notice on 18.02.2021 and in response, the petitioner replied to the same. The petitioner contends that the third respondent without considering the reply, issued an order on 29.11.2021, thereby invoking Rule 29-A (2)(v) of Rules 1960 removed the petitioner's name from empanelment list which was meant for auditing of a



cooperative societies in the State. Contending that it's a stigmatic order, the petitioner preferred a Revision Petition. The revisional authority rejected the Revision Petition. Hence, the petitioner is before this Court.

- 3. Counsel for the respective parties urged several contentions. Heard the arguments and perused the Writ papers with care.
- 4. The facts are sufficiently said and do not require reiteration. The issue falls within a narrow compass and relates to the stigmatic order i.e., removing the petitioner's name from the empanelment list. Suffice it to note that as per the audit instructions, the petitioner submitted audit report in 2017 in terms of Section 63 and Rules framed there under i.e., a qualified audit report was submitted. Strangely, after a lapse of 3½ years, action was taken against the petitioner for his removal from the empanelment list without hearing the petitioner. The order, being stigmatic, was passed without the authority having the requisite power to do so, violating principles of natural justice. Therefore, the orders passed by

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the third respondent and the second respondent are liable to be set-aside. Accordingly, they are set-aside.

5. The Writ of Certiorari is ordered. The order dated 29.11.2021 passed by the third respondent vide Annexure-E and the order dated 30.01.2023 passed by the second respondent vide Annexure-F2 are quashed.

6. Resultantly, the Writ Petition is *allowed*.

Sd/-(JYOTI MULIMANI) JUDGE

TKN

List No.: 1 SI No.: 45