

**Reserved on : 02.12.2025**  
**Pronounced on : 15.12.2025**



IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 15<sup>TH</sup> DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION NO. 107749 OF 2025 (CS -RES)

C/W

WRIT PETITION NO. 107758 OF 2025 (CS -RES)

WRIT PETITION NO. 107803 OF 2025 (CS - EL/M)

**IN W.P.NO.107749/2025**

**BETWEEN:**

MOHAN ,  
S/O. NARAYAN NAYAK,  
AGED ABOUT 61 YEARS,  
OCC.: AGRICULTURE,  
R/O. MAIN ROAD, GOKARNA,  
P.O.GOKARNA, SUB DISTRICT: KUMTA,  
DISTRICT UTTARA KANNADA - 581 326,  
DELEGATE OF  
MAHABALESHWARA CO-OP. BANK, LTD.,  
GOKARNA, TALUKA: KUMTA,  
DISTRICT UTTARA KANNADA - 581 326.

...PETITIONER

(BY SRI. G.R.GURUMATH, SENIOR COUNSEL FOR  
SRI. MALLIKARJUNSWAMY HIREMATH, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS  
PRINCIPAL SECRETARY,  
DEPARTMENT OF CO-OPERATION  
M.S.BUILDING,  
BENGALURU – 590 001.
2. THE CO-OPERATIVE ELECTION AUTHORITY,  
REPRESENTED BY ITS COMMISSIONER,  
TTMC BLOCK, SHANTI NAGAR,  
BENGALURU – 590 027.
3. THE JOINT REGISTRAR OF  
CO-OPERATIVE SOCIETIES,  
BELAGAVI REGION, BELAGAVI  
AND ELECTION OFFICER TO  
ALL SECONDARY SOCIETIES AND  
BELAGAVI REGION,  
JAKKERI HONDA,  
BELAGAVI – 590 001.
4. THE DEPUTY REGISTRAR OF  
CO-OPERATIVE SOCIETIES,  
UTTARA KANNADA,  
DISTRICT KARWAR – 581 342.
5. THE RETURNING OFFICER, DCC LTD.,  
SIRSI,  
UTTARA KANNADA – 581 412.
6. SHRI VENKATESHWARA VIVIDHODDESHA  
SOUHARDA SAHAKARI SANGHA NIYAMIT,  
SIRSI, S.S.ROAD,  
AT POST: SIRSI, TALUKA: SIRSI,  
DISTRICT UTTARA KANNADA – 581 402.

7. THE KANARA DCC BANK LTD SIRSI,  
UTTARA KANNADA,  
REPRESENTED BY ITS  
MANAGING DIRECTOR,  
SIRSI - 581 402.

...RESPONDENTS

(BY SMT. NANDINI SOMAPUR, AGA FOR R1 TO R5;  
SRI. GURUDASS KANNUR, SENIOR ADVOCATE  
SRI. SOURABH HEGDE, ADVOCATE FOR R6;  
SRI. VISHWANATH HEGDE, ADVOCATE FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A. ISSUE WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED LIST AS ANNEXURE- A SO FAR AS IS IT RELATES TO SERIAL NO.65, DELEGATE FORM NO.297 IN RESPECT OF RESPONDENT NO.6 AND ITS DELEGATE BE QUASHED AND ETC..

**IN W.P.NO.107758/2025**

**BETWEEN:**

TIMMAYYA,  
S/O GANGADHAR HEGDE,  
AGED ABOUT 44 YEARS,  
OCC: AGRICULTURE,  
R/O. ULLAL, POST: BISALKOPPA,  
TALUK: SIRSI,  
DISTRICT UTTARA KANNADA - 581 402,  
DELEGATE OF CENTRAL CO-OP.  
WHOLESALE STORES LTD.,  
HOSMARUKATTE, SIRSI,  
UTTARA KANNADA - 581 402.

...PETITIONER

(BY SRI. RAVIRAJ C. PATIL &  
SRI MALLIKARJUNSWAMY HIREMATH, ADVOCATES)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS  
PRINCIPAL SECRETARY,  
DEPARTMENT OF CO-OPERATION,  
M.S.BUILDING,  
BENGALURU – 560 001.
2. THE CO-OPERATIVE ELECTION AUTHORITY,  
REPRESENTED BY ITS COMMISSIONER,  
TTMC BLOCK, SHANTI NAGAR,  
BENGALURU – 590 027.
3. THE JOINT REGISTRAR OF CO-OPERATIVE  
SOCIETIES, BELAGAVI REGION,  
BELAGAVI AND ELECTION OFFICER  
TO ALL SECONDARY SOCIETIES,  
AND BELAGAVI REGION ,  
JAKKERI HONDA,  
BELAGAVI – 590 001.
4. THE DEPUTY REGISTRAR OF  
CO-OPERATIVE SOCITIES,  
UTTARA KANNADA ,  
DISTRICT KARWAR – 581 342.
5. THE RETURNING OFFICER, DCC LTD,  
SIRSI, UTTARA KANNADA – 581 412.
6. KADAMBA MARKETING SOUHARD  
SAHAKARI NIYAMIT, SIRSI,  
NO.7, A.P.M.C. YARD, SIRSI,  
POST: MARKET YARD, SIRSI,  
UTTAR KANNADA – 581 402.
7. THE KANARA DCC BANK LTD., SIRSI,  
UTTARA KANNADA,  
REPRESENTED BY ITS

MANAGING DIRECTOR,  
SIRSI – 581 402.

...RESPONDENTS

(BY SMT. NANDINI SOMAPUR, AGA FOR R1 TO R5;  
SRI. ARUN SHYAM M., SENIOR ADVOCATE FOR  
SRI. SOURABH HEGDE, ADVOCATE FOR R6;  
SRI. VISHWANATH HEGDE, ADVOCATE FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARN QUASHING THE IMPUGNED LIST AS ANNEXURE- A SO FAR AS IS IT RELATES TO SERIAL NO.18, DELEGATE FORM NO.203 IN RESPECT OF RESPONDENT NO.6 AND ITS DELEGATE BE QUASHED AND ETC.

**IN W.P.NO.107803/2025**

**BETWEEN:**

MANJUNATH,  
S/O. KERIYAPPA NAIK,  
AGED ABOUT 41 YEARS,  
OCC: AGRICULTURE,  
R/O: KANNE KOPPA, MANA MANE,  
SIDDAPUR TALUKA,  
UTTARA KANNADA – 581 355,  
DELEGATE OF:  
PRATHAMIK KRISHI PATTINA  
SAHAKARI SANGHA NIYAMIT,  
MANAMANE, AT POST: MANAMANE,  
TALUKA: SIDDAPURA,  
UTTARA KANNADA – 581 355,  
SEVA SAHAKARI SANGHA NIYAMIT, MENASI,  
AT POST VANALLI, TALUKA SIRSI,  
UTTARA KANNADA – 581 336.

...PETITIONER

(BY SRI. G.R.GURUMATH, SENIOR ADVOCATE FOR  
SRI. JOSHI SHRIPRASAD, ADVOCATES)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS PRINCIPAL SECRETARY,  
DEPARTMENT OF CO OPERATION,  
M.S.BUILDING,  
BENGALURU – 560 001.
2. THE CO-OPERATIVE ELECTION AUTHORITY,  
REPRESENTED BY ITS COMMISSIONER,  
TTMC BLOCK, SHANTI NAGAR,  
BENGALURU – 560 027.
3. THE JOINT REGISTRAR OF  
CO-OPERATIVE SOCIETIES,  
BELAGAVI REGION, BELAGAVI AND  
ELECTION OFFICER TO ALL SECONDARY  
SOCIETIES AND BELAGAVI REGION,  
JAKKERI HONDA,  
BELAGAVI – 590 001.
4. THE DEPUTY REGISTRAR OF  
CO-OPERATIVE SOCIETIES,  
UTTARA KANNDA DISTRICT,  
KARWAR – 581 342.
5. THE RETURNING OFFICER, DCC LTD.,  
SIRSI, UTTARA KANNADA – 581 412.
6. CHANDRASHEKHAR,  
S/O. NARAYAN HEGDE,  
AGE: MAJOR, OCC: AGRICULTURE,  
R/O: "TANGARAMANE",  
AT POST: BALESARA ,  
TALUKA: SIDDAPURA,  
UTTARA KANNADA – 581 340,

DELEGATE OF:  
SHRI MALLIKARJUN VYAVASAYA SEVA SAHAKARI  
SANGHA NIYAMIT, BALESARA.  
AT POST: BALESARA, TALUKA: SIDDAPURA,  
UTTARA KANNADA - 581 340.

7. THE KANARA DCC BANK LTD.,  
SIRSI, UTTARA KANNADA,  
REPRESENTED BY ITS  
MANAGING DIRECTOR,  
SIRSI - 581 402.

...RESPONDENTS

(BY SMT. NANDINI SOMAPUR, AGA FOR R1, R3 TO R5;  
SRI MALLIKARJUNSWAMY HIREMATH, ADVOCATE FOR  
PROP. R8; R2 & R6 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND  
227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT  
IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED LIST  
AS ANNEXURE-A SO FAR AS IS IT RELATES TO SERIAL NO.20  
(DELEGATE FORM NO.060) IN RESPECT OF RESPONDENT NO.6 AND  
ITS DELEGATE TO BE QUASHED AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND  
RESERVED FOR ORDERS ON 02.12.2025, COMING ON FOR  
PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**CAV ORDER**

**Conglomeration of these writ petitions present a singular yet recurring question touching upon the very heart of cooperative democracy – namely, the legality of repeated delegation for the purpose of voting in the elections of a Federal Cooperative Institution. Though, the factual settings in each petition vary in their contours, the legal fulcrum upon which these petitions pivot remains common.** Therefore, I deem it appropriate to notice the facts in each of the cases.

2. *Shorn* of unnecessary details, brief facts in each of the cases are as follows:

2.1. In **W.P.No.107749/2025**, the petitioner is a Society, represented by the delegatee in the subject petition. He becomes the delegate to vote in the 7<sup>th</sup> respondent's ensuing elections. The challenge is to the delegatee of the 6<sup>th</sup> respondent to cast his vote in the elections of the 7<sup>th</sup> respondent-Kanara DCC Bank Ltd, Sirsi

[KDCC]. It is the allegation of the petitioner that the said delegatee has already cast his vote as a delegatee in two other elections hitherto held and therefore, this delegation would form the third in line for the ensuing elections and therefore, there is a statutory bar in appointing a delegatee of the 6<sup>th</sup> respondent for the third time for an election.

2.2. In **W.P.No.107758/2025**, it is preferred by another delegatee of Central Cooperative Wholesale Stores Limited again to stop the 6<sup>th</sup> respondent from sending any delegate to vote in the 7<sup>th</sup> respondent election. The legal grounds set out is the same that it is the third time, the 6<sup>th</sup> respondent has delegated someone for the purpose of voting in the 7<sup>th</sup> respondent.

2.3. In **W.P.No.107803/2025**, is now an admitted fact that the 6<sup>th</sup> respondent is the delegatee of one Sangha which admittedly is the third in line. Therefore, two of the petitions noted hereinabove are contested and the law in regard to the third one is already declared by this Court.

3. The petitions raise a challenge to the nomination of delegates by certain cooperative societies to participate in elections of the 7<sup>th</sup> respondent – Canara District Central Cooperative Bank Limited. The grievance of the petitioners is that the 6<sup>th</sup> respondent, under different statutory enactments has already exercised its right of delegation on two prior occasions and that the present nomination constitutes a third delegation, thereby infringing the statutory embargo engrafted in Section 21 of the Karnataka State Cooperative Societies Act, 1959. The petitions are by the delegatee of Mahabaleshwara Cooperative Bank, calling in question the delegation of the delegatee of the 6<sup>th</sup> respondent to stop him from voting in the ensuing elections of the 7<sup>th</sup> respondent - Canara District Central Cooperative Bank Limited.

4. Heard the respective learned counsels representing the parties in each of these cases.

4.1. In W.P.No.107749/2025, heard Sri.G.R.Gurumath, learned Senior Counsel for Sri.Mallikarjunswamy Hiremath, learned counsel appearing for the petitioner, Smt.Nandini Somapur, learned

counsel appearing for respondent Nos.1 to 5, Sri. Gurudass Kannur, learned Senior Counsel for Sri.Sourabh Hegde, learned counsel for respondent No.6, Sri.Vishwanath Hegde, learned counsel for respondent No.7.

4.2. In W.P.No.107758/2025, heard Sri.Raviraj C Patil, learned counsel for Sri.Mallikarjunswamy Hiremath, learned counsel appearing for the petitioner, Smt.Nandini Somapur, learned counsel appearing for respondent Nos.1 to 5, Sri.Aruna Shyam, learned Senior Counsel for Sri.Sourabh Hegde, learned counsel appearing for respondent No.6, Si.Vishwanath Hegde, learned counsel for respondent No.7.

4.3. In W.P.No.107803/2025, heard Sri.G.R.Gurumath, learned Senior Counsel for Sri.Shripad J. Joshi, learned counsel appearing for the petitioner, Smt.Nandini Somapur, learned counsel appearing for respondent Nos.1, 3 to 5, Sri.Mallikarjunaswamy Hiremath, learned counsel appearing for proposed respondent No.8.

**SUBMISSIONS:**

5. The learned Senior Counsel Sri. Gangadhar R Gurumath appearing for the petitioner would vehemently contend that statutory prohibition cannot be rendered otiose by the device of altering nomenclature or invoking parallel enactments. According to him, the essence of the bar lies not in the label affixed to the cooperative entity, but in the character of the delegation itself. He would submit, what cannot be done directly is sought to be done indirectly by merely describing someone in a different name. This cannot mean that delegation can be made more than two times as there is a statutory bar under Section 21 of the Karnataka Cooperative Societies Act, 1959. He would submit that the statutory bar cannot be overridden by calling the societies in different names. He would submit that delegation of the 6<sup>th</sup> respondent should be set-aside for it being contrary to section 21. He would seek to place reliance upon the judgments rendered by the learned Single Judge which comes to be affirmed by the Division Bench to buttress his submission that the bar of voting under Section 21 applies to any Cooperative Society.

6. *Per contra*, two of the Senior counsels Sri.Gurudass Kannur and Sri.Aruna Shyam would vehemently refute the submissions by contending that Section 21 of the Karnataka Cooperative Societies Act, 1959, is clear that he should not be a delegatee under the Cooperative Societies Act. The delegation of the 6<sup>th</sup> respondent has happened twice no doubt but not under the Cooperative Societies Act. It is once under the Karnataka Souharda Sahakari Act, 1997 and another time coming under the Multi-State Cooperative Societies Act, 2002. It is for the first time, the petitioner becomes a delegatee to vote in an election that is now being held under the Karnataka State Cooperative Societies Act. Both the learned Senior Counsels have placed reliance upon several provisions of all the three enactments, all of which would bear consideration in the course of the order.

7. I have given my anxious consideration to the submissions made by the learned counsel appearing for the respective parties and have perused the material on record.

8. The issue thus narrows itself to a question of statutory interpretation, **'Whether delegations exercised under Cognate Cooperative Enactments are to be aggregated for the purpose of enacting bar under Section 21 of the Karnataka Cooperative Societies Act, 1959?'**

9. To resolve this controversy, it becomes necessary to traverse the statutory landscape governing cooperative institutions in the State. The three enactments assume relevance. The Statutes are: **(1) The Karnataka Cooperative Societies Act, 1959, (hereinafter referred to as 'KCS Act'), (2) The Karnataka Souharda Sahakari Act, 1997 (hereinafter referred to as 'Souharda Act') and (3) The Multi-State Cooperative Societies Act, 2002 (hereinafter referred to as the Multi-State Act')**. Certain provisions of all the three are germane to be noticed.

**9.1. KARNATAKA STATE COOPERATIVE SOCIETIES ACT, 1959:**

**"Section 2(c): "Co-operative Society" means a society registered or deemed to be registered under this Act.**

Section 2(f): "Member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership **after such registration in accordance with this Act**, the rules and the bye-laws and includes a nominal and an associate member.

Section (f-1): "Multipurpose Co-operative Society" means a primary society the object of which is to provide various services including services related to credit, business, industry and consumer durables to its members.

Section 20(b): a co-operative society.-

(i) the [board] of which stands superseded or to which a special officer is appointed under "[Section 31] of the Act.

(ii) which is "[ordered to be wound up] under Section 72;

(iii) which has not commenced working or has ceased to work;

(iv) whose principal object is to advance loans and whose percentage of recovery is.-

(a) less than fifty per cent of its total demand for the Co-operative year immediately preceding the Co-operative year during which the meeting or election is held; or

(b) which fails to pass on to the financing bank or the credit agency, as the case may be, fifty per cent of the demand or the entire portion of the recovered amount of the demand of the financing bank or credit agency, whichever is higher, at least fifteen days before the date of the general meeting or the date of election, after a notice of not less than thirty days in this regard has been issued to that society.]

**Section 21: Manner of exercising vote.-**

**[(1) Every member, every representative,] every delegate and every nominee shall exercise his vote in person and not by proxy [at a general meeting or an election of the members of the [board] of a co-operative society].**

**(2) Notwithstanding anything contained in sub-section (1),-**

**(a) the [board] of a Co-operative Society which is a member of another Co-operative Society may appoint one of the members of the [board] to vote on its behalf in the affairs of that other society:]**

**[Provided that where a new [board] has been elected to a co-operative society, such newly elected [board] shall send a delegate or nominee to any other co-operative society where it is a member.]**

**[(b) where the Life Insurance Corporation of India, the State Warehousing Corporation or such other institutions approved by the State Government or a market committee or a local authority or a firm [or a self-help group], a company or any other body corporate constituted under any law for the time being in force is a member of a co-operative society, a person nominated by such institution, market committee or local authority or a firm [or a self-help group], a company or any other body corporate constituted under any law for the time being in force, may vote on its behalf in the [general meeting or the election of the members of the [board]] of the society.]**

**[(3) A member once nominated by the board of a Co-operative Society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other Co-operative Society shall not be changed except by a resolution passed with substantial reasons in a Board meeting by a two-third majority of the members present and voting in such meeting. However a Co-operative Society shall not nominate or appoint any member of the board to vote on behalf of it in more than two co-operative societies.]**

**Section 98-H: Freedom for affiliation or disaffiliation with a federal society.**-(1) A Co-operative Credit Structure society registered under the Karnataka Co-operative Societies Act, 1959 shall be eligible to become a member of a Federal co-operative or a Secondary co-operative registered under the provisions of Karnataka Souharda Sahakari Act, 1997.

(2) A co-operative registered under the Karnataka Souharda Sahakari Act, 1997 may become the member of a Federal society or a Secondary society registered under the Karnataka Co-operative Societies Act, 1959.

(3) A co-operative society under the Co-operative Credit Structure shall be at liberty to affiliate or disaffiliate with any Federal society or a Secondary society of its choice keeping in view the financial position of the Federal society or the Secondary society:

Provided that a resolution approving such affiliation or disaffiliation with a Federal society or a Secondary society shall be passed in the annual general meeting held for the purpose with three-fourths majority of the total members:

Provided further that before disaffiliation, the society shall discharge its financial liability, if any, to the society from whom it is disaffiliating.

**Section 98-I: Restriction regarding area of operation.-**

A co-operative society under Co-operative Credit Structure shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for the conduct of its business operations.”

**9.2. KARNATAKA SOUHARDA SAHAKARI ACT, 1997:**

The objects and reasons for the promulgation of the subject

Act is as follows:

**“An Act to provide for recognition, encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by cooperative principles and matters connected therewith.**

**Whereas it is expedient to provide for recognition, encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by cooperative principles and for matters connected therewith;"**

**2(e) "Co-operative" means a co-operative including a cooperative bank doing the business of banking registered or deemed to be registered under Section 5 and which has the words 'Souharda Sahakari' in its name [and for the purposes of the Banking Regulation Act, 1949 (Central Act 10 of 1949), the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961) and the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 67 of 1981)", it shall be deemed to be a Co-operative society;]**

**9.3. THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT,**

**2002:**

**"3. Definitions.**—In this Act, unless the context otherwise requires,—

... ..

**(h) "co-operative society" means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;**

... ..

**44. Prohibition to hold office of chairperson or president or vice-chairperson or vice-president in certain cases.**—(1) No member of a board shall be eligible to be elected as the chairperson or president or vice-chairperson or vice-president of a multi-State co-operative society if such

member is a Minister in the Central Government or a State Government.

(2) No member of a board shall be eligible to be elected as the chairperson or president of a multi-State co-operative society, after he has held the office, as such during two consecutive terms, whether full or part:

Provided that a member who has ceased to hold the office of the chairperson or president continuously for one full term shall again be eligible for election to the office as such.

***Explanation.—Where any member holding the office of the chairperson or president at the commencement of this Act is again elected to that office after such commencement, he shall for the purpose of this section, be deemed to have held office for one term before such election.”***

(Emphasis supplied)

A holistic reading of the preamble, objects and definitional clauses of the aforesaid enactments reveals an unmistakable legislative intent to promote, nurture and sustain the cooperative movement, as an instrument of collective economic empowerment. The Souharda Act far from being a departure from cooperative principles, is nothing but an alternative statutory vehicle to advance the same ideals of mutual aid and self reliance. The Multi-State Act again governs the cooperative societies beyond the jurisdictions of

the State, with the same avowed object of the cooperative movement.

10. Section 21 of the Cooperative Societies Act embodies a salutary principle, preventing concentration of electoral influence and preserving the democratic fabric of cooperative governance. The statutory interdiction is against nominating a delegate, to more than two cooperative societies, which is intended to curb monopolization of voting power. Therefore, the rigour of Section 21 of the Act mandates that a delegate cannot vote, on more than two occasions, of a cooperative society, registered under the Cooperative Societies Act.

11. If all the three delegations of the present delegate is to the Societies registered under the Cooperative Societies Act, it would have been a circumstance altogether different, while it is not. The delegatee first, is delegated to vote in a society, coming under the Souharda Act and the second time to a society coming under the Multi-State Act, the third time now, to the Federal Cooperative Society, the 7<sup>th</sup> respondent. These are admitted facts. Therefore,

the three delegations are to those societies coming under three different enactments. The cooperative societies coming under the Cooperative Societies Act, is distinct and separate, so are the societies coming under the Souharda Act and the Multi-State Act. Therefore, the delegation, the third in line, is in effect the first, to a society under the Cooperative Societies Act.

12. Heavy reliance is placed upon the judgments rendered by the learned Single Judge and the Division Bench. The learned Single Judge in the case of **SWABHIMANI SOUHARDA CREDIT COOPERATIVE LTD., V. GOVERNMENT OF INDIA**<sup>1</sup> has held as follows:

**"5. Having heard the learned counsel for the parties and having perused the petition papers, this court is of a considered opinion that the answer to the above question needs to be in the affirmative for the following reasons:**

**(a) Section 80P of the 1961 Act provides for deduction in respect of income of co-operative societies is obvious going by its very text; sub-section (1) of said section reads as under:**

**"80P. (1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and**

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<sup>1</sup> 2020 SCC OnLine Kar 5004

**subject to the provisions of this section, the sums specified in sub-section (2) in computing the total income of the assessee."**

**The other provisions of this section being not of much relevance to the question being treated, are not reproduced, although they too have been looked into.**

**Section 2(19) which finds a place in the definition clause of the 1961 Act reads as under:**

"'co-operative society' means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies;"

The provisions of section 80P are enacted by Parliament for promoting the co-operative movement in the country in tune with what the Father of the nation Mahatma Gandhi preached to the countrymen ; this section needs to be liberally construed to effectuate the legislative object of encouraging and promoting the growth of co-operative movement vide Kanga and Palkhivala's The Law and Practice of Income Tax, 10th Edition, LexisNexis at page 1656; it is more so because the right to form a co-operative society itself is made a fundamental right, now enshrined in article 19(1)(i) by virtue of 97th Amendment to the Constitution of India with effect from October 15, 2013;

(b) the object of enacting section 80P of the 1961 Act may be defeated if a restrictive meaning is assigned to the definition of "co-operative society" as given under section 2(19) inasmuch as the invocability of the provisions of section 80P is dependent upon the entity seeking the benefit thereunder being a co-operative society ; going by the text and context of these provisions, one can safely conclude that all the entities that are registered under the enactments relating to co-operative societies, regardless of their varying nomenclatures need to be treated as co-operative societies; this view accords with the purposive construction of section 80P read with section 2(19) of the 1961 Act;

(c) in the State of Karnataka, there have been two statutes enacted by the State Legislature that relate to registration and regulation of co-operative societies, viz., the Karnataka Co-operative Societies Act, 1959, i.e., Karnataka Act No.11 of 1959 and the Karnataka Souharda Sahakari Act, 1997, i.e., Karnataka Act No.17 of 2000 ; both these Acts are enacted pursuant to article 246(3) read with Entry 32, List-II of Schedule VII to the Constitution of India; there is no other Entry to which this Act is relatable; the legislative entries being only the fields of legislation need to be very broadly interpreted, is the settled position of constitutional jurisprudence vide *Ujagar Prints v. Union of India* (1989) 179 ITR 317 (SC) ; AIR 1989 SC 516 ; Chapter X of 1997 Act containing section 67 enacts important co- operative principles that animate and brood through almost all the provisions of this Act ;

(d) the Karnataka Souharda Sahakari Bill, 1997 has the following as the statement of objects and reasons:

"1. The recognition, encouragement and voluntary formation of co-operatives based on self help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles specified therein;

2. Removing all kinds of restrictions that have come to clog the free-functioning of the co-operatives and the controls and interference by the Government except registration and cancellation;

3. Promotion of subsidiary organization, partnership between co- operatives and also collaboration between co-operatives and other institutions;

4. Registration of co-operatives, union co-operatives and federal co-operative in furtherance of the objectives specified above;

5. Conversion of co-operative societies registered under the Karnataka Co-operative Societies Act, 1959 as a co-operative under the proposed legislation. Hence the Bill."

(e) the preamble to the 1959 Act reads as under:

'Whereas it is expedient (to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies) in the State of Karnataka ;

Be it enacted by the Karnataka State Legislature in the tenth year of the Republic of India as follows.'

Similarly, the preamble to the 1997 Act reads as follows:

'Whereas it is expedient to provide for recognition, encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and for matters connected therewith;

Be it enacted by the Karnataka State Legislature in the forty- eighth year of Republic of India as follows.'

A perusal of these two preambles and the various provisions of these two Acts leads one to an irresistible conclusion that both these Acts are cognate statutes that deal with co-operative societies, regardless of some difference in their nomenclature and functionality, the subject matter being the same;

(e) the word 'co-operative' is defined by section 2(d-2) of 1959 Act as under:

'2(d-2) : "co-operative" means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000), and includes the Union Co-operative and the Federal Co-operative"

Similarly, the word 'co-operative' is defined by section 2(e) of 1997 Act as follows:

'2(e) : "co-operative" means a co-operative including a co-operative bank doing the business of banking registered

or deemed to be registered under section 5 and which has the words 'Souharda Sahakari' in its name (and for the purposes of the Banking Regulation Act, 1949 (Central Act 10 of 1949), the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961) and the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 67 of 1981), it shall be deemed to be a co-operative society'."

A close examination of these two definitions shows that they have abundant proximity with each other in terms of content and contours ; it hardly needs to be stated that in both these definitions the word "co-operative" is employed not as an adjective but as a noun ; the definition of other relative concepts in the definition clauses of these Acts strengthens this view ; this apart, section 7 of the 1997 Act provides that the entity registered as a "co- operative" shall be a body corporate, notwithstanding the conspicuous absence of the word "society" as a postfix ; section 9 of the 1959 Act makes the entity once registered under section 8 thereof a body corporate ; both the entities have perpetual succession by operation of law ; thus on registration be it under the 1959 Act or the 1997 Act, a legal personality is donned by them, so that inter alia they can own and possess the property ;

(f) the employment of the word "sahakari" in the very title of the 1997 Act is also not sans any significance ; "sahakaar" in Sanskrit is the equivalent of "sahakaara" in Kannada which means "co-operation" ; as already mentioned above both the 1959 Act and the 1997 Act employ this terminology; the 1997 Act is woven with the principles of co-operation; section 4 of this Act bars registration of an entity unless its main objects are to serve the interest of the members in the area of co-operation and its bye-laws provide for economic and social betterment of its members through self-help and mutual aid in accordance with the co-operative principles ; this apart, even sub-section (2) of section 4 is heavily loaded with co-operative substance.

In the above circumstances, these writ petitions succeed; a declaration is made to the effect that the entities

registered under the Karnataka Souharda Sahakari Act, 1997 fit into the definition of "co-operative society" as enacted in section 2(19) of the Income-tax Act, 1961 and therefore subject to all just exceptions, the petitioners are entitled to stake their claim for the benefit of section 80P of the said Act ; a writ of certiorari issues quashing the impugned notice dated March 30, 2018 at annexure D in W. P. No. 48414 of 2018 ; other legal consequences accordingly do follow.

It is needless to mention that the other provisions of section 80P of 1961 Act and their effect on the claim of the petitioner-like-societies have been left to be addressed by the concerned authorities.

No costs."

(Emphasis supplied)

13. The Division Bench of this Court in the case of **GOVERNMENT OF INDIA V. KARNATAKA STATE SOUHARDA FEDERAL COOPERATIVE LTD.,**<sup>2</sup> has held as follows:

"10. The relevant provisions of law are quoted here under for ready reference:

Section 2[e] of the Souharda Act reads thus:

"2(e) "Co-operative" means a cooperative including a co-operative bank doing the business of banking registered or deemed to be registered under Section 5 and which has the words 'Souharda Sahakari' in its name<sup>1</sup>[and for the purposes of the Banking Regulation Act,1934 (Central Act 2 of 1934), the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47of 1961) and the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 67 of 1981)", it shall be deemed to be a cooperative society."

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<sup>2</sup> **W.A.No.378/2020 (T-IT) and connected matters disposed on 20-12- 2021**

**Section 2[g] of the Souharda Act reads thus:**

**"2(g) "Co-operative Society" means a co-operative society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959)"**

**Section 2[19] of the Income Tax Act reads thus:**

**"2(19). "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of cooperative societies."**

Section 80P of the Income Tax Act, 1961 reads thus:

**"Deduction in respect of income of co-operative societies.**

**80P.** (1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

(2) The sums referred to in sub-section (1) shall be the following, namely :—

Provided ...."

20. The objects and reasons for the amended Act No.21/2004 [Souharda Act] reads as under:

"An Act to provide for recognition, encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and matters connected therewith;

Whereas it is expedient to provide for recognition, encouragement and voluntary formation of co-operatives based on selfhelp, mutual aid, wholly owned, managed and

controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and for matters connected therewith."

21. Preamble to the Souharda Act reads thus: "Whereas it is expedient to provide for recognition, encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and for matters connected therewith;

Be it enacted by the Karnataka State Legislature in the Forty-eighth Year of Republic of India as follows-

**27. Merely, because separate definitions are provided for the words "Co-operative" and "Co-operative Society" under Section 2[e] and [g] respectively of Sec.2 of Souharda Act, it cannot be construed as their characteristic is different, since their nomenclature is different. Importance has to be given to the word "Cooperative" which is found in both the enactments i.e., Act No.11 of 1959 and Act No.17 of 1997, as adjective pre-fixed to the noun that means the characteristic of the organization/institution while applying the principle of harmonial construction and interpretation of the laws, especially the laws which are intended to promote the organization of that character.**

**28. The Souharda Act and the Karnataka Cooperative Societies Act, 1959 are both in force in the State of Karnataka and are regulated by the State Registrar of Co-operatives Karnataka. Registrar of Cooperative Societies governs all Co-operatives while being formed, alteration of bylaws and closure of the Co-operative Societies. Though the aforesaid two Acts are parallel but are in respect of Co-operatives in the State as the name suggests.**

**29. It could be inferred that once the entities are governed by the Co-operative Principles under the law in force and registered under the State enactment,**

**which by implication or otherwise shall only have a same meaning of Co-operative Society.**

.....

**32. At this juncture, the arguments advanced by the learned counsel for the Revenue that the Karnataka Act No.35/2021** – the State Amendment Act runs contrary to the Central enactment of Co-operative Societies Act, 1912 resulting in repugnancy with the Central enactment cannot be countenanced for the reason that we are not adjudicating upon the Constitutional validity of the Karnataka Act No.35/2021, Amended Souharda Act. Hence, the amended Section 2[e] of the Souharda Act is applicable to the facts of the case. The judgments cited by the learned counsel for the Revenue inasmuch as Articles 246 and 254 would be of no assistance in adjudicating the dispute in the case on hand. If a strict literal interpretation is given to the word 'Co-operative' as canvassed by the learned counsel for the Revenue, in the absence of rate of tax fixed for such 'Co-operative', no tax liability would arise in the light of the judgment of the Hon'ble Apex Court in the case of Govind Saran Ganga Saran supra. Hence, the said arguments are negated.

**33. The provisions of Section 80P offers tax deduction in respect of income of Co-operative Societies which is enacted with a laudable object of promoting Co-operating moment. Such benefit cannot be denied to the so called Co-operatives under the Souharda Act merely on hyper technicalities. The interpretation given by the Revenue to Section 2[19] of the Act is untenable. A harmonious reading of the said provisions would indicate that Co-operative Society registered under the Co-operative Societies Act, 1959 alone is not the Cooperative Society for the purposes of the Income Tax Act, as the phrase 'or' employed with the following words 'under any other law for the time being in force in any State for the registration of Co-operative Society' if read, Co-operative Societies registered under the Souharda Act which is a State enactment would certainly be construed as Co-**

**operative Society coming within the ambit of Section 2[19].**

34. Thus, for the reasons aforesaid, we find no jurisdictional error in the order passed by the learned Single Judge in extending the benefit of Section 80P to the entities registered under the Souharda Act.”

(Emphasis supplied)

A perusal at the afore-quoted judgment of the learned Single Judge and that of the Division Bench would not become applicable to the facts of the case at hand, as the judgment does not deal with delegation or interpretation of Section 21 of the Act. The judgments deal with the interpretation for the purpose of taxation *qua* Section 80P deductions. Therefore, the said judgments relied on by the learned senior counsel Sri Gangadhar R Gurumath for the petitioners, are inapplicable to the facts of the case.

14. It is trite law that precedents must not be followed without looking into the facts that went, into rendering the said precedent. If the judgment of the learned single Judge and the Division Bench is followed, without the present facts becoming applicable, to the law as declared, it would run foul of the

judgment of the Apex Court in the case of **HARYANA FINANCIAL CORPORATION v. JAGDAMBA OIL MILLS**<sup>3</sup>

wherein the Apex Court has held as follows:

"... .."

**20. In *Home Office v. Dorset Yacht Co.* [(1970) 2 All ER 294 : 1970 AC 1004 (HL)] Lord Reid said (at All ER p. 297g-h), "Lord Atkin's speech ... is not to be treated as if it were a statutory definition. It will require qualification in new circumstances". Megarry, J. in (1971) 1 WLR 1062 observed: "One must not, of course, construe even a reserved judgment of even Russell, L.J. as if it were an Act of Parliament." And, in *Herrington v. British Railways Board* [(1972) 2 WLR 537 [sub nom *British Railway Board v. Herrington*, (1972) 1 All ER 749 (HL)]] Lord Morris said : (All ER p. 761c)**

"There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case."

**21. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.**

**22.** The following words of Hidayatullah, J. in the matter of applying precedents have become locus classicus : (*Abdul Kayoom v. CIT* [AIR 1962 SC 680] , AIR p. 688, para 19)

**"19. ... Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of**

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<sup>3</sup> (2002) 3 SCC 496

**another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."**

\* \* \*

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."

(Emphasis supplied)

The Apex Court holds circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. Therefore, following the judgments quoted by the learned counsel for the petitioners, without looking into the facts of the present case, runs foul of what the Apex Court holds.

15. Wherefore, notwithstanding the fact that the statutes are cognate, any amount of harmonious construction, will not lead to a result of acceptance of the submissions of the learned senior counsel for the petitioner. It is not only the nomenclature that is different in the case at hand, the very definition of a cooperative society under the Act clearly means a society registered or deemed to have been registered under this Act.

This Act would be, the Act. Section 21 bars more than two occasions voting by a delegate to a cooperative society, which would obviously mean, a society under the Cooperative Societies Act. This cannot be made applicable to every enactment, notwithstanding them being cognate.

**SUMMARY:**

- (i) The petitioners challenge to the alleged repeated delegation fails, as the repeated delegation is not under the Cooperative Societies Act.**
- (ii) Section 21 of the Act bars voting twice over in a cooperative society registered under the Act. Therefore, the impugned third delegation does not violate Section 21, as the first two delegations were under two different enactments – The Souharda Act and the Multi-State Act.**

**16. For the aforesaid reasons, finding no merit in W.P.No.107749/2025 and W.P.No.107758/2025, both these petitions stand dismissed.**

**IN W.P.No.107803/2025:**

**17. In so far as W.P.No.107803/2025 is concerned,** all the parties to the *lis* submit and admit that the delegation is third in line in the elections to the Cooperative Society itself. Therefore, the issue in the *lis* stands covered by what this Court has rendered in W.P.No.107510/2025. It is therefore this Court deems it fit only to narrate the skeletal facts before following the law.

18. It is the case of the petitioner who is duly appointed as delegatee to represent the Society in the ensuing elections-respondent No.7 Society. The name of the petitioner/delegatee is found at Sl.No.22 of the list of voters. The delegate of the 6<sup>th</sup> respondent has cast the vote in the elections of Siddapura Taluka VyavasayaHuttuvaligalaSahakari Sangha Niyamit, Siddapura in its election held on 20.09.2025. This forms the first of the delegation of respondent No.6 to cast his vote as a

delegate. Respondent No.6 again is said to have represented the elections in Kendra SahakariSagatuMarata Malige Niyamita, Sirsi, in its elections held on 27.09.2025. This is admittedly the second time the delegate has voted and is now listed as a voter to vote in the ensuing elections of the 7<sup>th</sup> respondent-DCC Bank. The contention is that the DCC being a Federal Bank, the bar would not apply.

19. The said submissions are noted only to be rejected as this Court in W.P.No.107510/2025 has already considered this issue.

"2. Heard the learned senior counsel Sri.Gurudas Kannur for Sri.Sourabh Hegde and Sri.Shriprasad Joshi appearing for the petitioner, learned AGA-Sri.Ramesh Chigari, appearing for respondent Nos.1,3,4 and 5, learned counsel Sri.G.V.Bharamagoudar, appearing for respondent No.2, learned counsel Sri.A.P.Hegde, appearing for respondent No.6 and learned counsel Sri.Vishwanath Hege, appearing for respondent No.7

3. Elections were held on 27.07.2024 to the Uttara Kannada Zilla Sahakari Union Niyamit, Kumta.

4. The delegate of respondent No.6 is said to have represented respondent No.6 previously in the elections held for the aforesaid Union, which was held on 27.07.2024. Respondent No.6 again was delegated to cast his vote in the election of another society in the elections that were held on 28.09.2025, as a delegate of respondent No.6.

5. The issue now is with regard to whether respondent No.6 can now again cast his vote, as a delegate in the ensuing elections.

6. Learned Senior counsel Sri.Gurudas S. Kannur submits that there is a clear bar under Section 21(3) of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as 'the Act' for short). Section 21 reads as follows:

21. Manner of exercising vote:-

(1) Every member, [every representative,] every delegate and every nominee shall exercise his vote in person and not by proxy] [at a general meeting or an election of the members of the [board] of a cooperative society]

[Explanation.—For the purposes of Section 20 and this section and wherever else it occurs, the word 'delegate' means a member of a cooperative society to represent that society in other cooperative societies.]

(2) Notwithstanding anything contained in subsection (1),— [(a) the [board] of a co-operative society which is a member of another co-operative society may appoint one of the members of the [board] to vote on its behalf in the affairs of that other society;]

[Provided that where a new [board] has been elected to a cooperative society, such newly elected [board] shall send a delegate or nominee to any other cooperative society where it is a member.]

[(b) where the Life Insurance Corporation of India, the State Warehousing Corporation or such other institutions approved by the State Government or a market [board] or a local authority or a firm, [or a self-help group] a company or any other body corporate constituted under any law for the time being in force is a member of a co-operative society, a person nominated by such institution, market [board] or local authority or a firm, [or a self-

help group] a company or any other body corporate constituted under any law for the time being in force, may vote on its behalf in the [general meeting or the election of the members of the [board]] of the society;]

- (3) A member once nominated by the board of a Co-operative Society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other Co-operative Society shall not be changed except by a resolution passed with substantial reasons in a board meeting by a two third majority of the members present and voting in such meeting. However a Cooperative Society shall not nominate or appoint any member of the board to vote on behalf of it in more than two cooperative societies.**

7. Section 21(3) of the Act bars a member once nominated by the Board of the Co-operative Society to vote in an election twice over, as the said Co-operative society should not nominate or appoint any member of the board to vote on its behalf in more than two Co-operative societies. It is an admitted fact that respondent No.6 has been nominated twice over, to vote as a delegate of respondent No.6-Society, in two of the elections that were held on 27.07.2024 and 28.09.2025. Therefore, the bar under Section 21(3) would kick in.

8. Learned counsel appearing for the respondent would submit that the Society should be permitted to delegate any other member of the Society to represent it in the ensuing elections, if the law would permit, this Court would not put fetters on such liberty of respondent No.6.

9. In that light, respondent No.6 now being ineligible in terms of Section 21(3) of the Act, he shall not be permitted to delegate the respondent No.6-Society, and cast a vote in the ensuing elections. With the aforesaid observation the petition stands disposed of.

Ordered accordingly.”

In the light of the said submission, W.P.No.107803/2025 deserves to succeed.

20. For the aforesaid reasons, the following:

**ORDER**

[I] W.P.No.107749/2025 and W.P.No.107758/2025, stand **dismissed**.

[II] W.P.No.107803/2025 is **allowed**.

[III] Impugned list as Annexure-A in W.P.No.107803/2025, so far as it relates to Sl.No.20 (delegate Form No.060) in respect of respondent No.6 and its delegate stands quashed.

Pending applications if any, in all these cases, also stand disposed.

**SD/-  
(M.NAGAPRASANNA)  
JUDGE**

cbc/bkp  
CT:MJ