

10739/21  
D R Ravishankar

FORM III A  
IN THE HIGH COURT OF KARNATAKA, BENGALURU

WRIT PETITION NO 10860/2021 (GM-RES)

(NOTICE UNDER RULE 13 (a) PROVISO)

PETITIONER

1. NYAYAMITHRA SAHAKARI BANK NIYAMITHA  
REPT BY ITS GENERAL MANAGER  
HIGH COURT BUILDING(NEW ANNEXE)  
DR B R AMBEDKAR VEEDHI BENGALURU-560001

(By Sri./Smt : D R RAVISHANKAR, SARAVANA S., SIRI RAJASHEKAR)  
VS

RESPONDENTS

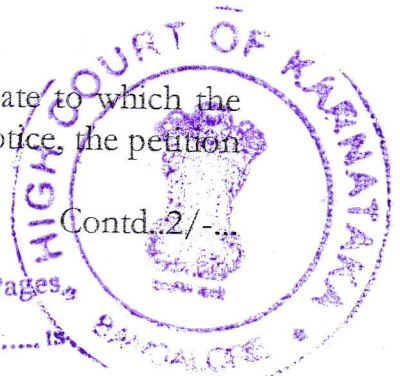
1. THE UNION OF INDIA  
BY THE SECRETARY MINISTRY OF FINANCE  
15, SAFDARJUNG ROAD NEW DELHI-110006
2. THE RESERVE BANK OF INDIA  
INFANTRY ROAD BENGALURU-560001  
REPRESENTED BY ITS GENERAL MANAGER
3. THE CHIEF GENERAL MANAGER RESERVE BANK OF INDIA  
INFANTRY ROAD BENGALURU-560001
4. THE STATE OF KARNATAKA  
REPT BY THE SECRETARY DEPARTMENT OF CO OPERATION  
M S BUILDINGS DR B R AMBEDKAR VEEDHI BENGALURU-560001

(V/O.DTD.28/06/2021, SRI C SHASHIKANTHA, ASG FOR R1 ; AGA FOR R2)

Whereas, a Writ Petition filed by the above named petitioner under Article 226 of the Constitution of India, as in the copy annexed hereunto, has been registered by this court.

Emergent Notice is hereby given to you to appear in this court in person or through an Advocate duly instructed or through some one authorised by law to act for you in this case, at 10.30 A.M. in the forenoon within 5 days of the service of this notice, to show cause why rule nisi should not be issued.

If you fail so to appear on the said date or any subsequent date to which the matter may be posted as directed by the court, without any further notice, the petition will be dealt with, heard and decided on the merits in your absence.



This Certified copy contains.....8.....Pages.  
And Copying charges of ₹.....8.....

-: 2 :-

Pending issue of Rule nisi in the aforesaid Writ Petition it is hereby ordered by  
this Court on

MONDAY THE 28<sup>TH</sup> DAY OF JUNE 2021

BY HON'BLE MR. JUSTICE G. NARENDAR

as follows :-

**ORDER**

XEROX COPY OF THE ENTIRE ORDER DATED 28.06.2021 ENCLOSED  
HEREWITH SEPARATELY.

Contd..3/-..



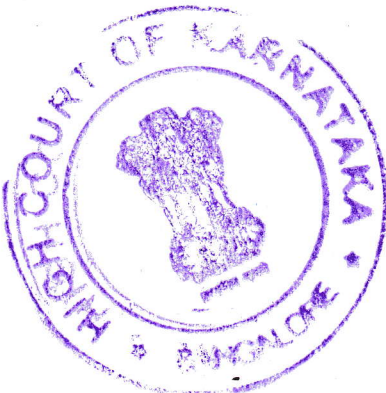
GNJ:  
28.06.2021

W.P.No.10860/2021

**ORDER**

Heard the learned counsel for the petitioner.

The petitioner in the instant petition has raised a challenge to the validity and legality of the Circular dated 31.12.2019 issued by respondent No.2 whereby respondent No.2 - RBI has formulated certain Guidelines for the management of the banks in the Primary (Urban Co-operative) Sector and one of the measures suggested under Clause 3 of the Circular is Constitution of a Board of Management. Clause 4 details the functions of Board of Management, Clause 6 stipulates the qualification of Members of Board of Management and sub-clause (iii) of Clause 6 stipulates that the Board of Directors will not constitute more than 50% of the Board of Members and Clause 12 vests the power in the RBI to remove any member of the Board of Management or the CEO.





Learned counsel for the petitioner would submit that the said Circular is in the teeth of the law laid down by the Hon'ble Apex Court in the case of ***Pandurang Ganpati Chaugule vs. Vishwasrao Patil Murgud Sahakari Bank Limited*** reported in **(2020) 9 SCC 215**, whereby the Constitutional Bench of the Hon'ble Apex Court has been pleased to observe in paragraphs No.28 and 142.1. (b) which read as under:-

*"28. What is of utmost significance is that extensive amendments and omissions of several provisions of the BR Act, 1949 became necessary concerning matters covered under List II Entry 32; as such various amendments were separately reflected in a separate chapter, amendments were incorporated under various provisions of the Act in Parts II-A, III and III-A. The provisions relatable directly or indirectly to incorporation, management and winding up of cooperative banks were proposed to be omitted as these Parts or provisions were not in pith and substance within the scope of any entry in the Central or*



*Handwritten signature or initials.*

- *Concurrent List of subjects in the Seventh Schedule of the Constitution of India.*

xxx

*142.1. (b) The cooperative banks run by the cooperative societies registered under the State legislation with respect to the aspects of "incorporation, regulation and winding up", in particular, with respect to the matters which are outside the purview of Schedule VII List I Entry 45 of the Constitution of India, are governed by the said legislation relatable to Schedule VII List II Entry 32 of the Constitution of India."*

He would contend that if the above paragraphs are read conjunctively, it is apparent that the affairs and the day-to-day management of the Co-operative Society in the banking sector is wholly within the ambit of Entry 32 List II of 7<sup>th</sup> Schedule and hence the Circular is *per se* violative, as it impinges on the power of management by the Board in respect of the Co-operative Societies in the banking sector and





the same is impermissible and hence, he would pray for stay of the operation of the Circular.

There is substance in the contention canvassed on behalf of the petitioner. On a reading of the Circular, if the same is implemented in letter and spirit, it would *prima facie* encroach and impinge on areas, which are governed by Entry 32 of List II and in the light of the interpretation placed and the exposition of law by the Constitutional Bench of the Hon'ble Apex Court, in the case noted supra, the Circular *prima facie* appears to be contrary to the law laid down by the Hon'ble Apex Court.

In that view of the matter, pending disposal of the writ petition, there shall be stay of the operation and implementation of Circular dated 31.12.2019 produced as Annexure-C to the writ petition.

Sri. C. Shashikantha, learned ASG is directed to take notice on behalf of respondent No.1.

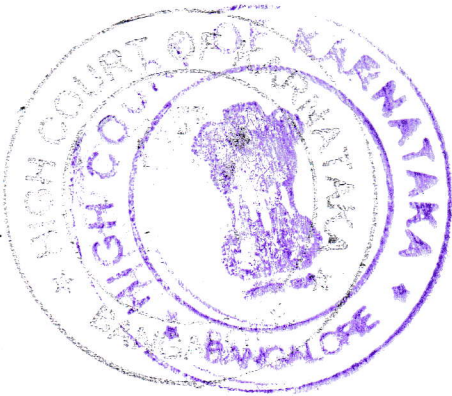


• Learned Additional Government Advocate accepts notice on behalf of respondent No.4.

Issue emergent notice to respondent Nos.2 and 3.

The petitioner is also permitted serve notice of the petition on the standing counsel for respondent Nos.2 and 3.

The petitioner to furnish one more copy of the writ petition to learned Additional Government Advocate.



Sd/-  
JUDGE

Copy  
25/7/21  
Assistant Registrar  
High Court of Karnataka  
Bangalore - 560 001

24/7/2024 05/7

Note:- Annexure-C, Circular dated 31.12.2019 bearing No. RBI/2019-20/128  
DOR(PCB):BPD.CIR.No.8/12.05.002/2019-20. Issued by R-2

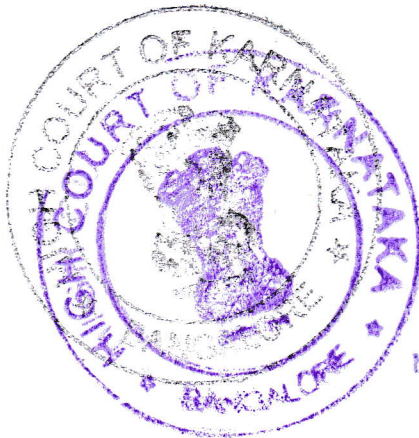
15/7/21  
ASSISTANT REGISTRAR

24/04/21  
05/7

SY-30062021.7

TRUE COPY

chandra kaly  
Section Officer 14/7  
High Court of Karnataka  
Bengaluru - 560 001



- The date on which the application was made..... 13.7.21
- b) The date on which charges and addl. charges. If any, are called for... 13.7.21
- c) The date on which the charges and addl. charges. If any, are deposits.... 14.7.21
- d) The date on which the copy is ready 14.7.21
- e) The date of notifying that the copy is ready for delivery ..... 14.7.21
- f) The date on which copy is delivered to the application 14/7/21

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