



2026:AHC-LKO:3955

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW A.F.R.**

WRIT - C No. - 1002800 of 2001

Prahlad Gond

.....Petitioner(s)

Versus

U.P. Co-Operative Tribunal Lucknow And Others

.....Respondent(s)

Counsel for Petitioner(s)	: Anuj Kudesia, Himanshu Shukla, Vikas Kumar Agrawal
Counsel for Respondent(s)	: C.S.C., Kapil Muni Dubey, Rakesh Nigam, Sati Prasad Singh @ Satish Kumar Singh

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard learned counsel for the petitioner, Sri Divesh Mishra, learned Standing Counsel for State-respondent No.1 and Sri Satish Kumar Singh, learned counsel for respondent No.5.

2. By means of the present writ petition, the petitioner is challenging the orders dated 29.5.2001, passed by respondent No.1 in Appeal No.92 of 2006 and order dated 20.9.1996, passed by respondent No.2.

3. A preliminary objection has been raised by learned counsel for respondent No.5 that the co-operative society, which is running the bank, is a private society, therefore, the writ petition is not maintainable under Article 226 of the Constitution of India. In support of his submission, he placed reliance upon the following judgments :-

(i) Krishna Mohan Vs. State of U.P. and others (Writ-A No.2329 of 2019)

(ii) Kulwinder Singh Vs. State of Haryana and others [2019 (2) ILR Punjab and Haryana 1036]

(iii) Anand Prakash Vs. The Delhi State Co-operative Bank Ltd. and another

4. Learned counsel for the petitioner by placing facts of the case,

submitted that although this is a private co-operative society, but he is challenging the order of the Arbitrator passed on 20.9.1996 and the order of the Tribunal.

5. Factual matrix of the case is that the petitioner was posted as Class IV employee and member of the society (respondent No.4). Sri Virendra Bahadur Singh was Secretary of the society till he was suspended by the society. He was also posted in the Establishment Section of the Bank and prepared the pay bills of the employees of the bank as well as made deductions from the salary of the employees towards the repayment of loan taken by the employees from the society.

6. On 10.8.1994, the bank sanctioned credit limit to the society for the year 1994-95. On 20.8.1994, the list was submitted by the society to the Branch Manager of the bank showing the amounts of loan outstanding against individual members of the society, which list was then forwarded to the Senior Branch Manager of the bank.

7. On 2.9.1994, the Branch Manager of the bank sent the list dated 20.8.1994, prepared by the Secretary to the Enquiry Officer, Special Investigation Branch Co-operative, Lucknow, which was certified by the District Assistant Registrar, Basti. The Secretary of the society directed the members to check the interest levied on loan amount, who had received the passbooks and in case of any discrepancy, file objections, since the documents of the society were being checked by him as the enquiry had commenced. The Secretary-Sri Virendra Bahadur Singh absconded with the relevant records of the society.

8. The Chairman of the Enquiry Committee required Sri Virendra Bahadur Singh to produce the record of the society, who did not handover the relevant record of the society, except some records in respect of individual members upto the year 1986 and the balance sheet up to the year 1993-94. Sri Virendra Bahadur Singh forged and fabricated document dated 25.11.1994 to the effect that he had furnished all the records of the society to Sri Hira Lal Mishra, Chairman of the Enquiry Committee. The said document had never been signed by Sri Hira Lal Mishra.

9. On 18.10.1994, on detection of embezzlement, the auditors made a report to the District Assistant Registrar, recommending the seizure of record and office of the society. On 27.10.1994, the District Assistant Registrar issued order under Section 37 of the Act, appointing A.D.C.O. instead of seizing the record, lodged F.I.R against Sri Virendra Bahadur Singh, who was then suspended by the bank from the services. Sri Virendra Bahadur Singh did not deposit the amount shown by him, which had been recovered from the members of the society. The society lodged F.I.R. against Sri Virendra Bahadur Singh for embezzlement of Rs.50 Lakhs on 17.1.1995. Detailed information regarding the act of Sri Virendra Bahadur Singh was sent to the District Assistant Registrar, Co-operative society, Basti.

10. On 9.3.1995, demand notice was issued to the petitioner by the bank for an amount of Rs.1,26,776/-. Thereafter, another demand notice was sent to the petitioner by the bank, showing that no deductions have been made from his salary since 1991. The petitioner filed an application under Section 70 before the Registrar, Co-operative societies, Lucknow. The bank filed reply, admitting stoppage of deduction of loan from the petitioner's salary and the list dated 20.8.1994, given by Sri Virendra Bahadur Singh wherein Nil outstanding loan was indicated against the name of the petitioner.

11. Thereafter, the society also filed reply, admitting issuance of passbook by Sri Virendra Bahadur Singh and the list dated 20.8.1994, indicating Nil outstanding loan against the name of the petitioner. On 5.7.1996, the Arbitrator rejected the petitioner's application dated 21/22.2.1996 for summoning the documents from Sri Virendra Bahadur Singh and the claim of the petitioner was also dismissed. The petitioner preferred an appeal before the Tribunal. In the meanwhile, Sri Virendra Bahadur Singh was dismissed from the service, after a departmental enquiry in which it was found that he had embezzled an amount of Rs.58,58,403/-. Vide order dated 29.5.2001, appeal of the petitioner was also dismissed.

12. Learned counsel for the petitioner, in support of his submission, also placed reliance upon a Division Bench judgment in Special Appeal No.297 of 2025. Relevant paragraph is being quoted below :-

"As we have rendered differing opinions, we frame the following questions/ points for consideration by a Bench of such strength as Hon'ble the Chief Justice may deem fit to constitute under Chapter VIII Rule 3 of the Allahabad High Court Rules, 1952:-

i. Whether, the order of learned Single Judge in Writ-C No.7497 of 2025 [Bahujan Nirbal Varg Sahkari Grih Nirman Samiti Ltd. & Ors. vs. State of U.P. & Ors.] which is impugned in Special Appeal No.297 of 2025 is without jurisdiction, in toto, or in part? If so, its consequences on the question of maintainability of special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 and merits of the issues involved therein.

ii. Whether the order passed by the writ court which is impugned in Special Appeal No.297 of 2025 is beyond the scope of the writ petition?

iii. Which of the two opinions rendered by Members of the Division Bench in Special Appeal No.297 of 2025 expresses the correct view? "

12. On perusal of the judgment aforesaid, it is evident that in the said judgment, the question of passing of interlocutory order by the Tribunal as well as interim order passed in the writ petition that whether the special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is not maintainable or against the interlocutory order passed by the Tribunal is maintainable or not, no other question was referred to the Larger Bench, therefore, ratio of the judgment relied upon by the petitioner's counsel is not applicable to the facts and circumstances of the present case.

13. For deciding the controversy, relevant paragraphs of the judgment relied upon by learned counsel for the respondent No.5 are being quoted as under :-

(i) **Krishna Mohan** (Supra). Relevant paragraph is being quoted below :-

"3. Sri. H.R. Mishra, learned Senior Counsel has raised a preliminary objection regarding maintainability of the writ petition. He has relied upon the judgment of Full Bench of this Court in case of Vijay Bihari

Srivastava v. U.P. Postal Primary Co-operative Bank Ltd., (2003) 1 UPLBEC 1. It was held as under:—

“35. In the light of foregoing discussions, we answer question as to whether a writ petition in the nature of certiorari will lie against a Co-operative Society or it comes within the meaning of the words ‘other Authority’ occurring in Article 226 of the Constitution, as follows:

The writ petition in the nature of certiorari will lie against a Co-operative Society only when such Society has ingredient of an ‘Authority’ within the meaning of Article 226 of the Constitution and not otherwise. The following guidelines are culled out from the various decisions of the Supreme Court, referred to above:—

- 1. The constitution of the Managing Body/Committee constitutes the functionaries of the Government.*
- 2. There is an existence of deep and pervasive control of the management and policies of the Co-operative Society by the Government.*
- 3. The function of the Co-operative Society is of public importance and closely related to the Governmental functions.*
- 4. The financial control is by the Government or it provides financial aid controlling its affairs.*
- 5. The violation of statutory rules applicable to the Society in regard to the service matters of its employees, and*
- 6. Statutory violations or non-compliance of it by an authority under the Act.””*

(ii) Kulwinder Singh (Supra). Relevant paragraph is being quoted below :-

"7. In the present case, learned counsel for the petitioner has not been able to point out even one of the factor necessary so as to treat respondent No. 3 as the instrumentality of the State. It has not been shown to this Court whether any finances have been extended by the Government

of Haryana to respondent No. 3-Cooperative Society, or any of the officer is controlling the respondent No. 3-Cooperative Society administratively in any manner. None of the conditions laid down by the Hon'ble Supreme Court of India in Satrughan Nishad's case (supra), has been fulfilled in the present case so as to treat the said Cooperative Society as instrumentality of the State so as to amenable to the writ jurisdiction of this Court."

(iii) **Anand Prakash** (Supra). Relevant paragraph is being quoted below :-

"7. The counsel for the petitioner during the hearing has referred to:

(i) W.B. State Co-operative Bank Ltd. v. Paritosh Bagchi, (1995) 6 SCC 562.

(ii) Deokinandan Prashar v. The Agra District Co-operative Bank, (1973) 3 SCC 303 : AIR 1972 SC 2497.

to contend that in those cases writ petitions against the Co-operative Banks were maintained. However, neither of the two judgments is found to contain any discussion on the maintainability of the writ petition. The Supreme Court in the judgment cited by me above has not ruled out the possibility of maintainability of a writ petition against a Co-operative Society but has laid down the tests therefor. It may be that the Co-operative Banks in the judgments cited by the counsel for the petitioner satisfied the said tests and thus the issue of maintainability of the writ petition was not raised. However, merely because writ petitions against another Co-operative Bank were entertained, would still not justify the maintainability of the present writ petition without the petitioner establishing before this Court that the tests are satisfied qua the respondent and which has not been done by the petitioner in spite of opportunity."

14. On perusal of the record, it is evident that the respondent co-operative society is a private co-operative society, who has established a bank in private capacity. In the entire writ petition, there is no pleading or assertion that the respondent bank is an instrumentality of the State or is

discharging any public duty so as to fall within the ambit of Article 12 of the Constitution of India. Mere statutory regulation under the Co-operative Societies Act or the fact that orders have been passed by the Arbitrator and in the appeal by the Tribunal does not, by itself, confer maintainability of a writ petition under Article 226 against a private co-operative society in matters arising out of contractual or service-related disputes.

15. The Supreme Court as well as this Court in catena of judgments have consistently held that writ jurisdiction cannot be invoked for adjudication of private disputes involving co-operative societies unless the society is shown to be State or an instrumentality of State, or the action complained of has a direct public law element. The present dispute is purely *inter se* between the member/employee and the society, involving disputed questions of fact, for which the remedy lies elsewhere and not under Article 226 of the Constitution. The judgments relied upon by learned counsel for the respondent No.5 are fully applicable to the case in hand.

16. In view of the fact that in none of the paragraphs of the writ petition, it has been incorporated that present co-operative society is the instrumentality of the State and in view of the aforesaid facts and settled legal position, this Court is of the considered opinion that the writ petition is not maintainable and it is hereby **dismissed**.

(Irshad Ali,J.)

January 19, 2026

Gautam