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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated: 13th day of September, 2004

Before
THE HON'BLE Mr.JUSTICE V.GOPALA GOWDA

WRIT PETITION Nos.54087-88/2003 (CS-Res)

C/w

W.P.Nos.22715/2001, 16740, 44988/2002,
51662,43423,37264-66, 36508-21, 36843,
45554-55/03, 49815/03, 48461/2003, 4122,
4426, 4428, 5683, 5812, 7043, 8380, 8381,
8383, 9196, 10237, 10026, 9005, 12330, 9953,
14878, 12722, 12127, 9908, 10868, 12219,
12050, 15478, 9066, 21177, 20117,
21872/2004.

In W.P.Nos.54087-88/2003

Between:

- 1 ANKOLA URBAN CO. OPERATIVE
BANK LTD P B NO 1
MAIN ROAD ANKOLA 581 314
DIST U K BY ITS
GENERAL MANAGER
- 2 ILKAL CO. OP BANK LTD
NEAR BASAVAN GUDI
ILKAL 587 125
DIST BAGALKOT
BY ITS GENERAL MANAGER ... PETITIONERS

(BY SRI K.M.NATARAJ-ADV)

And:

- 1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPT. OF CO. OPERATION
M S BUILDING BANGALORE
- 2 THE DIRECTOR OF CO. OPERATIVE
AUDIT IN KARNATAKA
NO 17 JAYA NIVAS
BASAVANAGUDI BANGALORE 4
- 3 THE ASST. DIRECTOR OF
CO. OPERATIVE AUDIT
KUMATA SUB-DIVISION
KUMATA

Ma

4 THE ASST. DIRECTOR OF CO
OPERATIVE AUDIT
BAGALKOT RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P.No.22715/2001

Between

DAKSHINA KANNADA SAHAKARI
SAKKARE KARKHANE LTD
BRAHMAVAR 576 213
REPR. BY ITS
MANAGING DIRECTOR ...PETITIONER

(BY SIR K.M.NATARAJ-ADV)

And

1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING BANGALORE

2 THE JOINT DIRECTOR OF
CO OPERATIVE AUDIT
MYSORE DIVISION
MYSORE

3 THE ASST. DIRECTOR
OFFICE OF CO. OPERATIVE AUDIT
UDUPI ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P 16740/02

BETWEEN:

THE KOTA CO.OPERATIVE
AGRICULTURAL BANK LTD
'SAHAKARA SOUDHA'
KOTA 576 221
REPR BY ITS GENERAL MANAGER
G S SOMAYAJI ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

And

1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING BANGALORE

me

- 2 THE DIRECTOR OF CO OPERATIVE AUDIT
BANGALORE
- 3 THE ASST. DIRECTOR
OF CO. OPERATIVE AUDIT
UDUPI ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.44988/2002

BETWEEN:

THE KOTA CO.OPERATIVE
AGRICULTURAL BANK LTD
'SAHAKARA SOUDHA'
KOTA 576 221
REPR BY ITS GENERAL MANAGER
G S SOMAYAJI ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

And

- 1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING BANGALORE
- 2 THE DIRECTOR OF CO OPERATIVE AUDIT
BANGALORE
- 3 THE ASST. DIRECTOR
OF CO. OPERATIVE AUDIT
UDUPI CIRCLE UDUPI ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.51662/03

BETWEEN:

THE KOTA CO.OPERATIVE
AGRICULTURAL BANK LTD
KOTA TQ DIST UDUPI
REPR BY ITS GENERAL MANAGER
G S SOMAYAJI ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

And

- 1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING BANGALORE

me

- 2 THE DIRECTOR OF CO OPERATIVE AUDIT
IN KARNATAKA NO 17
JAYANIVAS BASAVANAGUDI
BANGALORE
- 3 THE ASST. DIRECTOR
OF CO. OPERATIVE AUDIT
UDUPI CIRCLE UDUPI ...RESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.43423/03
BETWEEN:

M/s SAMYUKTA BHARATH CO
OPERATIVE HOUSING SOCIETY LTD
SASHIKIRAN APARTMENT
GROUND FLOOR FLAT NO 3
NO 9 18TH CROSS MALLESHWARAM
BANGALORE 560 055
BY ITS SECY. INCHARGE ...PETITIONER

(BY SMT HEMALATHA MAHISHI-ADV)

And

- 1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING BANGALORE
- 2 THE REGISTRAR OF CO OPERATIVE
SOCIETIES IN KARNATAKA
NO 1 ALIASKAR ROAD
BANGALORE 560 052
- 3 THE DIRECTOR OF CO OPERATIVE AUDIT
NO 17 JAYANIVAS
SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 4 THE ASST. DIRECTOR
OF CO. OPERATIVE AUDIT
BANGALORE 1ST CIRCLE
KALPATHARU SUPER BAZAAR
INFANTRY ROAD
BANGALORE 1 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P Nos.37264-66/03
BETWEEN:

- 1 THE CHIKODI URBAN CO OP BANK LTD
GURUVARA PET CHIKKODI 591201
DIST BELGAUM REPR BY ITS
I/C GENERAL MANAGER
BRAHMANATHA ANNAPPA BJOJAKARA
- 2 THE CHADCHAN SHREE SANGAMESHWAR
URBAN CO OP BANK LTD
CHADCHAN 586 205
TQ INDI DIST BIJAPUR
BY ITS CHAIRMAN
SHIVANA GOWDA BHEEMANAGOWDA PATIL
- 3 CHIKMAGALUR PATTANA
SAHAKARA BANK NIYAMITHA
SHETTARA BEEDI
CHIKAMAGALORE 577 101
REPR BY ITS MANAGER
DHANANJAYA ...PETITIONERS

(BY SRI K.M.NATARAJ-ADV)

And

- 1 THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING BANGALORE
- 2 THE DIRECTOR OF CO OPERATIVE AUDIT
IN KARNATAKA NO 17 JAYANIVAS
BASAVANAGUDI
BANGALORE 4 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P. No.36508-21/03

BETWEEN:

- 1 SAHAKARI BHARATHI
(A CO-OPERATIVE ORGANIZATION)
SAHAKARA MAHAL MISSION STREET
MANGALORE-575 001
REP BY ITS GENERAL SECY
GURUNATH JANTIKAR
- 2 SHREE TUKARAM CO.OP BANK LTD
SHAHAPUR BELGAUM
REP BY ITS CHAIRMAN
ARJUNRAO MEGHOJIRAO DELVI

me

- 3 THE TOWN COOPERATIVE BANK LTD
PONNAMPET SOUTH KODAGU
REP BY ITS PRESIDENT
- 4 THE URBAN COOPERATIVE BANK LTD
H O SIDDAPUR 581 355
UTTARA KANNADA DISTRICT
REP BY ITS MANAGER
VISWHANATH HEGDE
- 5 CHETHANA COOPERATIVE BANK LTD
SHIRASI UTTARA KANNADA DISTRICT
REP BY ITS GENERAL MANAGER
VENKTRAMANA HEGDE
- 6 BASAVESWAR COOPERATIVE BANK
BASAVAN BAGEWADI
DIST BIJAPUR
REP BY ITS PRESIDENT
BASAVARAJA GURALINGAPPA
CHIKKONDA
- 7 SHREE RAM SAHAKARI BANK LTD
NIPANI DIST BELGAUM
REP BY ITS GENERAL MANAGER
- 8 THE MUSLIM COOPERATIVE BANK LTD
SAYYAJI RAO ROAD MYSORE-21
REP BY ITS GENERAL MANAGER
- 9 THE CHAITANYA MAHILA
COOPERATIVE BANK LTD
NEAR THRIPIRA SUNDARI TALKIES
BIJAPUR REP BY ITS MANAGER
LAKSHMI RAMAGONDAPPA
BALAGONDA
- 10 UPPINANGADY COOPERATIVE
AGRICULTURAL BANK LTD
UPPINANGADY 574 241
TQ PUTTUR DIST D K
REP BY ITS MANAGER
- 11 IDKIDU SERVICE CO.OP BANK LTD
POST IDKIDU 574 252
DIST D K
REP BY ITS CHIEF EXE. OFFICER
SANJEEVA MOILY
- 12 VITLA URBAN COOPERATIVE BANK LTD
VITLA 574 243 DIST D K
REP BY ITS CHIEF EXECUTIVE
SHANKARA SHASTRY



- 13 MURULYA ENMOOR VYAVASAYA
SERVICE
COOPERATIVE BANK LTD
MURULYA POST & VILLAGE
TQ SULLIA VIA KANIYOOR 574 328
DIST D K REP BY ITS CHIEF EXE.
- 14 SULLIA CO OP AGRICULTURAL BANK
TQ SULLIA D K DISTRICT
REP BY ITS GENERAL MANAGER
KUMARA S P ...PETITIONERS
- (BY SRI K.M.NATARAJ-ADV)

AND:


- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
BANGALORE CITY
- 2 THE DIRECTOR OF CO OP AUDIT IN
KARNATAKA
NO 17 JAYANIVAS BASAVANAGUDI
BANGALORE 4 ...RESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

In W.P.No.36843/03**BETWEEN**

BANTWAL TAPCMS LTD
BY ITS SECRETARY
RIACHARD D' SOUZA
R/A BANTWAL
DIST D K ...PETITIONER

(BY SRI G.BALAKRISHNA SHASTRY-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
BANGALORE CITY
- 2 THE DIRECTOR OF CO OP AUDIT
NO.17 SHANKARMUTT BASAVANAGUDI
BANGALORE
- 

- 3 THE ASST. DIRECTOR OF
CO OPERATIVE AUDIT
MANGALORE SUB DIVISION
MANGALORE ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P Nos.45554-55/03

BETWEEN:

- 1 THE URBAN CO OP BANK LTD
BY ITS MANAGER
K M KOTTURESHWARAPPA
S/O N K MAHADEVAPPA
R/O SHIKARIPUR
DIST SHIMOGA
- 2 BASAVESHWARA PATTANA
SAHAKAR BANK NIYAMITHA
BY ITS SECRETARY
V HALAPPA GOWDA
P VEERAPPA GOWDA
R/O SHIRALAKOPPA 577 428
TQ SHIKARIPURA
DIST SHIMOGA ...PETITIONERS

(BY SRI H.K.BASAVARAJ-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
BANGALORE CITY
- 2 THE DIRECTOR OF CO OP AUDIT
IN KARNATAKA NO17
JAYANIVAS SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 THE ASST. DIRECTOR OF
CO OPERATIVE AUDIT
SAGAR SUB DIVISION
DIST SHIMOGA ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.49815/03

BETWEEN:

THE BANAHATTI CO OP SPINNING MILLS LTD
 BASAVANAGAR BANAHATTI
 TQ JAMKHANDI
 DIST BAGALKOT 587 311
 REPR BY ITS MANAGING DIRECTOR
 S SHANKAR SHETTY ...PETITIONER

(BY SRI S.R.HEGDE HUDLAMANE-ADV)

AND :

- 1 THE STATE OF KARNATAKA
 REP BY ITS SECRETARY
 DEPARTMENT OF COOPERATION
 M.S.BUILDING VEEDHANA VEEDHI
 BANGALORE
- 2 DIRECTOR OF CO OP AUDIT
 STATE OF KARNATAKA
 SHANKARMUTT ROAD
 BASAVANAGUDI
 BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
 CO OPERATIVE AUDIT
 JAMKHANDI
 BAGALKOT 587 311 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.48461/03:

BETWEEN:

SRI VASAVI MULTI PURPOSE
 CO OP SOCIETY LTD
 B M SRI ROAD
 CHICKMAGALUR 577101
 REPR BY ITS SECRETARY
 C P RAGHUNANDAN
 S/O C PANDURANGA SETTY...PETITIONER

(BY SRI O.SHIVARAM BHAT-ADV)



AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M S BUILDING VEEDHANA VEEDHI
BANGALORE 1
 - 2 DIRECTOR OF CO OP AUDIT
IN KARNATAKA NO 17
JAYANIVAS SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
 - 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
CHIKMAGALUR SUB DIVISION
CHIKMAGALURRESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.4122/04:

BETWEEN

THE GENERAL MANAGER
AKSHAYA CO OPERATIVE
CREDIT SOCIETY LTD
HEAD OFFICE DR KAMALKAR ROAD
KARWAR 581 301
DIST U KPETITIONER

(BY SRI N.SRIRAM REDDY-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY UNDER SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 ASSISTANT DIRECTOR OF
OFFICE OF THE AUDITOR OF
CO OPERATIVE SOCIETIES
SUB-DIVISION KARWAR
DIST U K
- 3 DIRECTOR OF CO OP AUDIT
OFFICE OF THE KARNATAKA
STATE CO OPERATIVE AUDIT
BANGALORE 4RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)



In W.P No.4426/04:

BETWEEN

SIRSI TALUKA AGRICULTURAL PRODUCE
CO OP MARKETING SOCIETY LTD
SIRSI 581 402 DIST U K
REPR BY ITS CHIEF EXE OFFICER
N R HEGDE ...PETITIONER

(BY SRI S.R.HEGDE HUDLAMANE-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING VEEDHANA VEEDHI
BANGALORE
- 2 DIRECTOR OF CO OP AUDIT
STATE OF KARNATAKA
NO 17 JAYANIVAS SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
TQ SIRSI DIST U K ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.4428/04:

BETWEEN

THE REABAKAVI URBAN CO OP BANK LTD
RABAKAVI JAMKHANDI
DIST BAGALKOT
REPR BY ITS GENERAL MANAGER
S A PATIL ...PETITIONER

(BY SRI S.R.HEGDE HUDLAMANE-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING VEEDHANA VEEDHI
BANGALORE



- 2 DIRECTOR OF CO OP AUDIT
STATE OF KARNATAKA
NO 17 JAYANIVAS SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
TQ JAMKHANDI
DIST BAGALKOT ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.5683/04

BETWEEN

THE BHAVASAR KSHATRIYA CO OP BANK LTD
NO 624 629 NAGARESHWAR
TEMPLE ROAD TALIKOTI 586214
DIST BIJAPUR
REPR. BY ITS MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 DIRECTOR OF CO OP AUDIT
IN KARNATAKA NO 17
JAYANIVAS BASAVANAGUDI
BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
BIJAPUR ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.5812/04:

BETWEEN:

LAKSHMI SAHAKARI BANK NIYAMIT
GULEDGUDD BY ITS MANAGER
RAJASHEKAR K HIREMATH
R/O GULEDGUDD
TQ BADAMI DIST BAGALKOT ...PETITIONER

(BY SRI S.A.KALAGI-ADV)



AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING VEEDHANA VEEDHI
BANGALORE
- 2 THE DIRECTOR OF CO OP AUDIT
IN KARNATAKA NO 17
JAYANIVAS BASAVANAGUDI
BANGALORE 4
- 3 THE DEPUTY DIRECTOR OF
CO OPERATIVE AUDIT
DIST BAGALKOT
- 4 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
DIST BAGALKOT ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

*In W.P No. 7043/04***BETWEEN:**

SREE THYAGARAJA CO OP BANK LTD
NO 5 9TH CROSS N R COLONY
BANGALORE 560 019
REPR BY ITS GENERAL MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
1ST CIRCLE NO 13 2ND FLOOR
SUPER BAZAR INFANTRY ROAD
BANGALORE ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)



In W.P No.8380/04:

BETWEEN:

MARATHA CO OPERATIVE URBAN BANK LTD
BASAVANAGALLI BELGAUM
REPR BY ITS GENERAL MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASST DIRECTOR OF
CO OPERATIVE AUDIT
BELGAUM ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.8381/04:

BETWEEN:

THE BELGAUM PIONEER
URBAN CO OPERATIVE CREDIT BANK LTD
H O 1041 MATH GALLI
BELGAUM 590 002
REPR BY ITS GENERAL MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
BELGAUM ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.8383/04:

BETWEEN:

THE BELGAUM INDUSTRIAL CO OP BANK LTD
DR S P M ROAD
BELGAUM 590 001
REPR BY ITS
CHIEF EXE. OFFICER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
BELGAUM ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.9196/2004

BETWEEN:

RAICHUR DISTRICT CENTRAL
CO OPERATIVE BANK LTD
REPR: BY ITS
MANAGING DIRECTOR ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASST. DIRECTOR OF
CO OPERATIVE AUDIT
RAICHUR ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.10237/04

BETWEEN:

MANIPAL CO OP BANK LTD
UPENDRA NAGAR
MANIPAL 576 119
BY ITS MANAGER
DIST UDUPI ...PETITIONER

(BY SRI JAYAKUMAR.S.PATIL & ASSOCIATES-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE DIRECTOR OF CO OP AUDIT
IN KARNATAKA
BASAVANAGUDI
BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
UDUPI CIRCLE
UDUPI ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.10026/04

BETWEEN:

SRI SUDHA CO OP BANK LTD
NO 195/33 'SRI SUDHA RAJATHA BHAVANA'
1ST FLOOR R V ROAD JAYANAGAR
BANGALORE 4 BY ITS
GENERAL MANAGER
VIDYA DEVARAJAN ...PETITIONER

(BY SRI G.V.JAGADISH-ADV
M/s.R.S.N.ASSOCIATES-ADV)

AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE 1

M

- 2 THE DY. DIRECTOR OF CO OP AUDIT
NO.17 JAYANIVAS
SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 THE DY. DIRECTOR OF CO. OP AUDIT
BANGALORE 2ND FLOOR
BANGALORE CITY CO OP BANK
BUILDIGN
3RD MAIN ROAD CHAMARAJPET
BANGALORE 18
- 4 THE ASST. DIRECTOR OF
CO OPERATIVE AUDIT
1ST CIRCLE NO 73 2ND FLOOR
KALPATHARU SUPER BAZAAR BUILDING
INFANTRY ROAD
BAGALKOT 560 001 ...RESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.9005/04

BETWEEN:

THE BHAVASARA KSHATRIYA
CO OP BANK LTD
HAVING ITS REGISTERED OFFICE
NO 63/67 'SAHAKARA SADANA'
24TH CROSS KILARI ROAD
BANGALORE 53
BY ITS MANAGER ...PETITIONER

(BY SRI G.CHANDRASHEKARIAH-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE 1
- 2 THE DIRECTOR OF CO OP AUDIT
IN KARNATAKA
NO 17 'JAYA NIVAS' SHANKARMUTT
ROAD BASAVANAGUDI BANGALORE 4
- 3 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
I CIRCLE NO 73
2ND FLOOR SUPER BAZAAR
INFANTRY ROAD BANGALORE ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)



In W.P No.12330/04

BETWEEN:

PONNAMPET TOWN CO. OP BANK LTD
 PONNAMPET TQ VIRAJPET
 DIST KODAGU BY ITS
 MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND :

- 1 THE STATE OF KARNATAKA
 REP BY ITS SECRETARY
 DEPARTMENT OF COOPERATION
 M.S.BUILDING BANGALORE
- 2 ASSISTANT DIRECTOR OF
 CO OPERATIVE AUDIT
 MADIKERI ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.9953/04

BETWEEN:

GANAPATHI URBAN CO. OP BANK LTD
 SAGAR 577 401
 DIST SHIMOGA
 BY ITS SECRETERARY/MANAGER
 S G SHANBAG ...PETITIONER

(BY SRI VISHWANATH.R.HEGDE-ADV)

AND :

- 1 THE STATE OF KARNATAKA
 REP BY ITS SECRETARY
 DEPARTMENT OF COOPERATION
 M.S.BUILDING BANGALORE
- 2 DIRECTOR OF CO OP AUDIT
 SHANKARMUTT ROAD
 BASAVANAGUDI BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
 CO OPERATIVE AUDIT
 SAGAR SUB DIVISION SAGAR 577 401
 DIST SHIMOGA ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)



W.P No 14878/04
BETWEEN:

JANATHA CO. OP BANK LTD
HARUGERI
TQ RAIBAGH DIST BELGAUM
BY ITS MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
CHIKKODI ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

W.P No.12722/04

BETWEEN:

GOKAK URBAN CO. OP BANK LTD
TQ GOKAK
DIST BELGAUM
BY ITS INCHARGE MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
BAILHONGALA
DIST BELGAUM ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)



W.P No.12127/04

BETWEEN:

MATA CO. OP CREDIT SOCIETY LTD.
H O SRIMATA SHASTRI NAGAR
NEW GOODS SHED ROAD
BELGAUM BY ITS GENERAL MANAGER
SURESH CHANNAYYA VASTRAD
R/O BELGAUM ...PETITIONER

(BY SRI VIGNESHWARA.S.SHASTRY-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE DIRECTOR OF CO OP AUDIT
NO.17 JAYA NIVAS
SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 THE DY. DIRECTOR OF CO. OP AUDIT
CAMP BELGAUM 590 001
DIST BELGAUM
- 4 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
CAMP BELGAUM 590 001
DIST BELGAUM ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.9908/04

BETWEEN:

THE JANATHA CO.OP BANK LTD
NO 17TH ROAD CROSS
8TH MAIN ROAD
MALLESHWARAM
BANGALORE 55 BY ITS
MANAGER/C E O ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)



AND :

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
BANGALORE I CIRCLE
BANGALORE ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.10868/04**BETWEEN:**

THE BAILHONGAL URBAN CO OP BANK LTD
NO 365/45 BAZAR ROAD
BAILHONGAL 591102
DIST BELGAUM
REP BY ITS MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
BAILHONGAL
DIST BELGAUM ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

In W.P No.12219/04**BETWEEN:**

REGIONAL OIL SEEDS GROWERS
CO. OP UNION LIMITED
RAICHUR REP BY ITS
MANAGING DIRECTOR ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)



AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
 - 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
RAICHUR ...RESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.12050/04**BETWEEN:**

SHIVAYOGI MURUGHENDRA SWAMI
URBAN CO OP BANK LTD
ATHANI 591 304
REPR BY ITS MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND:


- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
 - 2 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
CHIKKODI ...RESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.15478/04**BETWEEN:**

THE HUBLI URBAN CO. OP BANK LTD
SIR SIDDAPPA KAMBLI ROAD
P B No 20 HUBLI 580 020
REPR BY ITS
GENERAL MANAGER ...PETITIONER

(BY SRI K.M.NATARAJ-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 

- 2 THE DIRECTOR OF CO OP AUDIT
KARNATAKA STATE CO OPERATIVE
SOCIETIES OF AUDIT
NO 17 JAYANIVAS
SHANKARMUTT ROAD
BASAVANAGUDI
BANGALORE 4 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No. 9066/04

BETWEEN:

MAHILA CO OP BANK LTD
HAVING ITS REGISTERED OFFICE
AT NO 13 & 14
SOUTH END ROAD
SESHADRIPURAM
BANGALORE 560 020
REPR BY ITS
GENERAL MANAGER ...PETITIONER

(BY SRI G.CHANDRASHEKARAI AH-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 THE DIRECTOR OF CO OP AUDIT
IN KARNATAKA
BANGALORE NO 17 JAYA NIVAS
SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 THE ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
1 CIRCLE NO 73
2ND FLOOR SUPER BAZAAR
INFANTRY ROAD
BANGALORE 560 001 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.21177/04

BETWEEN:

THE DAVANAGERE URBAN CO OP BANK LTD
HEAD OFFICE P O BOX NO 217
P B ROAD DAVANAGERE 577 002
REPR BY ITS GENERAL MANAGER
M C VIJAYKUMAR ...PETITIONER

(BY SRI VISHWANATH R. HEGDE-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE
- 2 DIRECTOR OF CO OP AUDIT
STATE OF KARNATAKA
SHANKARMUTT ROAD
BASAVANAGUDI
BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
DAVANAGERE SUB DIVISION
DAVANAGERE 577 002 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.20117/04

BETWEEN:

HONNAVAR AGRICULTURE PRODUCE
CO OP MARKETING SOCIETY LTD
HONNAVAR REPR BY ITS
CHIEF EXECUTIVE N A SHET ...PETITIONER

(BY SRI S.R.HEGDE HUDLAMANE-ADV)

AND:

- 1 THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING VEEDHANA VEEDHI
BANGALORE 560 001



- 2 DIRECTOR OF CO OP AUDIT
STATE OF KARNATAKA
NO 17 JAYANIVAS
SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 SENIOR AUDITOR OF
CO OPERATIVE SOCIETIES IN
HONNAVAR
DIST UTTARA KANNADA ...RESPONDENTS
- (BY SRI M.KESHAVA REDDY-HCGP)

IN W.P No.21872/2004.

BETWEEN

THE DAVANAGERE-HARIHAR
URBAN CO OPERATIVE BANK LTD
NO 79/2 SILVER JUBILEE BUILDING
P B ROAD NEAR ONION MARKET
DAVANAGERE 577 002
REPR. BY ITS GENERAL
MANAGER D NAGARAJ MURTHY ...PETITIONER

(BY SRI VISHWANATH.R.HEGDE-ADV)

AND:

- 1 STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPARTMENT OF COOPERATION
M.S.BUILDING BANGALORE 1
- 2 DIRECTOR OF CO OP AUDIT
SHANKARMUTT ROAD
BASAVANAGUDI BANGALORE 4
- 3 ASSISTANT DIRECTOR OF
CO OPERATIVE AUDIT
DAVANAGERE SUB DIVISION
DAVANAGERE 577 002 ...RESPONDENTS

(BY SRI M.KESHAVA REDDY-HCGP)

o o o

W.Ps are filed under Articles 226 & 227 of the
Constitution of India praying to declare that
respondents have no authority to claim Audit Fees on
the basis of Working Capital or Turnover, to quash the

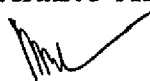
Demand Notices and the Circular bearing No. CMW 282 CLM 96 dated 17-2-2001 etc.,

These W.Ps coming on for dictating order before the Court this day, the Court dictated the following:-

ORDER

In all these writ petitions filed by the Co-operative Banks, Societies or institutions the facts are common or similar and the issue involved is the same. Hence, they are all heard together and disposed of by this common order.

2. The petitioners are aggrieved by the Government Order No. CMW 283 CLM 96 dated 17-2-2001 by which audit fee is revised by the State Government. It is the case of the petitioners that the levy and collection of audit fee on the basis of Working Capital or Turn-over is arbitrary, illegal, without jurisdiction and contrary to Rule 30 of the Karnataka Co-operative Societies Rules (herein after called as 'Rules'). According to the petitioners, the revised audit fee has no co-relation to the actual service rendered by the Auditors and other staff of the Audit Department in auditing. Since the impugned Government Order is issued on the basis of the proposal sent by the Director of Co-operative Audit,



the learned counsel who have appeared for some of the petitioners have contended that it amounts to sub-delegation of the power of the State Government which is not permissible in law. Hence, the impugned Government Order is a nullity in the eye of law and the same is liable to be quashed. In support of the contentions urged, large number of decisions have been relied upon by them. Consequently, petitioners have prayed for quashing the impugned Government Order and also the consequential Demand Notices issued to them by the concerned respondents in their respective petitions.

3. A detailed synopsis argument apart from statement of counter is filed on behalf of the State and the Co-operative Department justifying the impugned order and notices and praying for dismissal of these writ petitions.

4. Mr. Jayakumar S. Patil, learned Senior Counsel, Mr. K. M. Nataraj, Mr. R. V. Ramesh, Smt. Hemalatha Mahishi, Mr. Hegde Hudlamane and Mr. R. Viswanath, Learned counsel for the petitioners and Mr. M. Keshava Reddy, learned Government Pleader were heard at length. Both sides have relied



upon a catena of decisions in support of their respective submissions. It is not necessary to refer to all those citations and only the decisions which are relevant to consider the contentions urged will be referred to in due course.

5. On the basis of the contentions urged by the learned counsel for the petitioners, the following points arise for consideration:-

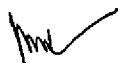
a) Whether the audit fee as revised by the State Government is without jurisdiction?

b) Whether levy and collection of audit fee on the basis of Working Capital or Turn-over is illegal, arbitrary and contrary to Rule 30 of the Rules?

c) Whether the audit fee fixed in the impugned Government Order should be co-relation to the actual service rendered by the Audit Department?

d) Whether the impugned action amounts to sub-delegation of power to the Director of Co. operative Audit by the State Government?

6. Before proceeding to consider the aforementioned points, certain salient features relating to audit fee have to be looked into. It should be noted that the last revision of audit fee was made in the year 1986. After a lapse of 11 years, the Director of Co-operative Audit had sent his proposal to the State



Government for revision of audit fee on 30-4-1997 and again on 29-4-2000. The impugned order was passed on 17-2-2001. Thus, the revision of audit fee was made after a lapse of 15 years. During this period there were various financial changes which include escalation in cost or prices, revision of pay scales of staff of the Audit Department etc. The resultant position was collection of deficit audit.

7. The effect of deficit audit fee is reflected in the Report of the Comptroller and Auditor General of India for the year ended 31st March 1998. Some of the observations are extracted hereunder:-

“7.7.4 Highlights: Owing to non-revision of audit fees commensurate with the expenditure thereon, the excess of expenditure over the demands for the audit fees including audit cost during the years 1992-93 to 1996-97 ranged from Rs.156.78 lakh to Rs.248.82 lakh.

X X X X X X

There was short levy of audit fees of Rs 13.67 lakh in 14 cases due to incorrect adoption of turnover for the years 1992-93 to 1996-97.

X X X X X X

X X X X X X

7.7.5 Audit fees (including audit cost)

(i) X X X X X X



The figures of audit fees (including audit cost) estimated, demanded and actually realised vis-à-vis the actual expenditure incurred on audit of co-operative societies during the five years from 1992-93 to 1996-97 were as under:

(In lakh rupees)

Audit Fees(including audit cost)

Year-Expenditure- Incurred	Budget Estimates	Demand- raised	Realised (Percentage (percentage to demand to expenditure) raised)
1992-93	770.53	460.00	521.71(68) 492.03(94)
1993-94	839.84	500.00	647.93(77) 584.15(90)
1994-95	909.37	545.00	720.55(79) 643.97(89)
1995-96	1013.50	640.50	804.63(79) 762.23(95)
1996-97	1050.81	745.00	894.03(85) 902.93(101)
Total	4584.04		3588.85 3385.31

8. POINT (a):- This point relates to jurisdiction of the State Government for fixation and revision of audit fee. Under the provision of Section 129(2)(y) of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as 'the Act') the State Government has got power to make rules for levy of audit fee on co-operative societies. Rule 30 of the Karnataka Co-operative Societies Rules, 1960 (herein after referred to as 'the Rules') pertains to Audit Fee and the relevant portion of the same is as under:-

"Audit fees(1) Every Cooperative society shall pay to the State Government (or at a rate equal to the average cost incurred for appointment of



auditors under Rule 441 of the Karnataka Civil Services Rules, 1959) a fee for the audit of its accounts for each cooperative year in accordance with the scale fixed by the Director of cooperative Audit, with the previous approval of the State Government in respect of the class of societies to which it belongs.

(underlining supplied)

The words "in accordance with the scale fixed by the Director of Co-operative Audit" assumes much importance. It is in accordance with this, the Director of Co-operative Audit sent the proposal to the State Government for its approval and the Government accorded approval. Therefore, the impugned order is in accordance with Rule 30 of the Rules. Hence, the contention that it is without jurisdiction, does not hold water and the same is rejected.

9. POINT (b):- This point relates to the justification for levy and collection of audit fee on Working Capital or Turn-over. While sub-rule (1) of Rule 30 envisages payment of audit fee in accordance with the scale fixed by the Director of Co-operative Audit, sub-rule (1-A) thereof prescribes payment of audit fee in accordance with the provisions of Rule 441 of the Karnataka Civil Services Rules, 1959. Thus, both these sub-rules are conflicting with each other. In

such an event, the former sub-rule shall be given more importance. If sub-rule (1-A) is given effect to, sub-rule (1) of Rule 30 become redundant. Such an interpretation cannot be given. Sub-rule (1-A) shall be given effect only to a limited purpose in relation to audit work of small quantity where the volume of audit work involved is very less and the duration is very less. In respect of regular audits involving inspection of voluminous records, registers, documents, vouchers, receipts etc requiring huge service, sub-rule (1) of Rule 30 shall be applied.

10. Mr.Keshava Reddy, learned Govt.Pleader in the brief synopsis of the arguments has relied upon the Division Bench decision of this Court in W.A.Nos. 4603-04/1997 disposed of on 29-5-1998 and the observations are made therein are as under:-

“ - - - The only contention of the appellants is that there is no nexus between the services rendered and the fees levied. It is to be kept in mind that audit fee is prescribed as long back as in the year 1952 and keeping in mind the inflation and the increase of work, the audit fee underwent revision in 1976 and the 1986 and the present revision in the year 1996. The present revision shows that the audit fee is to be fixed following the scale mentioned therein. A fee of 15 paise for Rs.100/- on the working capital or business turnover of the society with a minimum audit fee of Rs.50/- is fixed. So far as the Primary Cooperative Agricultural and Rural



Development Banks and the Primary Agricultural Credit Cooperative Societies are concerned, the fee fixed is at 50% of the audit fee calculated on the working capital or the working turnover. About 15 cooperative societies like Students Cooperative Societies, Medical Aid Cooperative Societies, Sports Promotion Cooperative Societies etc. are exempted from payment of audit fee.

In view of the above Division Bench decision of this Court, which is binding, Point (b) has to be answered against the petitioners. That apart, the learned Government Pleader has produced Annexures-R1 to R3 which are the Rules prevalent in other States levying audit fee on Turn-over or Working Capital, as the case may be. Hence, the petitioners cannot have any grievance in this regard.

11. POINT (c):- According to the petitioners, the audit fee payable shall be co-related to the services rendered. Mr.K.M.Nataraj, learned counsel appearing for some of the petitioners relied upon the following decisions in support of the contention AIR 1954 SC 282, 1955(1) SCC 655, 1997(2) SCC 715 and AIR 1975 SC 2307. This contention of the petitioners cannot be accepted. The Division Bench in the aforementioned decision has not favoured with the same contention. The element of QUID PRO-QUO is



not always a SINE QUA NON. The element of QUID PRO-QUO is not necessarily to be established with arithmetic exactitude is the ratio laid down by the Apex Court in catena of cases. Mr.Keshava Reddy, learned HCGP has rightly relied upon the following decisions:

AIR 1963 SC 966,

AIR 1971 SC 344 para 6,

AIR 1980 SC 1,

AIR 1983 SC 617,

AIR 1984(4) SCC 353,

AIR 1993(4) SCC 461,

ILR 2001 KAR 2524 paras 95 & 96.

12. The auditing of the co-operative Banks and societies are conducted by the Audit Department. Entrustment of audit work to Chartered Accountants was found with red signal. The high-lights of the same are reflected in the brochure called "An argument in favour of retaining the present system of State Audit of the Co-operative Institutions and not to entrust the audit of these Co-operatives to the Chartered Accountants" published by the Department of Co-operation.

13 There are more than 30,000 co-operative Banks and societies in the State. To conduct audit of

these co-operative institutions a separate Audit Department is established. It consists of several officers and staff members to effectively conduct Audit work in the co-operative Banks and Societies in the State. The Department has to provide and maintain vast infrastructure facilities for this purpose apart from payment of salaries and other allowances payable to the staff with periodical pay revision on the basis of recommendations made by the Pay Commissions. In order to maintain the department by itself, the audit fee cannot be levied exactly proportionate to the services rendered by the auditing staff. That apart, as a social measure, several co-operative societies and institutions such as Student's Co-operative Societies, SC/ST's Co-operative Societies, Medical Aid Co-operative Societies, Primary fisherman's Co-operative Societies, Ghone Oilman's Co-operative Societies, Pottery Co-operative Societies, Leather work's Co-operative Societies, Mat weaver's Co-operative Societies, Basket Maker's Co-operative Societies, Hand punding Co-operative Societies, Labour Contract Co-operative Societies, Women Co-operative Societies (including Women's Co-operative Banks), Sports Promotion Co-



operative Societies, Co-operative Societies under Liquidation, Co-operative Societies which are defunct/dormant, Co-operative Societies whose members are only Ex. Service men working for their welfare, Co-operative Hospitals, Washer-men's Co-operative Societies, Stone Cutter's Co-operative Societies and Barber's Co-operative Societies, are exempted from payment of audit fee to the Audit Department for doing the audit work. The cost of auditing of the above Societies and Banks shall be borne by the Department and for that purpose it cannot levy and collect the audit fee from the other cooperative Banks and Societies, including petitioners Societies and Banks as per the mathematical calculations.

14. In the Report of the Comptroller and Auditor General of India at page 106 it is stated that while revising the audit fee, the Department felt:-

“Though the responsibility of promotion of the co. operative movement rests with the State Government the services of the Co-operative Audit Department cannot entirely be taken as a social service.

It may not be possible to completely bridge the gap between revenue and expenditure of this



department, but there are sufficient grounds justifying the narrowing of this bridge.

The principle underlying the provision of the audit service to the co. operatives is that the audit should subsist on its own without being a burden to the State exchequer.

The excess of expenditure over the demands for audit fees (including audit cost) raised during the years 1992-93 to 1996-97 ranged from Rs.156.78 lakh to Rs.248.82 lakh.

A system of periodical review of the rate structure of audit fees was not in vogue in the department as a result even after revisions of pay scales of staff in 1987 and 1994, the revision of rates of fees has not even been considered by the Government after 1986”.

Again, at page 107 observation is made to the following effect;-

(iv) Short levy of audit fees:

Audit fee recoverable from societies is a fixed percentage of their turnover or working capital whichever is higher. It was noticed that there was short levy of audit fees of Rs.13.67 lakh in respect of 14 societies on account of incorrect computation of turnover for the years 1992-93 to 1996-97. The Director of Co. operative Audit stated (August 1998) that action would be taken to verify the levy of audit fees and omissions rectified”.

Annexure-R4 produced by the learned Govt.Pleader reveals the actual expenditure incurred by the



Department for audit. When a comparison of the same is made with the demands shown therein, there is a huge deficit. Thus, if these factors and the deficiency in the audit fee revenue are taken into consideration, the petitioners' contention that the audit fee should be levied and collected in co-relation to the services rendered by the Audit Department, has no merit and the contention is wholly untenable in law. In this view of the matter, Point (c) is answered in the negative. The decisions relied upon by Mr.K.M.Nataraj are not helpful to the petitioners.

13. POINT (d):- The question is, whether the impugned action amounts to sub-delegation of power? Mr.K.M.Nataraj contended that the impugned action amounts sub-delegation of power placing reliance on the following decisions:-

AIR 1961 SC 4 paras 4, 6 & 20,
AIR 1967 SC 1895 para 15 and
AIR 1981 SC 1829 paras 115 & 117.


Per contra, Mr.Keshava Reddy, learned AGA pressed into service the decisions reported in:

AIR 1972 SC 1917 Para 11,
AIR 1954 SC 465 Paras 9 & 10,
AIR 1968 SC 1232 Paras 28, 29 & 36,
AIR 1965 SC 1107 Paras 27 & 31,



**AIR 1967 SC 295 Para 36,
AIR 1992 SC 1848 Para 7,
AIR 1958 SC 909 Para 7(2),
1995(1) SCALE 758 Para 17 & 19,
(1980)1 SCC 641 Paras 75,77, 78 & 103,
AIR 1975 SC 1007 Paras 16, 22 & 24.**

The straight answer to the contention is in the negative. The reasons assigned to Point (a) holds good as the impugned action is in accordance with Section 129 of the Act read with Rule 30 of the Rules. Under Section 129(2)(y) of the Act the State Government has got power to make Rules for fixing Audit fee to the Cooperative Banks and Societies in the State for doing Audit work by the Department. Rule 30(1) of the Rules framed by the State Government empowers the Director of Co-operative Audit to fix the scale of audit fee with the prior approval of the State Government. That is what precisely done. Hence, the impugned action will not amount to sub-delegation of power. The power is exercised by the Director of Co-operative Audit by collecting the relevant material and data with relating to the volume of audit work involved in the Banks and Societies. Based on such material proposal was sent to the State Government for approval. The State Government in exercising the powers vested with



it by applying its mind to the relevant material and data collected by the Director granted approval. Therefore, it cannot be said that there is sub-delegation of power. In view of the fact that there is no sub-delegation of power, the decisions relied upon on by both sides have no relevance to the case.

14. For the reasons stated above, the various decisions pressed into service by the learned counsel for the petitioners will not render any assistance to the petitioners and the contentions urged does not hold water. Petitioners must be content with non-revision of audit fee for more than a decade. They had the benefit of such non-revision all these years and the burden of such expenditure is borne by the State Government by spending public money for this purpose.

15. Writ Petitions are dismissed. 11 1

MP-bpy

Sd/-
Judge