

WP Nos.31973 and 17071 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE OF RESERVING DATE OF PRONOUNCEMENT

11.11.2025

05.03.2026

CORAM

**THE HON'BLE MR.MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE**

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP Nos.31973 and 17071 of 2025

WP No.31973 of 2025

Primary Agricultural Cooperative Society
Employees Association,
Regn.No.116/TNI
rep. By its State Vice President
S.Murugesan

: Petitioner

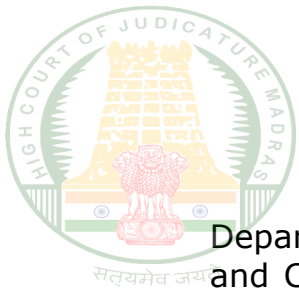
versus

1.The Secretary to Government of Tamil Nadu,
Department of Cooperation, Food & Consumer Protection,
Fort St.George, Secretariat,
Chennai 600 009

2.The Registrar of Cooperative Societies,
No.170, N.V.Natarajan Maaligai,
EVR, Periyar Road, Kilpauk,
Chennai 600 010

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring Section 74 and 75(1) of the Tamil Nadu Cooperative Societies Act, 1983, and the consequential G.O.(Ms) No.14 Co-operation Food and Consumer Protection (CN1)



WP Nos.31973 and 17071 of 2025

Department dated 12.02.2019 and G.O.(Ms) No.29, Co-operation Food and Consumer Protection (CN1) Department dated 15.02.2024 of the 1st respondent constituting the Tamil Nadu Primary Agricultural Cooperative Credit Society common cadre Service Rules, 2019 as ultra vires of Art. 19(1) (c) r/w. Article 43B of the Constitution of India and the preamble part of the Tamil Nadu Cooperative Societies Act 1983 as amended by Act No.4 of 2013.

WP No.17071 of 2025

K.Anbalagan

: Petitioner

versus

1.The Secretary to Government of Tamil Nadu,
Department of Cooperation, Food & Consumer Protection,
Fort St.George, Secretariat,
Chennai 600 009

2.The Registrar of Cooperative Societies,
No.170, N.V.Natarajan Maaligai,
EVR, Periyar Road, Kilpauk,
Chennai 600 010

3.The Administrator,
Transport Corporation Employees Cooperative Thrift &
Credit Society Limited No.X-367,
No.488, 489, 1st Floor, Sathguru Complex,
Anna Salai, Nandanam,
Chennai 600 035

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring Section 74 and 75(1) of the Tamil Nadu Cooperative Societies Act, 1983 and the consequential G.O.(Ms) No.12 dated 24.01.2024 of the 1st respondent constituting Tamil Nadu Employees Cooperative Thrift & Credit Societies common cadre service Rules, 2024 as Ultra vires of Art 19(1)(c) r/w Art.43-B of the Constitution of India and the preamble part of the Tamil Nadu Cooperative Societies Act 1983 as amended by Act No.4 of 2013.



WP Nos.31973 and 17071 of 2025

WEB COPY

For Petitioner

: Mr.C.Prakasam
(in WP No.31973 of 2025)

Mr.S.Sathiaseelan,
(in WP No.17071 of 2025)

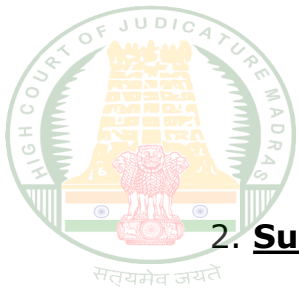
For Respondents

: Mr.P.S.Raman,
Advocate general,
asst. by Mrs.M.Geetha Thamaraiselvan
Special Government Pleader
(In both cases)

COMMON ORDER

THE CHIEF JUSTICE

The aforesaid two writ petitions have been filed seeking declaration declaring Section 74 and 75(1) of the Tamil Nadu Cooperative Societies Act, 1983, and the consequential Government Orders dated 12.02.2019, 15.02.2024 and 24.01.2024 of the first respondent constituting the Tamil Nadu Primary Agricultural Cooperative Credit Society Common Cadre Service Rules, 2019 as ultra vires Article 19(1) (c) read with Article 43B of the Constitution of India and the preamble part of the Tamil Nadu Cooperative Societies Act, 1983, as amended by Act No.4 of 2013.



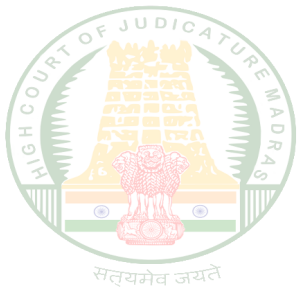
WP Nos.31973 and 17071 of 2025

2. Submissions made on behalf of the petitioners :

WEB COPY

(a) Learned counsel for the petitioners contended that Sections 74 and 75 of the Tamil Nadu Cooperative Societies Act and common pool cadre rules affect the autonomy of the Cooperative societies. The provisions contained in the aforesaid two sections are State-centric and while constituting common cadre of service in respect of the posts of Secretaries, Assistant Secretaries, Executive Officers, Assistant Executive Officers, General Managers, Assistant General Managers, Managers, Assistant Managers, Purchase Managers, Purchase Officers, Assistant Purchase Officers, Development Officers, Chief Accountants, Chief Accounts Officers, Accounts Officers, State has retained absolute control in every aspect of recruitment, disciplinary action, transfer, posting etc.

(b) The competent authority, being a committee formed in Rule 3 sub-Rule 4 of the Tamil Nadu Cooperative Societies Rules, alone is declared competent to recruit, appoint, transfer, suspend, take disciplinary action, terminate, decide all new matters etc., common cadre



WEB COPY

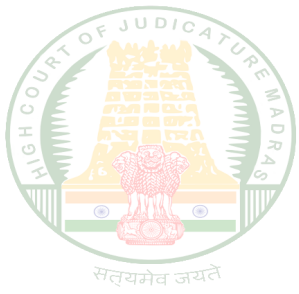


WP Nos.31973 and 17071 of 2025

officers/employees, mostly of administrative/managerial rank. The power which has been reserved in the hands of the committee, thus for all legal and practical purposes, is the supreme body, next to the State. Thus, the entire power has been centralized in a manner that the autonomy of the Cooperative Societies has been completely taken away.

(c) The Cooperative Societies do not have any such control which the State or its authority exercises in respect of all the common cadre officers/ employees. This statutory scheme of the Act and the rules is destructive of complete and full autonomy of the Cooperative Societies. It also incidentally imposes unreasonable restrictions on the fundamental right to form Cooperative Society under Article 19(1)(c) of the Constitution of India, as amended, along with insertion of Article 43B of the Constitution of India, in 2012.

(d) Article 43B of the Constitution of India, though part of the Directive Principles of the State Policy, nevertheless provides that the State shall endeavour to



WEB COPY



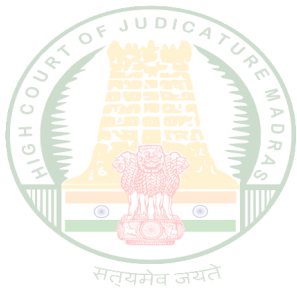
WP Nos.31973 and 17071 of 2025

promote autonomous functioning. Therefore, while framing legislation, the State's objective must be directed towards fulfillment of these directive principles and policies. Any provision or scheme of the legislation, which is destructive of the autonomy would be ultra vires Article 43B of the Constitution of India.

(e) Consequent upon insertion of Article 43B of the Constitution of India, the preamble to the Tamil Nadu Cooperative Societies Act was also amended, which clearly provides that it is expedient to promote functional autonomy.

(f) Tamil Nadu Cooperative Societies Act was enacted prior to insertion of Article 43B of the Constitution of India. After insertion of Article 43B of the Constitution of India, the preamble was also amended to bring it in tune with the new provision in the Constitution and, therefore, the Act, after the amendment in the Constitution and the preamble, becomes unconstitutional.

(g) As the provisions contained in Sections 74 and 75 of the Act and the Rules framed thereunder are destructive



WEB COPY



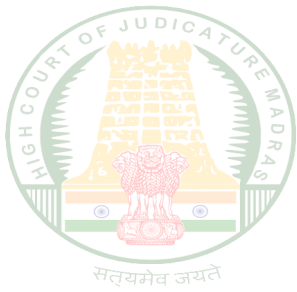
WP Nos.31973 and 17071 of 2025

of the spirit of the preamble to the Cooperative Societies Act, Sections 74 and 75 of the Act are manifestly arbitrary, and in addition, the rules are ultra vires the provisions of the Act itself.

(h) Earlier decision of this Court in the case of *C.Manoharan vs. State of Tamil Nadu*¹, upholding the validity of proviso to sub-Section 3 of Section 75 of the Act did not have the occasion to examine the validity of Section 74 and all other provisions of Section 75 of the Act, except the proviso. Therefore, the decision in case of *C.Manoharan* (supra) is not an authority in the matter of challenge to the provisions of Section 74 and 75 of the Act (except proviso) and the Rules framed thereunder.

(i) Learned counsel for the petitioner would further submit that the validity of a legislation, in appropriate case, could be tested on the anvil of the Directive Principles of State Policy, as enshrined in the Constitution, and if the legislation is against the spirit of the Directive Principles of State Policy, it could be struck down as

¹WP MD No.19975 of 2019 etc. batch, dated 26.09.2019



WP Nos.31973 and 17071 of 2025

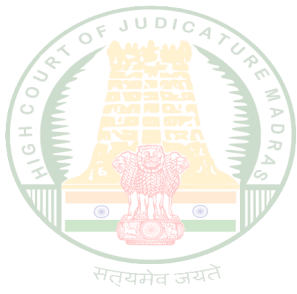
violative of the Constitution of India, as also suffering from manifest arbitrariness.

(j) In support of the various submissions made hereinabove, learned counsel for the petitioner has placed reliance upon the following authorities:

1. Union of India vs. Chajju Ram (2003) 5 SCC 568
2. Krisha Kumar Birla vs. Rajendra Singh Lodha (2008) 4 SCC 300
3. Casio India Company Private Limited vs. State of Haryana (2016) 6 SCC 209
4. National Insurance Co. Ltd. vs. Pranay Sethi (2017) 16 SCC 680
5. Arup Bhuyan vs. State of Assam (2023) 8 SCC 745
6. Dr.J.Vijayan & Others. vs. State of Kerala and Others (2022) 17 SCC 177

3. Submissions on behalf of the respondent:

(a) The principal submission made by the learned Advocate-General is that the issue raised in this petition was earlier raised before this Court in the case of *C.Manoharan v. State of Tamil Nadu (supra)*, wherein validity of proviso to sub-Section 3 of Section 75 of the Act was challenged on similar grounds. This Court had an



WEB COPY

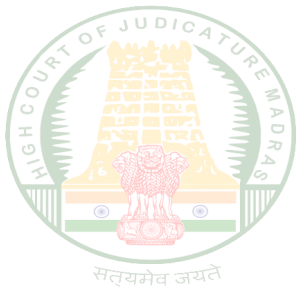


WP Nos.31973 and 17071 of 2025

occasion to examine the scheme of the Act and the constitution of common pool cadre. Challenge to the validity on the ground that it adversely affects the autonomy and thereby, is violative of Article 43B of the Constitution of India, was repelled. The provision contained in proviso to sub-Section 3 of Section 75, though being much more regressive and power-centric as compared to other provisions of Section 75 as well as Section 74, was upheld. Therefore, it is submitted that this petition is liable to be dismissed on this ground alone.

(b) In the case of ***Union of India vs. Rajendra N.Shah***², the constitutional amendment to give autonomy to Cooperative Societies has been held to be confined only to the Central Cooperative Societies for want of ratification by the States and therefore, the validity of the provision contained in Section 74 and 75 of the Cooperative Societies Act could not be judged with reference to the provisions contained under Article 43B of the Constitution of India.

² 2022(19) SCC 520



WP Nos.31973 and 17071 of 2025

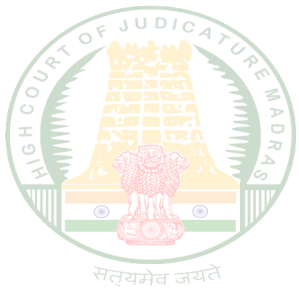
WEB COPY

(c) It is further submitted that the validity of Rule (3) sub-Rule 4 of the Rules in the matter of appointment of Joint Registrar of Cooperative Societies of the region concerned as the “competent authority” was also upheld.

(d) The Directive Principles of the State Policy are not justiciable. Therefore, the validity of the legislation could not be judged on that ground alone.

(e) The scheme of the Cooperative Societies Act, though it was pre-existing Article 43B of the Constitution of India, amendment in the preamble of the Cooperative Societies Act, clearly reveals that it confers very high degree of autonomy in cooperative societies in the matter of their functioning, as all the powers and functions are exercisable by the general body and the Board.

(f) The officers and employees of the Cooperative Society are only implementing authorities of the various policy decisions. Therefore, the Cooperative Societies enjoy a very high degree of functional autonomy though not absolute in nature. The provisions relating to the powers and functions of the Board, general council and other



WEB COPY

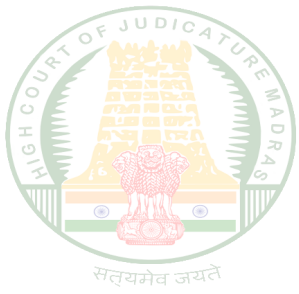


WP Nos.31973 and 17071 of 2025

related provisions, on a conjoint reading, postulate a very high degree of autonomy in the hands of the Cooperative Societies.

(g) The minimal control by formulation of provisions under the Act and the Rules is intended to regulate functioning of the institutions and to promote functional management in larger interest of effective functioning of the Cooperative Societies, without interfering with their day-to-day affairs and the decision which may be taken by the society itself.

(h) The statutory scheme of the Act including Sections 74 and 75 of the Act strikes a fine balance of autonomy, coupled with regulatory provision, and such scheme is prevalent in other institutions of local self-governance, viz., panchayats and municipalities, where the functional autonomy is with the elected body. However, some of the higher officers in the administration and management are part of the common cadre. But, in all cases, even the officers in the common cadre functioning in individual Cooperative Societies are subservient to the



WP Nos.31973 and 17071 of 2025

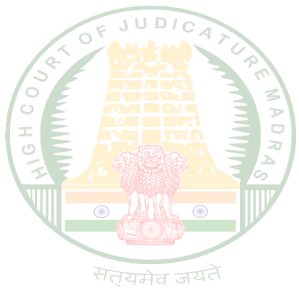
society and they have to act under the commands of the Board and not the State officials or the Government.

(i) Learned Advocate General relies upon the following authorities:

- | | | |
|----|---|---|
| 1. | P.Baluchamy vs. R.K.Veluchamy and others | WP Nos.7081of 2000
dated 23.06.2003 |
| 2. | C.Manoharan vs. State of Tamil Nadu | WP MD No.19975 of
2019 etc. batch,
dated 26.09.2019 |
| 3. | B.Gopalakrishnan and others v. Secretary,
Department of Cooperation, Food and Consumer
Protection | WP Nos.22611 of 2024
etc. batch, dated
20.02.2025. |

Analysis and conclusion:

4. The challenge to the constitutional validity of Sections 74 and 75(1) of the Cooperative Societies Act and consequential Government Orders dated 12.02.2019, 15.02.2024 and 24.01.2024 constituting Common Cadre Service Rules, 2019, and Tamil Nadu Employees Cooperative Thrift and Credit Societies are assailed mainly on the ground that it is ultra vires Article 19(1)(c) read with Article 43B of the Constitution of India as also the preamble part of the Cooperative Societies Act, as amended by Act 4 of 2013.



WP Nos.31973 and 17071 of 2025

5. By Constitution (97th Amendment Act) 2011, constitutional status was accorded to cooperative societies. Article 19 was amended in the manner that in clause (1) in sub-clause (c), after the words, “all Unions”, the words, “or Cooperative Societies” was inserted.

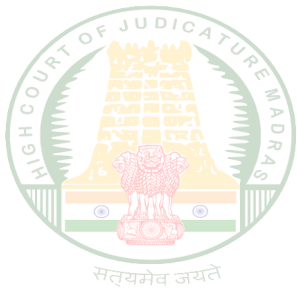
5.1 In Part IV of the Constitution of India, after Article 43A, a new Article 43B was inserted as below:

“43B. Promotion of co-operative societies.—The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.”

5.2 A new Part IXB relating to Cooperative Societies was also inserted after Part IXA, containing various provisions with regard to incorporation and other matters of Cooperative Societies.

6. Article 243ZI provided for incorporation of Cooperative Societies as below:

“243ZI. Incorporation of co-operative societies.—Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the



WEB COPY



WP Nos.31973 and 17071 of 2025

incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.”

7. After the constitutional amendment as above, a fundamental right to form Cooperative Societies is guaranteed.

7.1. Article 43B of the Constitution of India is incorporated as one of the Directive Principles of the State Policy stating that the State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of Cooperative Societies. These directive principles require the State to make endeavour to promote autonomous functioning.

7.2. Read with Article 243ZI, empower the Legislature of the State to make laws with respect to regulation of Cooperative Societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

8. A conjoint reading of the aforesaid two provisions added by

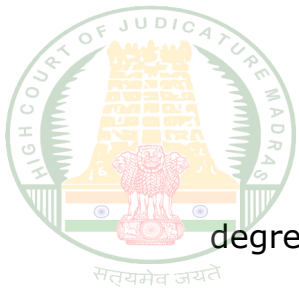


WP Nos.31973 and 17071 of 2025

way of amendment, no doubt, provides for autonomous functioning of the Cooperative Societies. However, none of the provisions in terms mandate absolute or full autonomy. While Article 43B of the Constitution of India, as a measure of Directive Principles of State Policy, requires the State to endeavour to promote autonomy, Article 243ZI of the Constitution of India clearly provides that the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on :

- a) principles of voluntary formation
- b) democratic member-control
- c) member-economic participation
- d) autonomous functioning.

9. It, however, does not flow from the aforesaid two provisions that there is constitutional imperative for complete autonomy even to an extent that the State Legislature is denuded of its competence to make provisions with regard to constitution of common cadre of services for effective and better management for effective administration and management of the Cooperative Societies. The



WP Nos.31973 and 17071 of 2025

degree and extent of autonomy could be regulated by the laws made by Legislature as would be clearly discernible from the provisions contained in Article 243ZI of the Constitution of India. It would depend upon the nature and extent of the control exercised by the State through the legislative device as to what is the degree of autonomy which Cooperative Societies enjoy under statutory scheme of a particular state enactment relating to the Cooperative Societies.

10. The Tamil Nadu Cooperative Societies Act, 1983, comprehensively provides for registration of societies, qualification of members, their rights and liabilities, as also, management of the registered societies, duties and privileges of registered societies, State aid to registered societies, properties and funds of registered societies, paid officers and servants of society as also, audit inquiry, inspection and investigation, surcharge and supersession of Cooperative Societies. It also provides a mechanism for settlement of disputes. The Act also provides for winding up, division, amalgamation etc. of insured cooperative bank. The Act further makes provisions with regard to joint farming societies, lift irrigation facilities, agricultural and rural development banks. Special provisions have been made with



WP Nos.31973 and 17071 of 2025

regard to short term cooperative credit structure societies. Winding up and cancellation of societies is also permitted under the law.

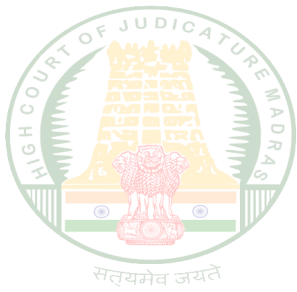
11. Keeping in view the amendment in the Constitution, and insertion of Article 43B, preamble of the Tamil Nadu Cooperative Societies Act was also amended by Tamil Nadu Act, 2013, adding the following provisions:

"WHEREAS it is expedient to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies in the State of Tamil Nadu;

12. In the light of the aforesaid constitutional scheme and newly inserted provision in the Cooperative Societies Act of the State, the scheme of Section 74 and 75 is as below :

74. Recruitment Bureaus.-

(1) The Government may, by notification constitute Recruitment Bureaus at the State and district levels for the recruitment of such categories of paid officers and servants for employment by such class or classes or category or categories of registered societies as may be prescribed. Nothing contained in this section shall apply to any of the



WEB COPY



WP Nos.31973 and 17071 of 2025

posts in respect of which common cadre of service has been constituted under section 75.

(2) The manner of constitution of the Recruitment Bureaus and the procedure to be followed by such Bureaus be such as may be prescribed.

75. Constitution of common cadre of service.-

(1) Notwithstanding anything contained in this Act or the bylaws made there under and subject to the rules made by the Government in this behalf, the Government may, in the interest of the co-operative movement, constitute from time to time, by order in respect of-

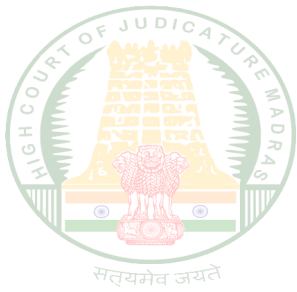
(i) scheduled co-operative societies: or

(ii) Primary societies affiliated to such scheduled co-operative societies, or

(iii) co-operative sugar mills, co-operative spinning mills, co-operative tea factories and such other registered societies prescribed for the purpose of sub-section (4) of section 33; or

(iv) such other class or category of registered societies in which the Government have taken shares or given financial or other assistance as may be notified by the Government.

One or more common cadre of service in respect of the posts of secretaries, assistant secretaries, executive officers assistant executive officers general managers, assistants general managers, managers, assistant managers. Purchase managers, purchase officers, assistant purchase officers, development officers, chief accountants,



WEB COPY



WP Nos.31973 and 17071 of 2025

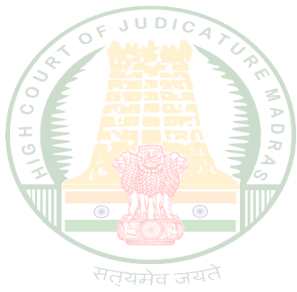
chief accounts officers, accounts officers and such other class or classes of posts as may be notified by the Government. The common cadre of service under this section may be constituted either separately in respect of the said posts in any group of registered societies mentioned in item (i) or item (ii) or item (iii) or item (iv) as the case may be or jointly for the aforesaid posts in one or more of the groups of registered societies mentioned in the said items (i), (ii), (iii), and (iv) or of two or more of the registered societies in any one of the groups mentioned in the said items.

(2) When any such common cadre of service is constituted under sub-section (1) in respect of any post, all the employees holding, such posts on the date of constitution of such common cadre of service, shall be deemed to have been absorbed in the common cadre of service with effect on and from the date of constitution of such common cadre of service:

Provided that the salary (including allowances) of any such employees shall not be varied to his disadvantages;

Provided further that any such employee may, within such period as may be prescribed, by notice in writing to the competent authority constituted under sub-section (3) intimate his option for not becoming a member of such common cadre of service, and in that event, his services in the registered society shall stand determined with effect on and from the date of such notice and he shall be entitled to either:-

(i) all the terminal benefits to which he would have



WEB COPY



WP Nos.31973 and 17071 of 2025

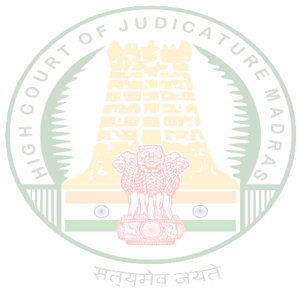
been eligible under the by-laws or contract or award applicable to him immediately before the date of constitution of such common cadre of service as if such employee had retired from service ; or

(ii) compensation which shall be equivalent to fifteen days, salary of such employee (including allowances) for every completed year of continuous services or any part thereof in excess of six months whichever is higher.

Explanation. _

For the purpose of this sub-section," continuous services" shall means an uninterrupted services including service which may by interrupted on account of sickness or authorized leave or an accident.

(3) The order under sub-section (1) shall provide for the constitution of the competent authority which shall be a committee consisting of both officers of the Government and non-officials and the total strength of such committee shall not exceed five, from among whom one of the officers of the Government not below the rank of Joint Registrar in the Co-operative Department or not below such rank in other departments of the Government as may be prescribed shall be appointed by the Government as the chairman to exercise the powers of recruitment, appointment, transfer and disciplinary control (including censure, stoppage of increment, withholding of promotion, suspension by way to punishment, reduction to a lower rank in the seniority list or to a lower post or time scale whether in the same service or in another service or to a lower stage in a time scale, compulsory retirement,



WEB COPY

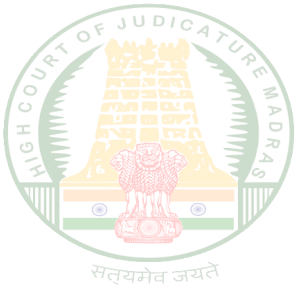


WP Nos.31973 and 17071 of 2025

removal or dismissal) and such other powers as may be prescribed in respect of holders of posts in such other powers as may be prescribed in respect of holders of posts in such common cadre of service. After the constitution of such competent authority, the registered society concerned cadre of service, exercise any of the powers which are conferred shall not in respect of holders of posts in such by or under this Act or the rules made thereunder on the competent authority in respect of each common cadre of service: There shall be a separate competent authority in respect of each common cadre of service.

Provided that the Government may direct that for such period not exceeding three years from the date of constitution of a common cadre of service, such committee in relation to that common cadre of service, shall consist of only a single officer of the Government not below the rank of Joint Registrar in the Co-operative Department or not below such rank in other departments of the Government as may be prescribed; and such officer shall be the "competent authority constituted under sub-section (3) of section 75" for the purposes of this Act and any reference to the competent authority in this Act shall, for the period mentioned in this proviso, be construed as a reference to the single officer aforesaid.

Provided further that the registered society under which an employee borne on a common cadre of service is for the time being employed shall also have the power to impose on such employee the penalty of censure or stoppage of

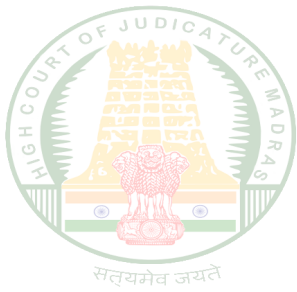


WP Nos.31973 and 17071 of 2025

increment up to two years without cumulative effect.”

WEB COPY

13. Sections 74 and 75 are part of Chapter VIII, which deals with paid officers and servants of the society. Section 73 provides that subject to the provisions of sections 74, 75, 76 and 77 and subject to the Rules made in this behalf, a registered society may appoint such paid officers and servants as are necessary for the efficient performance of its functions; provided that the qualifications for the appointment of paid officers and servants, the conditions of service including disciplinary control and the cadre strength of such officers and servants of a registered society or class or category of registered societies shall be such as may be prescribed. Therefore, Section 73 confers power on the Cooperative Societies to appoint paid officers and servants as may be necessary for the efficient performance of its functions. Section 74 provides for recruitment bureau for the recruitment of such categories of paid officers and servants for employment by such class or classes or category or categories of registered societies as may be prescribed. Section 75 provides for constitution of common cadre of service and empowers the Government to constitute from time to time by order, common cadre of service, in the interest of the cooperative movement.



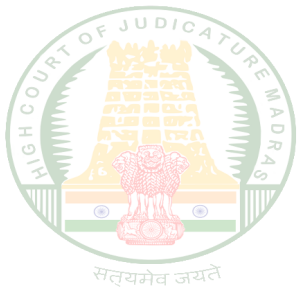
WP Nos.31973 and 17071 of 2025

WEB COPY 14. The validity of proviso to sub-Section 3 of Section 75 was challenged in the case of **C.Manoharan** (supra).

15. First proviso to Section 75 of the Act enabled the State Government to appoint a single officer as a committee, to function as a common cadre authority. Challenge to such a provision providing for appointment of a single officer as a committee to function as common cadre authority, though was challenged as affecting the autonomy of the Cooperative Society, as enshrined under Article 43B of the Constitution of India, the challenge was repelled.

It was held as below:

"24. The sum and substance of the arguments of the petitioners is that the autonomy of the Co-operative Society as enshrined under Article 43-B of the Constitution of India is being infringed by introduction of the common cadre. To be noted, Article 43-B of the Constitution of India falls in Part-IV, which deals with Directive Principles of State Policy and they are not justifiable and based on the same, the Court would not normally issue directions for implementation, except in cases relating to environmental issues and other issues of public importance. The petitioners are salaried employees of the Societies. All of them



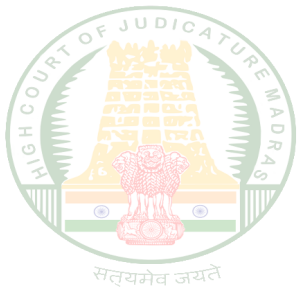
WEB COPY



WP Nos.31973 and 17071 of 2025

appear to be in the good books of the elected Board of Directors, who have supported them by passing a resolution to the effect that their cases are indispensable. Any such resolution cannot bind the Authorities. The appointment to a post in a Co-operative Society is an appointment to a public office. Therefore, necessarily, the procedures contemplated under the provisions of the Act have to be adhered to before any appointment is made. This applies to promotions as well. Thus, to say that the Societies are free to do anything as per their will and pleasure is a submission to be outrightly rejected.

25. The powers and duties that can be discharged by the President and the elected Board of Members of the Society are clearly circumscribed under the Act. Any violation thereof, they are liable to be removed or proceeded with against them. This equally applies to the paid employees of the Society. Therefore, to state that constitution of common cadre system will affect the autonomy of the Society is an argument, which is to be rejected. The petitioners have misunderstood the scope of autonomy, which is referred to in Article 43-B of the Constitution of India or that matter in Article 243ZI of the Constitution of India. The autonomy, which is referred to therein pertains to the autonomous functioning of the Co-operative Society. It does not mean that the Co-operative Society can take law unto themselves and frame their own policy for recruitment, transfer and to regulate their business as per their whims and fancies. The purport of Article 43-B of the Constitution of India is to make the State endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the Cooperative Societies. The other way of putting it is, by conferring of powers of self governance, it does



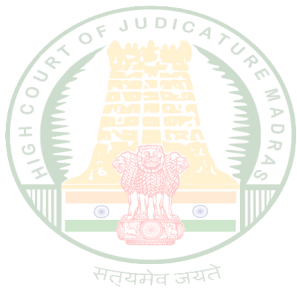
WEB COPY



WP Nos.31973 and 17071 of 2025

not mean that the power is unregulated or unbridled. Therefore, the arguments of the learned counsels for the petitioners have to necessarily fail.

26. An argument was putforth that the respondents are estopped from reintroducing common cadre system, after having abolished the same earlier by taking note of the report of the Task Force and the memorandum of understanding. There can be no estoppel against the statute. At the relevant point of time, the situation and the manner in which the co-operative societies were managed were taken note of. The High Court was flooded with litigations and very often by the Secretary and paid employees of the Society challenging the order of the Registrar refusing to accept the revision of scales of pay. Extreme cases were dealt by this Court, where the paid employees in collusion with the elected Board of Directors entered into a settlement under Section 18(1) of the Industrial Disputes Act and in few cases under Section 12(3) of the Industrial Disputes Act and unilaterally revised their pay and allowance multi-fold. This resulted in draining the finances of the Societies and ultimately driving them to be defunct. Those settlements were ultimately invalidated and the unintended benefits, which were availed by those paid employees and Secretaries were directed to be recovered. Thus, in the given facts, a report was submitted and the Government, in 2008, passed an order in G.O.Ms.No.122, Cooperation, Food and Consumer Protection (CN1) Department, dated 04.07.2008, abolishing the common cadre service in respect of the post of Secretary of Primary Agricultural Co-operative Banks. From the objects and reasons of the impugned enactment, we find that it is intended to have efficient staff in the Societies, so that the Societies shall function viably and also



WEB COPY



WP Nos.31973 and 17071 of 2025

provide various services in an efficient manner. Thus, the State cannot be pinned down by applying the principles of estoppel, which have no application to the facts of the case.

27. Arguments on the validity of the proviso to Section 75(3) of the Act was on the ground that for the first three years, there will be a Single Officer in the rank not below the Joint Registrar in the Co-operative Department as a competent authority constituted under Section 75(3) of the Act. This provision has been in existence ever since the Act came into force. The proviso is in the nature of an interim arrangement having a specified period, (i.e.) not exceeding three years and we find no reason to hold the provision to be unconstitutional and the petitioners have not been able to establish any unconstitutionality in the provision to Section 75(3) of the Act. Therefore, the argument that the proviso to Section 75(3) of the Act is ultra vires to the Constitution of India has to fail.

28. To be noted that common cadre system is in respect of various posts in the Co-operative Department. If that be the position, it can hardly be stated that by introducing the common cadre system to the post of Secretary in Primary Agricultural Co-operative Credit Society will affect the autonomy of the Society is an unacceptable argument.

16. Though several authorities were cited at the bar before us by both parties, in view of the aforesaid decision in the case of **C.Manoharan**, we are unable to uphold the challenge relating to the



WP Nos.31973 and 17071 of 2025

provisions of Section 74 and 75(1) of the Tamil Nadu Cooperative Societies Act as violative of any of the provisions of the Constitution of India, much less Article 43B of the Constitution of India. It only provides for constitution of a common cadre of service.

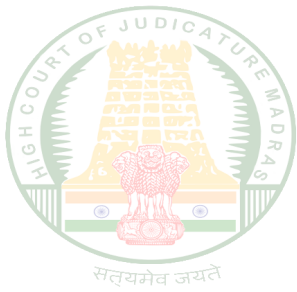
17. The argument that the functional autonomy of the cooperative society is taken away in view of the provision of Constitution of common cadre services is not correct in view of a very comprehensive scheme of management and administration of affairs of cooperative societies by their elected representatives constituting Managing Committee and the Board. In this regard, provisions contained in Section 32 and 33 of the Act are complete answer and are reproduced herein below:

"32.General meetings.-

(1) (a) Subject to the provisions of this Act, the rules and the by-laws, the ultimate authority of a registered society shall vest in the general body of its members:

Provided that nothing contained in this clause shall affect the exercise by the board or any officer of a registered society of any power conferred on such board or such officer by this Act or the rules or by the by-laws.

(b) Notwithstanding anything contained in clause (a) where the area of operations of a registered society is not less than such area as may be prescribed, or where the



WEB COPY



WP Nos.31973 and 17071 of 2025

registered society consists of not less than such number of members as may be prescribed, the registered society may provide by an amendment of its by-laws for the constitution of smaller body consisting of such number of the members of the registered society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the by-laws and any reference, by whatever form of words, in the Act to the general body or a meeting thereof shall, where a representative general body has been constituted under this clause, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be:

Provided that the representative general body shall not alter any provision in the by-laws relating to its constitution or powers:

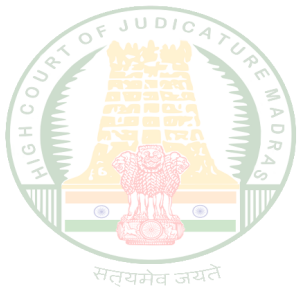
Provided further that nothing in this clause shall be construed as empowering the representative general body to elect the member of the board of the registered society; and the members of the board of that society shall be elected by all the members of the society in such manner as may be prescribed.

(c) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the by-laws.

(2) A general meeting of a registered society shall be held in a co-operative year for the purpose of-

(a) approval of the budget for the ensuing year with reference to the programme of the activities of the society prepared by the board:

Provided that if the general meeting does not approve the budget before the commencement of the year to which it relates, even after the budget is placed before it, the board shall refer the budget to the Registrar for approval. The registrar after examining the reasons for the non-approval



WEB COPY



WP Nos.31973 and 17071 of 2025

for the budget by the general meeting, shall have power to modify the budget taking into account the interests of the registered society.

(b) consideration of the audit report and the annual report;

(c) disposal of the balance of the net profits as specified in sub-section (2) of section 72;

(d) consideration of the details of the services, if any rendered to any member of the board or any such near relation as may be prescribed of any member of the board during the preceding year,

(dd) appraisal of the programme of the activities of the society; and

(e) consideration of any other matter which may be brought forward in accordance with the by-laws:

Provided that nothing contained in this sub-section shall prevent the registered society from convening general meetings as often as may be necessary in the interest of the society.

(3) (a) The board may, at any time, call a special general meeting of the registered society, and shall call such a meeting within one month of the date of a requisition in that behalf from-

(i) such number of the members or proportion of the total number of members as may be specified in the by-laws; or

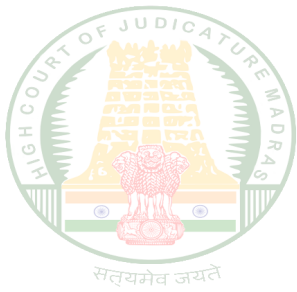
(ii) the board of the financing bank to which the society is affiliated; or

(iii) any other registered society of such class as may be prescribed for the purpose; or

(iv) the Registrar.

(b) The requisition referred to in clause (a) shall be in writing and shall specify the subjects that shall be placed for consideration at the special general meeting.

(4) (a) If the board refuses or fails to call a meeting in accordance with a requisition under clause (a) of sub-section (3) or under sub-section (1) of section 25 or if, in



WEB COPY



WP Nos.31973 and 17071 of 2025

the opinion of the Registrar, there is no board or officer competent under this Act or the rules or the bylaws to call a meeting, or if there be an order of the Registrar or of the civil court restraining the board to function, the Registrar shall if he is satisfied that there are sufficient and valid reasons to convene the special general meeting, call the meeting himself.

(b) If at a special general meeting of the registered society the quorum is not present for holding the meeting, -

(i) in cases where the meeting was called in pursuance of requisition from the members, the meeting shall stand dissolved; and

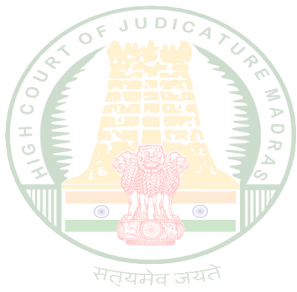
(ii) in any other case, the meeting shall stand adjourned to such other day, time and place as the board or the Registrar may determine. If, at the adjourned meeting also, the quorum is not present for holding the meeting, the members present shall be the quorum.

(c) In respect of any meeting called under clause (a) of this sub-section, the Registrar may, notwithstanding anything contained in the by-laws of the society, determine the period of notice for such meeting, the time and place of the meeting and the subjects to be considered thereat and may preside over such meeting or authorise any person to so preside.

(5) The Registrar may order that the expenses incurred in calling the special general meeting shall be paid out of the funds of the society or any other registered society at whose instance such meeting was called or by such person as, in the opinion of the Registrar, was responsible for the refusal or failure to call the meeting under sub-section (4).

33. Constitution and meetings of the board. -

(1) (a) The management of every registered society shall vest in a board constituted in accordance with the provisions of this Act, the rules and the by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed on it by this Act, the rules and the by-laws:



WEB COPY



WP Nos.31973 and 17071 of 2025

Provided that of the members to be elected to the board of every registered society, there shall be thirty per cent reservation for women and eighteen per cent reservation for Scheduled Castes and Scheduled Tribes:

Provided further that the members of the board may co-opt not exceeding two persons having experience in the field of banking, management, finance or specialisation in agriculture, sericulture, dairy, marketing, small or cottage industry or in any other field relating to the objects and activities undertaken by the registered society, as members of the board of the registered society:

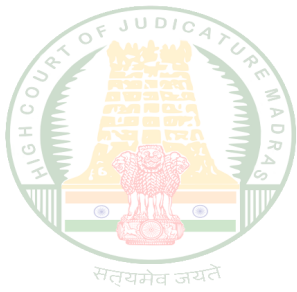
Provided also that the board may also consist of such number of functional directors, not exceeding nine, as may be prescribed in the rules or in the by-laws of the registered society

Explanation I. ___ For the purpose of this proviso and for clause (c) of sub-section (2), —functional director|| means a paid officer of the society or an officer of Government department or representative of central or apex society or such other bodies like Reserve Bank of India or National Bank for Agriculture and Rural Development having relation with functioning of the registered society.

Explanation II..___ For the purpose of sub-section (1) and (2), while calculating the eighteen per cent or thirty per cent of reservation, the fraction, if any, shall be ignored if it is less than half, or rounded off to the nearest whole number if it equal to or more than half:

Provided also that nothing contained in the first proviso shall be deemed to prevent any women or the members of the Scheduled Castes and Scheduled Tribes for whom representations have been made thereunder in the board of any registered society from being elected to any of the seats in the board of such registered society:

Provided also that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register that society may constitute an interim board to conduct the affairs of that



WEB COPY



WP Nos.31973 and 17071 of 2025

society for a period of three months from the date of registration or for such further period or periods not exceeding six months in the aggregate from the date of registration as the Registrar may consider necessary; but the interim board constituted under this proviso shall cease to function as soon as a board has been constituted in accordance with the provisions of this Act, the rules and the by-laws.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), but subject to sub-section (3), in the case of every scheduled co-operative society the board shall consist of,-

(a) Such number of members elected from such area or from such class or category of registered societies as maybe prescribed, of whom eighteen per cent shall be elected from members of Scheduled Castes and Scheduled Tribes and thirty per cent shall be elected from women, as provided in the first proviso to sub-section (1);

(b) such number of co-opted members not exceeding two as may be prescribed; and

(c) such number of functional directors not exceeding nine, as may be prescribed in the rule:

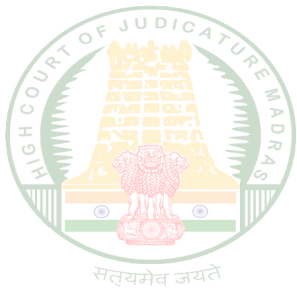
Provided that nothing contained in clause (a) shall be deemed to prevent any woman or the members of the Scheduled Castes and Scheduled Tribes for whom reservation have been made thereunder in the board of any scheduled co-operative society from being elected to any of the seats in the board of such scheduled co-operative society.

(3) The board shall consist of-

(a) in the case of an apex society and a central society, not less than eleven and not more than twenty-one members as may prescribed in the rules or in the by-laws of the society; and

(b) in the case of primary society, not less than seven and not more than twenty-one members as may be prescribed in the rules or in the by-laws of the society.

(4) (a) The number of co-opted members and functional



WEB COPY



WP Nos.31973 and 17071 of 2025

directors mentioned in subsection (1) and sub-section (2) shall be excluded for the purpose of counting the total number of members specified in sub-section (3);

(b) Notwithstanding anything contained in this Act, the co-opted members and functional directors shall have the right to participate and vote at the meetings of the board but shall not be entitled to vote at, or contest for, any election in the registered society in their capacity as such members.

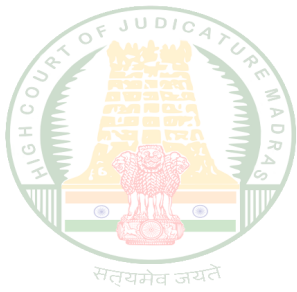
(7) The Government shall appoint a managing director or chief executive officer to-

- (i) every apex society,*
- (ii) every scheduled co-operative society, and*
- (iii) such other registered societies as may be notified by the Government. The qualifications and the powers and functions of the managing director or chief executive officer shall be such as may be prescribed:*

Provided that where the by-laws of any other registered society provide for the appointment of a managing director or chief executive officer by the Registrar such appointment shall be made by the Registrar.

(8) Where the Government or a financing bank have or has taken shares in, or given financial or other assistance to, a registered society, the Government or the financing bank, as the case may be, may notwithstanding anything contained in sub-section (1) or sub-section (2), nominate to the board of such registered society not more than two functional directors if such registered society is an apex society, and one functional director in other cases, and where the Government or a financing bank nominate under this sub-section, then notwithstanding anything contained in sub-section (3), the number of functional directors of the board shall stand increased by such number as is nominated under this subsection. The Government or the financing bank may at any time withdraw any person or persons so nominated and fill up the vacancy or vacancies by fresh nomination:

Provided that where both the Government and financing bank have taken shares or given financial or other assistance, the Government shall determine whether the



WP Nos.31973 and 17071 of 2025

Government or the financing bank or both may make the nominations:

Provided further that the nominee of the Government to a board of a registered society under this sub-section shall be a Government servant:

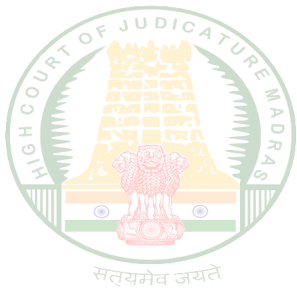
(9) Every functional director, who is a Government servant nominated to a board of a registered society shall refer to the Government in the case of an apex society, and to the Registrar in the case of any other registered society any resolution of the board of such apex society or other registered society, as the case may be, which is not in accordance with this Act, the rules or the by-laws of the society or which is against the interest of such apex society or other registered society, as the case may be. On receipt of such report, the Registrar or the Government, as the case may be, shall take such action as he or they may deem necessary.

(10) (a) The term of office of a member who is elected to any board constituted under this Act, the rules or the by-laws shall be five years.

(b) Every co-opted member of the board shall hold office only for such period for which the members of the board who have co-opted the member would have been entitled to hold office.

(c) The Government, the Registrar, the prescribed authority or the financing bank or the board of another society or other interest may at any time withdraw any co-opted member or functional director if his or her action is detrimental to the interest of the society and fill up the vacancy or vacancies.

(11) (a) Notwithstanding anything contained in this Act, election of members to the board of a registered co-operative society shall be conducted before the expiry of the term of office of the members of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of office of members of the outgoing board.



WEB COPY



WP Nos.31973 and 17071 of 2025

(b) *The superintendence, direction and control of the preparation of the electoral rolls for, and conduct of, all elections to a co-operative society shall vest in the Tamil Nadu State Co-operative Societies Election Commission constituted under section 33-A.*

(c) *Save as otherwise provided in this Act or rules,-*

(i) *the member of the board of a registered society shall be elected by the members of the registered society by secret ballot in such manner as may be prescribed;*

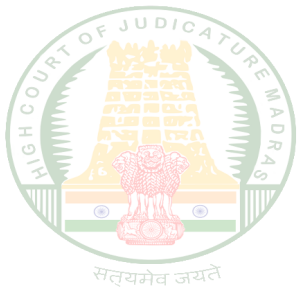
(ii) *the office-bearers of a registered society shall be elected by the elected members of the board from among themselves by secret ballot in such manner as may be prescribed:*

Provided that any casual vacancy in the office of a member of the board shall be filled up by the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of office of the board is less than half of its original term:

Provided further that any casual vacancy in the office of a member of the board, shall be filled up by election in such manner as may be prescribed, if the remaining term of office of the board is not less than half of its original term.

(13) *The ordinary meetings of a board shall be held at least once in every three months for which a notice of not less than three clear days shall be given. The managing director or the chief executive officer, in consultation with the president or chairperson and in his absence the vice-president or vice-chairperson, as the case may be, of such board or where there is no managing director or chief executive officer, the president or the chairperson of such board, shall convene the meeting of such board.*

(14)(a) *The managing director or the chief executive officer in consultation with the president or the chairperson or in his absence the vice-president or the vice chairperson of the board or where there is no managing director or the chief executive officer, the president or the chairperson of such board, may, at any time, call a special meeting of the board and shall call such a meeting within fifteen days of a requisition in that behalf from-*



WEB COPY



WP Nos.31973 and 17071 of 2025

(i) not less than one third of the members of the board; or
(ii) the board of the financing bank to which such registered society is indebted; or
(iii) any other registered society of such class as may be prescribed for the purpose; or
(iv) the Registrar, for which a notice of three clear days shall be given to the members of the board.

(b) the requisition referred to in clause (a) shall be in writing and shall specify the subjects that shall be placed for consideration at such requisitioned meeting.

(15) If the managing director or the chief executive officer or the president or the chairperson, as the case may be, fails to call a meeting in accordance with a requisition under clause (a) of sub-section (14), the Registrar shall, if he is satisfied that there are sufficient and valid reasons to convene the board meeting, call the meeting himself and order that the expenses incurred in convening the meeting shall be paid out of the funds of the society."

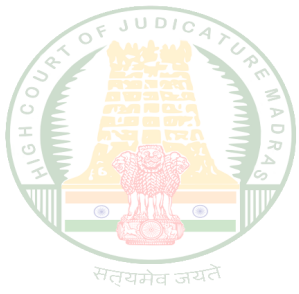
18. The entire argument of the learned counsel for the petitioner rests on a fallacious submission that the constitutional scheme mandates full and complete autonomy in the functioning of the cooperative institutions. We have elaborately dealt with hereinabove, with reference to the provisions contained in Article 43B and Article 243ZI of the Constitution of India that though the newly inserted provisions in the Constitution provides for autonomous functioning, it cannot be said that the State Legislature is denuded of its competence to make provision with regard to constitution of common cadre of services. After all, day-to-day functioning of the cooperative societies



WP Nos.31973 and 17071 of 2025

is not affected by constitution of common cadre services and appointments made on administrative, managerial and other important posts. In the matter of formation of its policies, implementation thereof, extending various benefits to its members, constitution of common cadre of services does not come in the way. On the other hand, constitution of such cadre is intended to ensure better administrative and functional management of the affairs of the society, which only seeks to advance, the cooperative movement and not thwart the same.

18.1. True, there is certain degree of control exercised by the State and its officials insofar as disciplinary action and transfer is concerned, it only affects the measure of autonomy. However, it cannot be said that mere constitution of a common cadre of service and exercising certain degree of control in the matter of disciplinary action, transfer, pay etc., cooperative societies are completely denuded of their autonomous nature of functioning. Even before the amendments in the Constitution of India, as referred to above, management of registered societies vests only in their elected bodies in the Board.



WP Nos.31973 and 17071 of 2025

19. The object behind giving power to the government to form a common cadre appears to secure the proper management of the societies, and cannot be construed as unreasonable or adverse to the interest of the society and thus reasonable restrictions under Article 19(4) of the Constitution of India. Constitution of a recruitment bureau under Section 74 is intended only to streamline transparent process of recruitment by the bureau without interference by individual Cooperative Societies or anyone. Section 74 does not apply to common cadre employees and applies only to entry level posts which are to be filled up by direct recruitment. Section 73 empowers the Cooperative Societies to appoint paid officers and servants. Recruitments are governed by provisions contained under the Cooperative Societies Rules.

20. It can thus be stated that with a fairly high degree of autonomy enjoyed by Cooperative Societies under the scheme of the Tamil Nadu Cooperative Societies Act in all its affairs, certain degree of control is in the hands of the State insofar as constitution of common cadre of services is concerned. The Rules are being framed to regulate the process of recruitment, appointment, transfer, disciplinary action,



WP Nos.31973 and 17071 of 2025

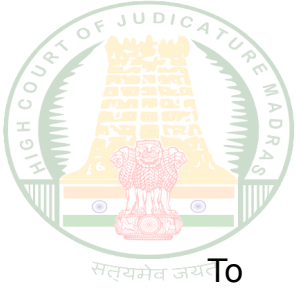
pay etc.

WEB COPY 20.1. The aforesaid scheme of the Act and Rules do not impair the autonomous functioning of the Cooperative Societies but are intended to only ensure an effective, streamlined, transparent, accountable administration and management of the society. Such a scheme of the act does not altogether take away complete autonomous functioning of the cooperative society, yet reserves to the Cooperative Societies great deal of autonomy.

21. The petitions are *sans substratum* and accordingly dismissed. There will be no order as to costs. Consequently, WMP Nos.35813 and 19354 of 2025 are closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ.) (G.ARUL MURUGAN, J.)
05.03.2026

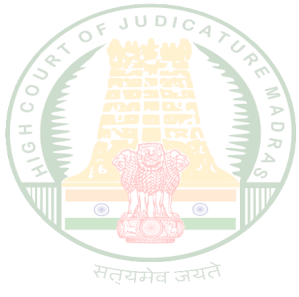
Index : Yes
Neutral Citation : Yes
tar



WP Nos.31973 and 17071 of 2025

WEB COPY

- To
- 1.The Secretary to Government of Tamil Nadu,
Department of Cooperation, Food & Consumer Protection,
Fort St.George, Secretariat,
Chennai 600 009
 - 2.The Registrar of Cooperative Societies,
No.170, N.V.Natarajan Maaligai,
EVR, Periyar Road, Kilpauk,
Chennai 600 010
 - 3.The Administrator,
Transport Corporation Employees Cooperative Thrift &
Credit Society Limited No.X-367,
No.488, 489, 1st Floor, Sathguru Complex,
Anna Salai, Nandanam,
Chennai 600 035



WEB COPY



WP Nos.31973 and 17071 of 2025

THE HON'BLE CHIEF JUSTICE
AND

G.ARUL MURUGAN, J.

(tar)

Pre- delivery order in

WP Nos.31973 and 17071 of 2025

05.03.2026