

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 05.05.2026

Pronounced on: 15.05.2026

Uploaded on: 15.05.2026

*Whether the operative part
or full judgment is
pronounced: **Full***

CM No.2203/2026

In

WP(C) No.850/2026

MOHAMMAD LATIEF DAR ...PETITIONER(S)/APPELLANT

*Through: - Mr. Tasaduq H. Khawaja, Sr. Advocate,
with Mr. Iman Ab. Muiz, Advocate.*

Vs.

UT OF J&K AND OTHERS ...RESPONDENT(S)

Through: - Mr. Faheem Nisar Shah, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) By this order, application of the petitioner seeking stay of operation of the impugned order bearing Government Order No.7-JK(Coop) of 2026 dated 15.04.2026, is proposed to be disposed of.

2) In the writ petition, while laying challenge to the aforesaid order issued by respondent No.1, the petitioner has averred that at present there is no Board of Directors of J&K Cooperative Bank (hereinafter "the respondent Bank"), in place as the nominated Board of Directors has

outlived its life and elections for constitution of the Board of Directors/Management in accordance with the provisions of the J&K Cooperative Societies Act, 1989, have not been held so far. It is the contention of the petitioner that in these circumstances, the Government of Union Territory of Jammu and Kashmir does not have authority or competence to issue any order with respect to the affairs of the respondent Bank including the appointment of Managing Director.

3) It has been submitted that the petitioner, who is a fulltime employee borne on the establishment of the respondent Bank, came to be appointed as Chief Executive Officer-cum-Managing Director of the respondent Bank vide order dated 01.04.2017. It has been further submitted that after taking over of the affairs of the respondent Bank by the nominated Board of Directors, the petitioner was attached to the office of Divisional Commissioner, Kashmir, and Additional Commissioner, Kashmir was appointed as Acting Managing Director in his place in terms of Order No.22-DIVK of 2020 dated 16.05.2020. An enquiry was conducted against the petitioner with regard to his role relating to alleged irregularities but nothing was established against him. Accordingly, the petitioner was

reinstated in the services of the respondent Bank vide order No.02 of 2021 dated 25.05.2021.

4) It has been contended that various attempts of respondent No.1 to re-constitute the nominated Board of Directors met with failure as one such attempt was quashed by this Court vide judgment dated 07.04.2023 passed in WP(C) No.174/2023. It has been submitted that, in order to overreach the orders of this Court, respondent No.1 issued order No.49-JK(Coop) of 2025 dated 14.10.2025, appointing one of its officers as interim Managing Director. The said action of respondent No.1 was challenged by the petitioner by way of a writ petition bearing WP(C) No.3065/2025 on the ground that the Government has no power to appoint the Managing Director. The said writ petition was allowed by this Court in terms of judgment dated 12.03.2026 and the order, whereby interim Managing Director was appointed by respondent No.1, was quashed. The said judgment is stated to have attained finality.

5) It has been contended that in defiance of the aforesaid judgment of this Court, respondent No.1 has again appointed an interim Managing Director of the respondent Bank in terms of impugned order dated 15.04.2026, which is beyond jurisdiction and competence of the said respondent. It has been contended that the action of CM No.2203/2026 in WP(C) No.850/2026

respondent No.1 is nothing but an attempt to overreach the judgment of this Court. According to the petitioner, it is only the General Body of members of the Cooperative Society which is vested with power to control the management of the Society because a Cooperative Society enjoys autonomy in its financial, administrative and functional matters. The, action of the Government to appoint interim Managing Director is destructive of the autonomous and democratic nature of the respondent Bank.

6) Respondent No.1 has filed a short affidavit in opposition to the application for grant of interim. In the said affidavit, it has been submitted that the respondent Bank is going through a critical phase of administrative and institutional uncertainty in the absence of a nominated or elected Board of Directors and in such circumstances of administrative vacuum, the position of the Managing Director becomes very significant and important for regulating day to day administrative, financial, operational and overall governance of the respondent Bank and in these circumstances, it was imperative and necessary for the Government in its supervisory capacity to ensure that a valid arrangement is put in place. With the aforesaid intention, the impugned order has been issued.

7) Regarding conduct of the petitioner, it has been submitted that after holding enquiry, it has been found that his activities have amounted to misconduct, dereliction of duty and, as such, he was not permitted to resume the full-fledged functions of Managing Director. Respondent No.1, in her affidavit, has referred to the enquiry reports held in respect of the functioning of the petitioner, which, according to her, document the malfunctioning of the petitioner.

8) It has been submitted that even in judgment dated 12.03.2026 passed by this Court in WP(C) No.3065/2025, whereby the Government Order No.49-JK(Coop) of 2025 dated 14.10.2025, was quashed, it was noted that reinstatement of the petitioner was neither absolute nor unconditional in nature and that the petitioner was permitted to discharge his functions only and solely subject to the conditions stipulated in reinstatement order dated 24.05.2021. It has been submitted that conditions attached to reinstatement order of the petitioner issued on 24.05.2021 are still in operation and, as such, the petitioner cannot be entrusted with any sensitive assignments and that he can be assigned only non-sensitive responsibilities. According to respondent No.1, the functions and powers of Managing Director, by its very

nature, are sensitive in nature, therefore, once the petitioner could not have been permitted to perform functions of sensitive nature, respondent No.1 had no option but to assign the charge of Managing Director to any other officer of the respondent Bank and it is in these circumstances that the Government, after undertaking a comprehensive and careful consideration of all relevant factors, deemed it necessary to issue impugned order dated 15.04.2026 in its supervisory capacity. Accordingly, Ms. Shabana Buch, who is a the senior most officer of the respondent Bank in its administrative hierarchy, has been assigned the additional charge of the Managing Director so as to ensure seamless continuation of the banking operations.

9) I have heard learned counsel for the parties and perused record of the case.

10) The main ground that has been urged learned Senior Counsel, appearing for the petitioner for challenging the impugned order, is that the Government has no authority or competence to appoint the Managing Director of the respondent Bank as the nominated Board has already outlived its life and at present there is no elected Board of Director of respondent Bank in place. It is the contention of the petitioner that it is only the General Body of members

of the Cooperative Society which is vested with the power to issue any order with regard to management of the Cooperative Society as is envisaged in Section 26 of the J&K Cooperative Societies Act.

11) It is an admitted fact that at present the J&K State Cooperative Bank is without any Board of Director, either nominated or elected. There is no dispute to the fact that attempts of the respondents to extend the life of the nominated Board of Director have met with rejection from this Court in terms of judgment dated 07.04.2023 passed in WP(C) No.174/2023, which was upheld by the Division Bench of this Court. The material on record shows that the petitioner was appointed as Managing Director of the respondent Bank on 01.04.2017 but he was removed in terms of Order No.22-DIVK of 2020 dated 16.05.2020 and was attached to the office of Divisional Commissioner, Kashmir. Thereafter vide Order No.02 of 2021 dated 21.05.2021, the nominated Board of Management reinstated the petitioner but with the condition that he shall not be assigned any sensitive responsibility. It was further provided that only certain non-sensitive specific portfolio as mentioned in the said order would be assigned to the petitioner. The aforesaid order is still in force and has not been modified.

12) The record shows that initially vide order dated 16.05.2022, the Divisional Commissioner, Kashmir, as an interim arrangement, appointed Shri Tasaduq Hussain, Additional Commissioner, Kashmir, as Managing Director of the respondent Bank in addition to his own duties. The said officer was, however, later on transferred and when the nominated Board of Directors ceased to exist, the Additional Commissioner, who joined in place of the earlier officer, was refrained by this Court from acting as Managing Director of the respondent Bank in terms of order dated 18.04.2025 passed in WP(C) No.832/2025 because there was no order from any authority in his favour to act as a Managing Director.

13) It seems that the election process of respondent Cooperative Society is embroiled in litigation and it has not been taken to its logical conclusion so far. The Government, in these circumstances, assigned the additional charge of interim Managing Director of the respondent Bank to one Ms. Ulfat Jabeen. The order issued in this regard came to be challenged by way of a writ petition bearing WP(C) No.3065/2025, which came to be allowed by this Court in terms of judgment dated 12.03.2026 and the appointment of Ms. Ulfat Jabeen made in terms of Order No.49-JK (Coop) of 2025 dated 14.10.2025 was quashed on the ground that

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the Government had no authority to appoint Managing Director of the respondent Bank. The aforesaid judgment has not been challenged by the respondent and the same has acquired finality.

14) Learned counsel for respondent No.1 has placed reliance upon the provisions contained in Section 32A of the J&K Cooperative Societies Act, to contend that the Government is vested with supervision and control of a Cooperative Credit Structure Society and in exercise of said power, it is well within its jurisdiction to make an interim arrangement for discharge of functions of Managing Director.

15) In order to test the merits of the argument raised by learned counsel for the respondents, it would be profitable to notice the provisions contained in Section 32A of J&K Cooperative Societies Act. It reads as under:

32A Autonomy in all financial and internal administrative matters.

Subject to the provisions of this Act, rules or bye-laws made thereunder or any other law for the time being in force and subject to overall supervision and control of the Government], a Co-operative Credit Structure Society shall have autonomy in all financial and internal administrative matters including the following areas :—

- (a) interest rates on deposits and loans; provided that in case of the State Co-operative Bank and a Central Co-operative Bank, the interest rates shall be in conformity with the guidelines issued by the Reserve Bank;*
- (b) borrowing and investments;*

- (c) *loan policies and individual loan decisions;*
- (d) *personnel policy, staffing, recruitment, posting and compensation to staff;*
- (e) *internal control systems, appointment of auditors and compensation for the audit*

16) From a perusal of the aforesaid provision, it, prima facie, appears that the Government holds overall supervision and control of a Cooperative Credit Structure Society. The provision further reinforces the fact that such Society shall have autonomy in all financial and internal administrative matters which would include personal policy, staffing, recruitment, posting and compensation to staff. However, the same has been made to subject to provisions of the Act, rules or bye-laws and subject to overall supervision and control of the Government

17) Learned Senior Counsel, appearing for the petitioner, has contended that under the garb of supervision and control, the Government cannot interfere in the autonomy in financial and internal administrative matters of the Cooperative Society which has been reinforced by the provisions contained in Section 32A quoted above. His contention is that it is only the General Body of members of the Cooperative Society which is the final authority in a Cooperative Society as envisaged in Section 26 of the J&K Cooperative Societies Act. He has further contended that the provisions of Section 32A of the Act was not pressed

into service by the respondents in the earlier round of litigation which ended in passing of judgment dated 12.03.2026 in WP(C) No.3065/2025, therefore, the respondents are precluded from raising this ground in the present round of litigation.

18) So far as the earlier round of litigation is concerned, from a perusal of judgment dated 12.03.2026 passed in WP(C) No.3065/2025, it is revealed that the Court has not taken note of the provisions contained in Section 32A of the J&K Cooperative Societies Act and it seems that none of the parties has brought the said provision to the notice of the Court. In these circumstances, when a judgment is passed by a Court in ignorance of a particular statute, it is definitely open to a Coordinate Bench of the Court to treat the said judgment as *per incuriam*. Since judgment dated 12.03.2026 has been passed by the Coordinate Bench of this Court without taking note of the provisions contained in Section 32A of the J&K Cooperative Societies Act, perhaps because the respondents in the said case have not brought it to the notice of the Court, the judgment passed by the Coordinate Bench appears to be *per incuriam* and does not form a binding precedent.

19) That takes us to the interpretation of the provisions contained in Section 32A of the J&K Cooperative Societies Act

Act, quoted above. Prima facie, it does appear that the Government is vested with jurisdiction of supervision and control over a Cooperative Credit Structure Society and in that capacity the Government has the power to make an interim arrangement for discharging the functions of a Managing Director of the respondent Bank, particularly when the petitioner, though reinstated as a Managing Director, has been refrained from discharging the functions of sensitive nature. In these circumstances, the Government, in exercise of its power of supervision and control, *prima facie*, was well within its jurisdiction to make an interim arrangement to take care of the sensitive functions that are to be discharged by a Managing Director.

20) It is to be noted that by virtue of the impugned order, respondent No.1 has not assigned additional charge to any person from the Government or any outside organization but the officer who has been assigned the additional charge is none other than a senior officer of the respondent Bank itself. So, respondent No.1, while issuing the impugned order, has attempted to avoid interference in the autonomy of the respondent Bank in the matters of staffing and posting. Instead of bringing an outsider to perform the functions of the Managing Director to take care of a situation where the petitioner cannot be assigned the

functions of sensitive nature, respondent No.1 has assigned such duties to an officer of the respondent Bank itself. *Prima facie*, there seems to be nothing wrong in the action of respondent No.1, as such, a case for staying the impugned order at this stage is not made out.

21) A larger issue with regard to interpretation of Section 32A of the J&K Cooperative Societies Act, however, does arise for consideration in this case. The said provision has to be read in consonance with the other provisions of the J&K Cooperative Societies Act. The extent of scope of power of supervision and control of the Government over a Cooperative Credit Structure Society is required to be considered and determined at the time of final disposal of this writ petition. Thus, an important question of law does arise in this writ petition for determination.

22) Accordingly, while **admitting** the main writ petition to hearing, the present application for grant of interim relief is dismissed. Anything said in this order shall not be taken as an expression of opinion on merits of the case.

23) In the main writ petition, post **admission** notice be issued to the respondents. Mr. Faheem Nissar Shah, GA, accepts notice on behalf of respondent No.1. Notice be issued to other respondents subject to taking of requisite

steps by the petitioner within a week's time. Counter affidavits shall be filed by the respondents by or before next date of hearing.

24) List on **23.07.2026**.

(Sanjay Dhar)
Judge

SRINAGAR

15.05.2026

"Bhat Altaf-Secretary"

Whether the **judgment** is reportable: **YES/NO**

