

WRIC No. - 7367 of 2026



2026:AHC:193099-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD**WRIT - C No. - 7367 of 2026**

Sachin Kumar Jain

.....Petitioner(s)

Versus

State of U.P. and 7 others

.....Respondent(s)

Counsel for Petitioner(s)	: Abhishek Misra
Counsel for Respondent(s)	: C.S.C., Devansh Misra, Mahesh Narayan Mishra, Satyam Singh

RESERVED**AFR****Court No. - 2**

HON'BLE J.J. MUNIR, J.
HON'BLE INDRAJEET SHUKLA, J.

(Delivered by Indrajeet Shukla, J)

1. Heard Mr. H.R.Misra, learned Senior Advocate, assisted by Mr. Pradeep Kumar Rai, learned counsel for the petitioner, Mr. Kartikeya Saran, learned Additional Advocate General assisted by Mr. Anubhav Chandra, learned Standing Counsel, appearing on behalf of respondent nos. 1 to 4 and Mr. Devansh Misra, Advocate, appearing along with Mr. Mahesh Narayan Mishra, learned counsel for respondent no. 5. No one appears on behalf of respondent nos. 6 to 8.

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2. The writ jurisdiction of this Court has been invoked by the petitioner seeking, inter alia, the following principal reliefs:

“I. Issue a writ, order or direction in the nature of mandamus commanding the respondent no.2 namely Commissioner/Registrar, Cooperative Societies and respondent no.3 namely Joint Commissioner/Joint Registrar, Cooperative Societies, Saharanpur Region Saharanpur to take immediate action against respondent no.6, Ramnath Singh, respondent no.7, Pankaj Pal and respondent no.8, Brijendra Singh, who became disqualified on account of the order passed by Joint Commissioner/Joint Registrar dividing their society and thus, they ceased to become a delegate/General Body Member of the District Cooperative Bank and became disqualified under Rule 453(1) (h) of the U.P. Cooperative Societies Rules, 1968.

II. Issue a writ, order or direction in the nature of mandamus restraining the respondent no.6, Ramnath Singh, respondent no.7, Pankaj Pal and respondent no.8 Brijendra Singh to function as member of the Committee of Management as they have incurred disqualification by virtue of 453(1) (h) of the Rules.

III. Issue a writ, order or direction in the nature of mandamus directing the Secretary/General Manager of the District Cooperative Bank, Muzaffarnagar, respondent no.5 not to permit the respondent no.6, 7 & 8 to participate in the meeting of the Committee of Management of the District Cooperative Bank, Muzaffarnagar as they incurred disqualification under Rule 453 (1) (h).”

3. The factual matrix, in brief, is being summarised hereinafter for the adjudication of the controversy in question:

3.(i). The petitioner, having been elected as a delegate from Budhana Sahkari Krey-Vikrey Evam Prakriyatmak Sahkari Samiti Limited, Budhana, Muzaffarnagar and being a member of the General Body of the District Cooperative Bank, Muzaffarnagar, has instituted this petition with the claim that the election for constituting the Board of Directors/Committee of Management of the District Cooperative Bank, Muzaffarnagar, was held on 20.06.2023 for electing the members of the Committee of Management and, thereafter, its Chairman, Vice-Chairman and delegates on 23.06.2023.

3.(ii). The 6th respondent/Ram Nath Singh, was elected as Chairman of the Committee of Management of the District Cooperative Bank,

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Muzaffarnagar, (for short, 'the Bank') 7th respondent/Pankaj Pal, was elected as a member of the Committee of Management, and 8th respondent/Brijendra Singh, was also elected as a member of the Committee of Management.

3.(iii). The 6th respondent, as the delegate of B-PACS (Bahu-Uddeshiye Prathmik Gramin Cooperative Samiti), Kheda Mastan, the 7th respondent as the delegate of B-PACS, Muzaffarnagar Paschimi and the 8th respondent as the delegate of B-PACS, Penana, became members of the General Body of the Bank. They, thus, contested the elections and were elected as members of the Committee of Management of the Bank. The 6th respondent, Ram Nath Singh, was subsequently elected as Chairman of the Committee of Management of the Bank.

3.(iv). It is not dispute that respondent no. 3, namely, the Assistant Commissioner/District Assistant Registrar, Cooperative Societies, District Muzaffarnagar, passed an order for division of the society, namely, B-PACS, Kheda Mastan, in the exercise of powers conferred under Section 126 read with the procedure prescribed under Section 16 of the U.P. Cooperative Societies Act, 1965 (hereinafter referred to as the 'Act, 1965'). The order of division dated 23.04.2025 passed by respondent no. 3 records that B-PACS, Kheda Mastan was divided into two societies, namely, B-PACS, Kheda Mastan and B-PACS, Koralsi. The area of operation assigned to B-PACS, Koralsi comprises the following villages: (i) Koralsi; (ii) Fatehpur Khedi; (iii) Bahalolalpur; (iv) Vigyana; and (v) Parasauli. The area of operation assigned to B-PACS, Kheda Mastan comprises the following villages: (i) Phugana; (ii) Kheda Mastan; (iii) Sarnavali; (iv) Sarai; (v) Raipur Athrena; (vi) Loi; (vii) Dungar; and (viii) Gadhmalpur Sagdi.

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3.(v) The statutory prescription enshrined in Section 126 of the Act, 1965 mandates that an order of division passed thereunder is necessarily required to be followed by the exercise contemplated under Section 16 of the Act, 1965.

3.(vi) Another order of division dated 29.03.2025 was passed by 3rd respondent, whereby five villages falling within the area of operation of B-PACS, Muzaffarnagar Paschimi viz: (i) Surju (ii) Bahalna (iii) Jarauda (iv) Nara (v) Azamtgarh Majra were taken away therefrom and added to newly constituted B-PACS Bahalna in which other Villages of Muzaffarnagar Purvi, Sanghli Sanghuali were also added.

3.(vii) Thus, the Cooperative Society B-PACS, Muzaffarnagar Paschimi operates in nine Villages namely: (1) Baman Hedi (2) Shahabuddinpur (3) Sherpur (4) Rampur (5) Bago Ali (6) Malira, (7) Memlana, (8) Sarwat Ghadhi (9) Muzaffarnagar West.

3.(viii) A similar order of division was passed by respondent no. 3 in respect of B-PACS, Pinna, whereby the villages of Langad Sandha, Dahedu Kalan, Dahedu Khurd, Nigalpur, Salempur, Khajapur and Rukunpur Madheda were excluded from its area of operation and included in the Cooperative Society described as B-PACS, Langad Sandha. Consequently, the area of operation of B-PACS, Penana came to comprise seven villages, namely: (i) Pinna; (ii) Kinauri; (iii) Khedi Doodhadhari; (iv) Jagadedi; (v) Narottampur; (vi) Khusropur; and (vii) Haibatpur.

4. At this juncture, it is expedient to note the statutory provisions vesting powers in the Registrar to divide a Cooperative Society by virtue of Section 126 of the Act, 1965, which necessarily follows the procedure prescribed under Section 16 of the Act, 1965. Section 126 of Act, 1965 reads: -

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“126. Power of Registrar to direct division of a co-operative society into two or more co-operative societies.

(1) Where in the opinion of the Registrar it is essential in public interest or in the interest of the co-operative movement, or desirable for the purpose of securing better management of a co-operative society that any co-operative society should be divided to form two or more societies, he may, notwithstanding anything to the contrary contained in this Act, after consulting the financing bank, if any, to which the society is indebted call upon such society by order in writing to divide itself into two or more societies with such constitutions, assets, liabilities, rights, duties and obligations as may be specified in the order, and thereupon the society shall take all such steps as may be necessary for that purpose in accordance with the provisions of Section 16.

(2) On the failure of the society to divide itself in accordance with the order passed under sub-section (1), the Registrar, [* *] [Omitted by U.P. Act No. 12 of 1976, vide Section 20 (9) (w.e.f. 3.10.1975.)] may, by order in writing, direct division of the society into two or more societies.*

(3) The direction of the Registrar under sub-section (2) shall be deemed to be a preliminary resolution of the society concerned for the purpose of Section 16, and the Registrar shall take such further steps as are required by that section.

(4) After the expiry of [thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub-section (2) of Section 15 or, as the case may be, from the date of its publication in a newspaper under clause (b) of that sub-section] [Substituted by U.P. Act No. 12 of 1976, vide Section 20 (b) (w.e.f. 3.10.1975).], the Registrar shall, from the funds of the society concerned repay, subject to provisions of Section 41, the share capital of all the members, and satisfy the claims of all the creditors who have given notice under clause (i) and clause (ii) respectively of sub-section (3) of Section 16, and thereafter register the new societies and the bye-laws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled.

(5) The registration of the new societies under sub-section (4) shall be deemed to be registration under Section 16 and the provisions of sub-section (7) of that section shall apply to them.

5. Section 16 of the Act, 1965, reads hereinbelow: -

“16. Division of co-operative societies.

(1) Any co-operative society may after duly informing the Registrar, at a general meeting called, for the purpose of which at least fifteen clear days' notice shall be given to its members, resolve to divide itself into two or

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more societies. The resolution hereinafter in this section referred to as the preliminary resolution shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operation and specify the members who will constitute each of the new societies.

(2) Notwithstanding any other provision of this Act or of any bye-law of such society notice of any meeting referred to in this section shall be given to the members of the society and a copy of the preliminary resolution shall be served on the members and creditors of the society in any one or more of the manners specified in sub-section (2) of Section 15, which shall mutatis mutandis apply.] [Substituted by U.P. Act No. 12 of 1976, vide Section 6 (w.e.f. 3-10-1975).

(3) (i) Any member of the society may, notwithstanding any bye-law to the contrary, by notice given to the society within the period of thirty days from the date of receipt of a copy of the preliminary resolution under clause (a) of sub-section (2) of Section 15 as applicable by virtue of sub-section (2) of this section, or as the case may be, from the date of its publication in a newspaper under clause (b) thereof, intimate his intention not to become a member of any of the new societies.

(ii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount outstanding to his credit.

(4) After the expiry of [the period referred to in clause (i) of sub-section (3)] [Substituted by U.P. Act No. 12 of 1976, vide Section 6 (w.e.f. 3-10-1975)] a general meeting of which at least fifteen clear days' notice shall be given to its members shall be convened for considering the preliminary resolution. If at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes, as in the opinion of the Registrar, which shall be final, are not material, he may, subject to the provisions of sub-sections (5) and (6) and Section 7 register the new societies and the bye-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled

(5) While confirming the preliminary resolution under sub-section (4), provisions shall be made by another resolution for-

(i) the repayment, subject to the provisions of Section 41, of the share capital of all the members who have given notice under clause (i) of sub-section (3) ; and

(ii) the satisfaction of the claims of all the creditors who have given notice under clause (ii) of sub-section (3).

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(6) If within such times as the Registrar considers reasonable, the share capital of the members, referred to in sub-section (5) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new societies.

(7) Notwithstanding anything in any other law for the time being in force, the registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (4)."

6. The admitted factual position emerging from the *inter se* pleadings is that the Registrar, Cooperative Societies, exercised the power of division under Section 126 of the Act, 1965. The only grievance of the parties is that certain anomalies have occurred in complying with the statutory mandate contained in Section 16 of the Act, 1965, which is the consequence and natural corollary of an order of division passed under Section 126 of the Act, 1965.

Submissions advanced by the petitioner

7. The petitioner had come with the case that on account of division of the original society, two new societies having independent juristic entities had come into existence, forsaking their original identity. Thus, they ought to be recognized as such strictly in terms of recognition required by the Act.

8. The petitioner claims that respondent nos.6 to 8 incurred disqualifications upon a conjoint reading of Rule 87 and Rule 453(1) (h) of the U.P. Cooperative Societies Rules, 1968 (hereinafter referred to as the 'Rules, 1968').

9. It is apposite to take note of Rule 87 of the Rules, 1968, which reads: -

"Rule – 87: A person who is already a delegate of a co-operative society shall cease to be such delegate, if

(i) he incurs any disqualification referred to in Rule 86; or

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- (ii) *he ceases to be a member of the society from which he is a delegate, or*
- (iii) *the society of which he is a delegate, ceases to be a member of the society in which the is represented; or*
- (iv) *he ceases to be a member of the society which was a member of such society by which he was elected as a delegate to another co-operative society; or*
- (v) *he ceases to hold the office by virtue of which he was a delegate of the society in terms of the bye-laws of the society; or*
- (vi) *the society of which he was delegate is wound up under Section 72; or*
- (vii) *he is withdrawn by the committee, administrator or administrators appointed by the Registrar under Section 35; or*
- (viii) *the society he represents is amalgamated with any other cooperative society or societies; or*
- (ix) *the society he represents is divided into two or more societies; or*
- (x) *he resigns his office as such delegate.*

10. The Rule 453(1)(h) of the Rules, 1968, reads hereinbelow: -

“Rule – 453.

(133) (1) No person shall be eligible to be or to continue as a member of the Committee of Management of any co-operative Society if

- (a) *he is under 21 years of age;*
- (b) *he is declared insolvent;*
- (c) *he is of unsound mind, or is deaf and dumb, or blind or suffers from leprosy;*
- (d) *he has been convicted for any offence involving, in the opinion of the Registrar, moral turpitude, such conviction not having been set aside in appeal;*
- (e) *he, or in the opinion of the Registrar, member of his family enters into or carries on, without the permission of the Registrar, within the area of operation of the society, the same kind of business as done by the society itself;*
- (f) *he enters into any transaction of contract with the society against the provisions of the Act or the bye-laws of the society;*
- (g) *he accepts or holds any office of profit under the society or under any society affiliated to such society:*

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Provided that his restriction shall not apply in case of such producers or workmen's society as have been permitted by the State Government to provide in their bye-laws for participation of employees in the management of the society;

(h) he is not a member of the general body of the society;

(i) he has been convicted of any offence under the Act or the rules, unless a period of three years has elapsed from the date of conviction;

(j) he is person against whom an order under Section 91 has been obtained by a co-operative society and is pending satisfaction;

(k) he is in default (at least for a period of six months), to the society in respect of any loans taken by him, he is a judgment-debtor of the society;

(l) if he is already a member of the Committee of Management of three co-operative societies i.e. one primary, one central and one apex societies at a time, but still he shall be entitled to contest for the membership of the Committee of Management of more than three co-operative societies. In case of the election to the Committee of Management of more than three societies as specified above, he shall have to resign from the Committee of Management of such society or societies within one month so that he may not remain member of the Committee of Management of more than three societies. In case he fails to resign within the specified period then at the expiration of such period he shall be deemed to have resigned from all except one apex society and one central society and primary society, to which he has been elected last;

(m) he has been dismissed for practicing fraud or for bad or dishonest conduct from Government service or from service of a co-operative societies or of a body corporate, such order of dismissal not having been set aside in appeal;

(n) he joined in the application for the registration of or was a member of the Committee of Management of a co-operative society which was subsequently wound up by Registrar under clause (a) of sub-section (2) of Section 72 on the ground that the registration of the society was obtained by fraud, such order of the Registrar not having been reserved in appeal;

(o) he is otherwise disqualified under any of the provisions of the Act or the rules or bye-laws of the society".

(2) A member of the committee of management of a co-operative society who absents himself from three consecutive meetings of the committee of management without reasonable cause shall not be entitled to continue as a member of the committee of management.

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- (3) *The provisions of sub-rule (2) shall not apply to a nominated or an ex officio member of the committee of management of a co-operative society.*
- (4) *Any person who has contested for election to the membership of the committee of the management of a co-operative society, but has lost such election, shall not be eligible to become such member by co-option or nomination.*
- (5) *The disqualifications laid down under sub-rule (1) shall apply subject to the following conditions*
 - (i) *the disqualification laid down in clause (h) shall not apply to a nominated or an ex officio member of the committee of management or to such co-opted member of the committee of management for whose co-option membership of the general body was not a condition under the bye-laws of the society;*
 - (ii) *the disqualification laid down in clause (d) or clause (m) shall cease to operate on the expiry of five years after the payment of fine under the conviction or after he has served out the sentence under the conviction or after the order of dismissal , as the case may be;*
 - (iii) *the disqualification laid down in clause (1) shall not apply to a Government servant nominated on the committee of management of a co-operative society under Section 34.*

11. The case of petitioner is, that the Bank, was made aware of the legal position that, on account of division of B-PACS, Kheda Mastan, B-PACS, Muzaffarnagar Paschimi and B-PACS, Penana under Section 126 of the Act, 1965, respondent nos. 6 to 8 became disqualified in view of conjoint reading of Rule 87 (ix) and Rules 453(1)(h) of the Rules, 1968.

12. The further pleaded case of the petitioner is, that the Commissioner/Registrar, Cooperative Societies, U.P., Lucknow, was also represented bringing to his notice the inherent disqualification incurred by the private respondents, with a further request that they should be restrained from functioning as members of the Committee of Management of the Bank, but the same went in vain.

13. The precise submission advanced by Learned counsel for the petitioner is, that on a conjoint reading of Section 4 and Section 126 of

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the Act, 1965 read with Rule 87(ix) and Rule 453(1)(h) of the Rules, 1968, a Cooperative Society is not merely expected, but statutorily required to, function in a democratic manner. Thus, once elected delegates cease to be delegates on account of the division of a society, whereby the parent societies lose their character and juristic entity for all practical purposes, as a consequence of such division they incur the disqualification to continue as delegates of the societies, from which they had originally been elected.

14. The further submission is that the Bank failed to discharge its statutory duty to remove the delegates and members of the Committee of Management who had incurred disqualification by operation of the statutory provisions referred to hereinabove. It is submitted that, having failed to discharge its statutory and legal obligations, the Bank has permitted respondent nos. 6 to 8 to continue as delegates and to interfere with the functioning of the Committee of Management of the Bank, which is not a healthy affair for a democratic institution.

15. Learned counsel for the petitioner has strenuously submitted that the Registrar/Commissioner of Cooperative Societies, U.P., Lucknow, also failed to take any action against the disqualified delegates despite being apprised of the disqualification occasioned by the division of the society. It is submitted that, upon division of a Cooperative Society, the original society ceases to retain its erstwhile character and existence, including its area of operation, liabilities and assets, and two distinct societies come into existence pursuant to such division. Such division having been effected by respondent no. 3 in exercise of the powers conferred under Section 126 of the Act, 1965, it was necessarily required to be followed by the procedure prescribed under Section 16 of the Act, 1965.

16. Respondent nos. 6 to 8 ceased to be delegates of the respective Cooperative Societies from which they had been elected, as the

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original Cooperative Societies themselves ceased to exist in their erstwhile form upon the orders of division, with the natural corollary that their status as delegates also came to an end. Consequently, the private respondents cannot escape the inherent disqualification incurred by them by virtue of Rule 87(ix) read with Rule 453(1)(h) of the Rules, 1968.

17. Learned Senior Counsel urged with vehemence that the Bank as well as Commissioner/Registrar-respondent no.2, admittedly failed to discharge their statutory duties by restraining respondent nos.6 to 8 from continuing to function as members of the Committee of Management of the Bank.

18. Learned Senior Counsel further submitted that a delegate who ceased to be a member of the General Body cannot continue to function as a member of the Committee of Management, for, once the foundation is removed, the superstructure must necessarily fall. The principle is aptly captured by the Latin maxim, *sublato fundamento, cadit opus* (if the foundation collapse the superstructure is bound to fall) Thus, upon respondent nos. 6 to 8 ceasing to be members of the General Body, they could not legally continue to function as members of the Committee of Management.

Submissions Advanced on Behalf of the State

19. On the other hand, learned counsel for the State submitted that the division of Cooperative Societies was undertaken pursuant to the implementation of the scheme launched by the Government of India, titled as “*Sehkar Se Samriddhi*”, with the object of constituting a larger number of Cooperative Societies. In furtherance of the said scheme, the Government of Uttar Pradesh resolved to constitute new Cooperative Societies, and accordingly, the societies in question were

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divided by the Registrar in exercise of the powers conferred under Section 126 of the Act, 1965.

20. The further submission is that merely taking a few villages from pre-existing Cooperative Societies and including them within the area of operation of newly constituted Cooperative Societies, while retaining the registration numbers of the original Cooperative Societies, would not result in any change in the character or juristic identity of the existing societies. It was submitted that the original Cooperative Societies continue to exist with their respective registration numbers and, therefore, cannot, in law, be treated as having been divided.

21. The facts are not much disputed between the parties, as the division of the Society by virtue of passing orders under Section 126 of the Act, 1965 is evident from the orders impugned therein. Thus, necessary consequential procedure is inevitable to be followed by operation of law as mandated under Section 16 of the Act, 1965. Thus, the original Cooperative Societies of which the private respondents were members continued to retain their respective identities, including their names and registration numbers and the original three societies, namely, B-PACS, Kheda Mastan, B-PACS, Pashchim and B-PACS, penana, are still existing. It just that some Village Panchayats were excluded from aforesaid Society and added to the newly constituted society, namely, B-PACS, Koralsi.

22. The further contention advanced by learned counsel for the State respondents is, that the delegates of the aforesaid original Cooperative Societies continue to hold their respective positions and, consequently, respondent no. 6 continues to remain a member of the General Body of the respondent Bank.

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23. The next contention advanced by learned counsel for the State respondents is, that similarly in the case of B-PACS, Muzaffarnagar Paschimi, where five Villages have been excluded and added to a new society, namely, B-PACS Bahlana does not mean that the original Cooperative Society has ceased to exist; rather, the name and original registration number have been retained by the original society. Therefore, it cannot be inferred under the law that the original Society has lost its character and entity. The exclusion alone of a few villages would not lead to a conclusion that the original Cooperative Society has ceased to exist in any manner. The exclusion of villages from a original Society and adding them to a new Society could not be regarded as annihilation of the original Society.

24. In view of the aforesaid factual position, the disqualification contemplated under Rule 87(ix) read with Rule 453(1)(h) of the Rules, 1968, is not attracted in the facts of the present case.

25. In order to bolster the submissions advanced on behalf of the State, the learned Additional Advocate General invited our attention to the supplementary counter affidavit filed on 18.08.2026, by emphasizing that several changes were mandated at the grass-root level to the Cooperative Societies in order to implement the schemes launched by the Ministry of Cooperation, Government of India, New Delhi.

26. The exercise of establishing new Cooperative Societies by excluding certain areas of operation from the erstwhile Cooperative Societies was undertaken with a view to establishing two lakh new multipurpose PACS, dairy and fishery Cooperative Societies, so as to cover all Panchayats and villages.

27. The exclusion of area of operation i.e., Villages from erstwhile Societies and addition of same to the newly constituted Cooperative

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Societies would definitely lead to the constitution of a new Cooperative Society, but would not cause the existing society to vanish out of the existence. As such, the Assistant Registrar, Cooperative/respondent no.3 while passing the order of division under Section 126 of the Act, 1965, has saved the entity and identity of the erstwhile Cooperative Societies and it cannot be said that the two Cooperative Societies had come into existence by excluding area from one Cooperative Society and adding it to the another Cooperative Society.

28. The learned Additional Advocate General, Mr. Saran, invited our attention to the Standard Chartered Procedure enumerated in the letter dated 14.10.2024, by which the Commissioner/Registrar (Cooperative), Uttar Pradesh, issued directions to all his subordinate officials for constitution of new B-PACS in every district. It has been followed by the Joint Commissioner/Joint Registrar (Cooperative) by directing all the concerned Assistant Commissioners/Assistant Registrars (Cooperative) in District Muzaffarnagar for incorporation of new multipurpose PACS.

29. The Commissioner/Registrar (Cooperative), Uttar Pradesh, by means of his letter dated 14.10.2024, prescribed a schedule for completion of the registration process of the newly constituted multipurpose PACS.

30. Adopting the same line of argument as advanced by the learned Additional Advocate General, learned counsel for the respondent-Bank, Mr. Devansh Mishra, submitted that the division of a Cooperative Society takes effect only upon allotment of a fresh registration number to the newly constituted societies in terms of Section 7 of the Act, 1965.

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31. He further submits that in the present case, the orders dated 23.04.2025 and 29.03.2025 passed by 3rd respondent do not satisfy the statutory requirement contemplated under Section 16(iv) of the Act, 1965, as no fresh registration has been allotted to the pre-existing Cooperative Societies, whereas the new registration number has been allotted to newly constituted Societies as mandated under Section 7 of the Act, 1965.

32. Learned Counsel for the Bank further submits that the division of a Society, as alleged by the petitioner, cannot be termed *stricto sensu*, to have the effect of formation of a new Society but the division of Societies by retaining the erstwhile registration numbers of pre-existing Cooperative Societies would lead to not alteration of the character of such existing societies.

33. Further thrust is laid on the submission that the erstwhile Cooperative Societies are still retaining their original registration numbers and identity, and thus, it cannot be said that they have been subjected to the rigor of Section 16 of the Act, 1965. Consequently, Rule 87 (ix) and Rule 453(1)(h) of the Rules, 1968 are alien to the scheme of things here, as the original Society is still existing with the name and the original registration number and a meager area of operation alone i.e. few Villages have been added to the newly formed Society by giving juristic identity to it. Thus, what remains unaltered is the identity of the original Societies, including their names and registration numbers.

34. Mr. Mishra has invited our attention to the statutory mandate contained under Section 7 read with Section 16 (iv) of the Act, 1965, by pointing out that upon division of a Cooperative Society, both the resultant Societies need to be registered afresh, as mandated by Section 7 of the Act, 1965 but in the present case the pre-existing Society has

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not been registered afresh and its old registration number continues to remain intact.

35. He further submitted that in such circumstances, the disqualification as stipulated under Rule 87 of the Rules, 1968, for cessation of delegation of a member cannot be said to be applicable at all.

36. Mr. Mishra emphasizes that the private respondents are still member of the General Body of the respective Societies. As such their status as delegates has not, as yet, come to an end.

37. The cessation contemplated under Rule 87(ix) read with Rule 453(1)(h) of the Rules, 1968, cannot be said to be the natural consequence of the impugned orders, as the erstwhile Cooperative Societies have not lost their original identity.

38. Mr. Mishra has lastly placed emphasis on Rule 89 of the Rules, 1968, which stipulates that an elected member shall continue to hold office until a new delegate is elected in his place.

Conclusion/Analysis

39. Before we consider the respective cases of parties on the touchstone of the statutory requirements under Section 126 read with Section 16 of the Act, 1965, we notice that the Joint Commissioner and Joint Registrar, Cooperative, U.P. Saharanpur Region, Saharanpur, passed an order of division of three Cooperative Societies viz Primary Agricultural Cooperative Credit Societies (PACCS) viz B-PACCS, Kheda Mastan, B-PACCS Muzaffarnagar Paschimi and B-PACCS Penana ,by diminishing their areas for the formation of new Primary Agriculture Cooperative Societies. The New Agricultural Cooperative Societies were allotted fresh registration number but the pre-existing societies have been left to retain their erstwhile registration numbers,

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though by slashing the area of operation their assets, liabilities, and rights etc. stand changed.

40. The subject of cooperative societies finds place at Entry 32 of List II (State List) of the Seventh Schedule to the Constitution of India. The Cooperative Societies have been conferred constitutional status through the 97th Constitutional amendment in 2011 and by the said amendment the expression “cooperative societies” was incorporated in Article 19(1)(c) of the Constitution, thereby recognizing the right to form cooperative societies as a fundamental right. The Amendment further introduced Part IXB of the Constitution, comprising Articles 243ZH to 243ZT, which lays down the constitutional framework governing cooperative societies, including provisions relating to their incorporation, regulation, functioning, elections to the board, and management.

41. Section 7 of the Act, 1965 deals with the registration of those Cooperative Societies, which fulfill the objects enshrined under Section 4 of the Act, 1965. Section 8, in turn, provides for the issuance of a certificate of registration. On account of division, two new societies are bound to be born. Thus, they would certainly have to be separately registered and new registration numbers allotted to each of them. But even if the Registrar decides to permit retention of the old number and name to the pre-existing society after allowing a division to take place, such retention of number, which is not more than a ministerial exercise would not alter the character of the newly formed societies, which have come into existence on account of the division and the pre-existing societies with change of assets and liabilities, would be a new bodies corporate and the retention of their erstwhile name or registration number is insignificant being only a ministerial matter. Substantially, the pre-existing societies too would become new

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bodies with a new juristic identity, different from the one before the division.

42. Section 9 of the Act, 1965 confers upon a cooperative society the status of a body corporate in the name and the number under which it is registered. The provision further clothes such society with perpetual succession and a common seal, and confers upon it, the capacity to acquire and hold property, enter into contracts, institute and defend suits and other legal proceedings, and do all such acts and things as may be necessary for achieving the purposes for which it has been constituted. Thus, the registration of a cooperative society is not a mere formality; it gives the society a distinct juristic personality and corporate identity in law, identifiable by the name and registration number under which it is registered.

43. The statutory mandate contained in Section 126 of the Act, 1965 provides that where the Registrar is of opinion that it is essential in the public interest, or in the interest of the cooperative movement, or desirable for the purpose of securing better management of a cooperative society, he may proceed with directing the division of an existing society into two or more societies by calling upon the society to effect such division, specifying such constitutions, assets, liabilities, rights, duties and obligations as indicated in the order. Upon the passing such an order by the Registrar it is the society that has to take all such steps as may be necessary for division as contemplated under Section 16 of the Act, which is a sequel to the order passed under Section 126 of the Act, 1965.

44. The statutory mandate contained in Section 126(2) of the Act, 1965 empowers the Registrar to pass an order dividing a cooperative society into two or more societies where the society itself fails to give effect to, or carry out, the division contemplated by an order passed

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under sub-section (1). Thus, Section 126(2) confers statutory authority upon the Registrar to effectuate the division himself, when the society fails to take the necessary steps pursuant to the order passed under Section 126(1).

45. The statutory scheme recognizes an order passed by the Registrar under Section 126 (2) of the Act, 1965 as the preliminary resolution of the society concerned for the purposes of Section 16 and the Registrar is obliged to take such further steps as are required in terms of the statutory mandate carried in Section 16 for the purposes of division. Thus, inevitably proceedings under Section 16 of the Act are to follow as a statutory mandate being a consequence of the order passed under Section 126 of the Act.

46. On the registration of new societies, resulting from the division, the old registration number shall be deemed to have been cancelled but if the Registrar who has to register new societies retains the original number and the name of a pre-existing society, it cannot be presumed under law that division of the society had not taken place as any order passed under Section 126 of the Act, would not be more than a preliminary resolution if necessary consequences contemplated under Section 16 of the Act, 1965 are not allowed to be follow. No order under Section 126 is complete unless it followed by statutory consequences carried under Section 16 of the Act, 1965.

47. Section 126 (5) of the Act, 1965 provides that the registration of a new society under Sub-Section (4) shall be deemed to be registration under Section 16, and the provisions of subsection (7) of the Section 16 shall apply to them. The requirement of aforesaid statutory provision can only be read in the manner that a pre-existing society with its old number and name having lost a part of its area of operation by changing the liabilities and assets would be a new number for all

intents and purposes as mandated by Section 16 of the Act, particularly in view of Section 16(7).

48. Thus, an order passed under Section 126 of the Act, 1965 can attain its logical and statutory conclusion only upon completion of the exercise contemplated under Section 16 and acceptance and implementation of the division in accordance with law. Once the division has been effectuated and the constitution, area of operation, assets, liabilities, rights and obligations of the pre-existing society have undergone corresponding alteration, the mere retention of its erstwhile name and registration number cannot undo or nullify the legal consequences of such division. For all intents and legal purposes, the society bearing the retained name and registration number has to be treated as the society resulting from the division, in terms of the statutory scheme contained in Section 16, including sub-sections (5) and (7), of the Act, 1965.

49. Section 126 of the Act, 1965 acts as a trigger but the statutory procedure of division gets completed once requirements contemplated under Section 16 of the Act are fulfilled. The Registrar's power under Section 126 is neither absolute nor unfettered, and therefore, the Registrar must still channel the entire process through the procedural framework laid down in Section 16 by strict adherence to it.

50. The Act, 1965 is a complete code. The proceedings initiated under Section 126 of the Act is necessarily and mandatorily to be followed by its consequential proceedings enumerated under Section 16 of the Act, which brings about a change in the liabilities and assets with further specification of the prescribed area of operation and specification of members, who will constitute each of the new societies. No member of the pre-existing societies have had opposed the slashing of area of operation from the pre-existing societies by

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intimating his intention and the consequential exercise in terms of Section 16 (3) (4) and (7) of the Act, 1965 does not appear to be defeated, except the raising of a technical plea about the retention of name and old number of the pre-existing societies. Such retention, by itself, cannot defeat the substantive statutory consequences flowing from the order of division or nullify the exercise undertaken under Section 16 of the Act, 1965.

51. Having considered the rival arguments and the undisputed facts borne out from the record it comes out that the constitutions of the pre-existing societies due to a slashing of the area of their operation would necessarily change, leading to a further change in their assets, liabilities, rights, duties and obligations. Thus, the juristic entity of pre-existing Cooperative Societies would stand altered and the pre-existing societies in the new form would be altogether different bodies corporate by virtue of Section 9 of the Act, 1965. Thus, what assumes significance is not merely the label attached to the society, namely, its registration number or nomenclature, but the substantive character and legal identity resulting from the statutory process of division.

52. Thus, what can be inferred from the arguments advanced by Learned counsel for the parties is, that the 3rd respondent while passing the order of division in exercise of the power conferred under Section 126 of the Act, 1965, devised a novel method of maintaining the name and registration number of the erstwhile Societies so as to overcome the inevitable legal consequences of division in a devious manner. But, as already remarked if an area of operation of a society were changed the very character of the erstwhile Society would automatically change, with a change in its liability and assets, and the original society would not retain its pre-existing character in law.

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53. No doubt the registration of a Cooperative Society is a statutory act conferring an area of operation on the society and a division of the Society would only be effective, if the erstwhile registration of an existing Society is canceled, and in process of division two societies would take birth having different identities, area of operation with their independent liabilities and assets etc. Only by retaining the name and registration number (for the name sake), the character and identity of the original society would not remain intact.

54. The procedure enumerated under Section 16 of the Act, 1965 is the natural corollary of an order of division passed under Section 126 of the Act, 1965. Even the registration of the pre-existing Society would not remain intact (though it may be maintained with the same registration number).

55. The exercise initiated by virtue of Section 126 of the Act, 1965 in the shape of preliminary resolution of division would only reach its logical end, if the statutory requirements contained under Section 16 on account of division of the Society are fulfilled and not otherwise. The proceedings under Section 126 are integral and complementary parts of exercise required to be carried out by the statutory mandate of Section 16 of the Act, 1965. Thus, it cannot be the inference in law that, by means of the order passed by the 3rd respondent for dividing the Societies the preliminary resolution had come into being but the new societies created in consequence from the pre-existing societies would come into existence without a division of the pre-existing societies as the area of operation had admittedly been taken out these last mentioned societies. The contention based upon retention of the name and registration number of pre-existing societies despite losing area of operation would not change the juristic character of pre-existing societies is flawed and fallacious. Thus, we repel the respondent's contention that the pre-existing societies, despite losing

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area of operation would not stand divided and the pre-requisites of Section 16 of the Act, 1965 would not be followed as a consequence.

56. It is trite law that where the law prescribes a procedure for doing a thing, the thing has to be done in that manner alone and other ways are necessarily forbidden. In the instant case, the exercise under Section 16 is necessarily to be followed as a consequence of the order passed under Section 126 of the Act, 1965. This principle has been echoing the horizon of jurisprudence since a very long time, not only in this country but virtually in the whole world, wherever there is an establishment managed under a Constitution having an independent judiciary. As far back as in the year 1936 in the case of **Nazir Ahmad Vs. King Emperor, AIR 1936 Privy Council 253**, the Privy Council had held that a thing required to be done in a particular way has to be done in that way and the other ways are forbidden. This principle consistently has been accepted and adopted by the Indian Courts including the Supreme Court in a catena of decisions, such as, **State of U.P. Vs. Singara Singh, AIR 1964 SC 358** and **Prabha Shanker Dubey Vs. State of M.P, (2004) 2 SCC 56**.

57. A larger Bench of the Supreme Court comprising of three Hon'ble Judges, in the case of **Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. & others, (2003) 2 SCC 111**, has held that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner. In **Bhavnagar University (supra)**, the held:

"It is well settled that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authority while acting under the said Act are only creator of Statute. They must act within the four-corners thereof."

58. The precedents of constitutional Courts are consistent in this regard. (*see: Taylor Vs. Taylor, (1876) 1 Ch.D.426; Nazir Ahmad Vs. King Emperor, AIR 1936 PC 253; Deep Chand Vs. State of*

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Rajasthan, AIR 1961 SC 1527; Patna Improvement Trust Vs. Smt. Lakshmi Devi, AIR 1963 SC 1077; State of Uttar Pradesh Vs. Singhara Singh & Ors., AIR 1964 SC 358; Nika Ram Vs. State of Himachal Pradesh, AIR 1972 SC 2077; Ramchandra Keshav Adke Vs. Govind Joti Chavare & Ors., AIR 1975 SC 915; Chettiam Veettill Ammad Vs. Taluk Land Board & ors., AIR 1979 SC 1573; State of Bihar Vs. J.A.C. Saldanna, AIR 1980 SC 327; A.K. Roy & Anr. Vs. State of Punjab & Ors, (1986) 4 SCC 326; State of Mizoram Vs. Biakchhawna, (1995) 1 SCC 156; J.N.Ganatra Vs. Morvi Municipality Morvi, AIR 1996 SC 2520; Babu Verghese & ors. Vs. Bar Council of Kerala & ors., (1999) 3 SCC 422 and Chandra Kishore Jha Vs. Mahavir Prasad, JT, (1999) 8 SCC 266.

59. In **Commissioner of Income Tax, Mumbai v. Anjum M.H. Ghaswala, (2001) 1 SCC 633**, a Constitution Bench of the Supreme Court reiterated the above principle, observing:

“It is a normal rule of construction that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself.”

60. The retention of the erstwhile registration number and name of the pre-existing society, particularly when no person came forward to claim or object to such name and number, cannot, by itself, preserve or perpetuate the original juristic identity of the pre-existing society.

61. In view of the division of the erstwhile Primary Agricultural Cooperative Credit Societies (PACCS), viz B-PACCS, Kheda Mastan, B-PACCS Muzaffarnagar Paschimi and B-PACCS Pennana, having taken place and registration numbers to the newly constituted Societies having been allotted, but the area of operation of both sets of Societies now distinct, the erstwhile Societies would be treated to be reincorporated as new, distinct and different from the former societies, despite retention of the original name and registration number. The

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original Societies for all intents and purposes would be new Societies and the consequence of division through preliminary resolution by virtue of Section 126 of the Act, 1965 would follow, to with, the necessary consequences in terms of Section 16 of the Act, 1965.

62. The division of the Societies having been recognized through the statutory mechanism contained under Section 126 followed by Section 16 of the Act, 1965 would lead to the conclusion that now the erstwhile/original Societies no longer exist in their pre-existing form.

63. The order of division purported to have been passed in exercise of power under Section 126 read with procedure laid down under Section 16 of the Act, 1965, by the registrar is not under challenge before us. Thus, we refrain from disturbing the arrangement made by the registrar in maintaining the name and registration number of the pre-existing primary agricultural cooperative societies on the technical aspect of allotment of new number and names as a requirement under Section 16 of the Act. Thus, taking a holistic view of the matter old numbers shall be treated to be numbers allotted in exercise of powers and following the procedure contained under Section 16 of the Act to all as a result of division, the newly created societies.

64. Rule 87(ix) of the Rules, 1968 mandates that a delegate of a cooperative society shall cease to be such delegate if the society which he represents is divided into two or more societies. In the present case, the parties are *ad idem* that the division of the pre-existing society had taken place pursuant to the order passed under Section 126 of the Act, 1965. Once such division has taken place, the consequential exercise contemplated under Section 16 of the Act necessarily follows as a matter of statutory consequence. Consequently, upon the division of the society, the mandate contained in Rule 87(ix) operates by force of law, and respondent nos. 6 to 8 cease to be delegates of the pre-existing society.

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65. Rule 453(1)(h) of the Rules, 1968 contemplates that a member of the Committee of Management cannot continue in office if he ceases to be a member of the general body of the society. Once respondent nos. 6 to 8 have ceased to be delegates representing the general body of the pre-existing society by operation of Rule 87(ix), they can no longer claim to continue as members of the general body of the Bank in such representative capacity. Consequently, the condition prescribed under Rule 453(1)(h) stands attracted, and respondent nos. 6 to 8 cannot be permitted to continue as members of the Committee of Management of the Bank.

66. Thus, in law, the registration of the pre-existing societies would stand cancelled as a consequence of the statutory division, notwithstanding the fact that, for want of any challenge to that aspect, the retention of their erstwhile names and registration numbers is not being disturbed. The necessary consequence thereof, in terms of Rule 87(ix) read with Rule 453(1)(h) of the Rules, 1968, is that the erstwhile delegates cease, by operation of law, to hold the office of delegate representing the pre-existing society. Once respondent no. 6 ceases to hold the position of delegate, he cannot continue to occupy or exercise the office of Chairman, which is founded and dependent upon his status as such delegate. Consequently, respondent no. 6 cannot be permitted to continue as Chairman upon cessation of his status as delegate.

67. The writ petition is **allowed**. No order as to costs.

(Indrajeet Shukla,J.) (J.J. Munir,J.)

September 7, 2026
S.P.