



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 2310 of 2024

Bhabani Prasad Majhi

.....

Appellant

Mr. P.K. Rath, Senior Advocate
with Mr. Saibrata Rath, Advocate

-versus-

State of Odisha & Others

.....

Respondents

Ms. Suman Pattnaik, A.G.A.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MISS JUSTICE SAVITRI RATHO

ORDER


02.12.2024

Order No.

01.

This matter is taken up through hybrid Mode.

2. List this matter on 10.12.2024 along with W.A. No. 2743 of 2023.


(Chakradhari Sharan Singh)
Chief Justice


(Savitri Ratho)
Judge

Sukanta

D-WA/35491/2024
IN THE HIGH COURT OF ORISSA

Case No. **WA-2310/2024**

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent

IN THE HIGH COURT OF ORISSA

Case No. - WA / 2310 / 2024

OFFICE NOTES

Sl. No. of Order for Compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
0	2024-11-12	<p>For Fresh Admission</p> <p>i) I.A. No.- 6114/24 is at flag 'A' for stay.</p> <p>Along with WPC- 6981/22 (Disposed of case).</p> <p>D.B.</p> <p>Vide memo</p> <p>(WRIT APPEAL Seat: 1, Date & Time: 2024-11-12 12:20:44.603013)</p>
0	2024-11-29	<p>For Fresh Admission</p> <p>i) I.A. No.- 6114/24 is at flag 'A' for stay.</p> <p>Along with WPC- 6981/22 (Disposed of case).</p> <p>D.B.</p> <p>Vide C/S to- 02.12.24.</p> <p>(WRIT APPEAL Seat: 1, Date & Time: 2024-11-29 11:41:57.041103)</p>
1	2024-12-02	<p>For Fresh Admission</p> <p>i) I.A. No.- 6114/24 is at flag 'A' for stay.</p> <p>WPC- 6981/22 a disposed of case & WA- 2743/23 a pending case with its separate note for reference.</p> <p>Adjourn to- 10.12.24.</p>

D.B.

(WRIT APPEAL Seat: 1, Date & Time: 2024-12-07 15:37:05.443848)

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ORISSA HIGH COURT
FILING ACKNOWLEDGEMENT SLIP

CNR	ODHC010602472024
Filing No	D- WA/0035491/2024
Date and Time	14/08/2024-10:36:30
Case No	WA/2310/2024
Registration Date and Time	17/08/2024
Misc Case/IA	6114/2024
Petitioner Name	BHABANI PRASAD MAJHI
Petitioner Advocate Name	SAIBRATA RATH
Respondents Name	STATE OF ODISHA
Respondents Advocate	
Amount	
Police Station	
FIR	-



Saturday 17th of August 2024 10:39:31 AM



ORISSA HIGH COURT
FILING ACKNOWLEDGEMENT SLIP

CNR	ODHC010602472024
Filing No	D- WA/0035491/2024
Date and Time	14/08/2024-16:04:16
Case No	-----
Registration Date and Time	-----
Misc Case/IA	6114/2024
Petitioner Name	BHABANI PRASAD MAJHI
Petitioner Advocate Name	SAIBRATA RATH
Respondents Name	STATE OF ODISHA
Respondents Advocate	
Amount	
Police Station	
FIR	-



Wednesday 14th of August 2024 04:09:23 PM

STAMP REPORT

Case No.- D-WA / 35491 / 2024

LIMITATION

Date of Judgement Awards : 2024-07-16

Date of Valid Presentation : 2024-08-14

Total period Occupied : 29 day

Limitation : 30 day

Certified Copy Period : 02 day

Delay in filing : Nill day

1. In time : Yes Expired on

2. Period of Delay : Nill

3. Court Fee : Rs.12/-Paid.

4. Authentication fee due on the

(a) Copy of Trial Court Judgement

Rs : x Decree Rs :x

(b) Appellate Court Judgement Rs : 3/-paid.

Decree Rs : x

5. (a) Copy of Trial Court Judgement / Order : x

(b) Appellate Court /Revisional Order Judgement : C copy of order filed.

(c) Second Copy Petition :

(d) Receipt showing copy on A.G. : Yes

(e) Vakalatnama properly stamped,
Executed and accepted : Yes

6. (a) Cause Title :

(b) Provisional of Law :

7. Code :

8. Single Judge / Division Bench Case : Division

9. Other Defects :

10. Roster : Writ Appeals (WA) from 2020 onwards.

STAMP REPORTER

(Bikram Sethy, Date & Time: 2024-08-16 05:00:12pm)
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D-WA/35491/24

mob-9861390933

1. RFA/RSA/FAO/SAO/LPA/SPA/CRP/ Review Pet/O. Ref/EXFA/EXSA/SM/APP/ Tr. P (c) WP (c) WA/SCLP Co. Appl/Co. Pet/Co. Case /Co App / Bkg. P/Mat. A/ Mat Ref/RP (FAMCT) Test Case / Intest. Case /L.A. Ref/RCFA / L.A.A. / RCSA / RE Rev / MAC / MAC APP / EL pet / ELAPP / Arb, P / Arb. A / Insurance Ref/ Cont. Cas (c) /Coud. App (c) MFA(name of the Act) MSA/ SP.JC (name of the Act)Crl A / Crl .Rev / CKL M.C / BLAPL / Cal .MAPPI /WP (crl) CUSREF STREV

Case Type WA No **2310** / 2024 Date of Regn

2. If 'state' is party, Name of the Deptt : (pet, Res) [put Mark]

If public Undertakings (Specify Name) : (Pet) (Res) [put Mark]

3. (a) Number of Category under Which the matter falls :

2 8

1 7

0 0

If others, Specify the Subject

(b) Which is applicable? [put

Mark]

(Single Bench /Div .Bench / Three Judge Bench / Five Judge Bench)

4. Article of the constitution /Act (Central /state) [Put Mark]

Article-4 of the Constitution of India. Overhaul High Courts Order 1948. N/w. CI-10 CPA. of the C Order - over

5. section/Sub-Section involved

6. Rules involved

7. Whether any other Matter is pending in this court on the same point of law :

If So, give the Number of matter :

8. Whether any other Matter is pending against the impugned order/ Judgment ?

If So, give the Number of matter :

9. Whether the Matter is covered by any Judgment of the supreme Court, this Court or any other high Court, if so, give the details of the Judgment

10. point of law involved in the matter

Order of the Honble Single Judge & Bench Order

Date

14/8/24

Signature of the Advocate

R



IN THE HIGH COURT OF ORISSA: CUTTACK

(ORIGINAL JURISDICTION CASE)

W.A NO. 2310 OF 2024

Bhawani Prasad Majhi ... APPELLANT

-Versus -

State of Odisha &Ors... RESPONDENTS


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CUTTACK

Date: 14-8-2024.


ADVOCATE
(SHRADHA DAS)
ENR. NO.O-959/2018
Mob- 7978134166

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APPENDIX-I

SYNOPSIS

That the Appellant is filling this Writ Appeal challenging the judgement dated 16.07.2024 passed in W.P (C) No.6981/2022 passed by the Hon'ble Single Judge Bench of this Hon'ble Court without considering the merits of the case, which is factually inaccurate, has been passed without application of mind and is misconceived. Hence this Writ Appeal.





B

LIST OF DATES

Sl. No	Date	Particular	
1	04-09-2017	The then President had sought permission to the Registrar, Co-operative Societies for Appointment of CEO from the open market.	
2	07-10-2017	The then President had issued a letter to the Registrar, Co-operative Societies for relief Shri A.N Mohanty and posting of new CEO.	
3	03-08-2018	The Committee of Management, Sundargarh passed a resolution authorising the President to move to the Registrar, Co-operative Societies for appoint the CEO as per HR Policy dtd.17.01.2018 and other eligibility criterias.	
4	28.09.2018	The Committee of Management, Sundargarh passed a resolution authorising the President to go ahead for appointment of CEO from the open market through advertisements.	
5	26-10-2018	Reminder by the then President about the appointment of CEO of the Bank as the then CEO was due to retire as on 31.01.2019.	
6	20-11-2018	Advertisement for appointment of CEO in newspapers.	
7	28.12.2018	The Committee of Management, Sundargarh passed a resolution authorising the President to consult different departments for conducting interview of CEO.	
8	23-01-2019	Letter by the President to the Registrar, Co-operative Societies requested to make	

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Date



		it convenient to attend the interview on the date, time and venue.	
9	28-01-2019	Letter by the President/Petitioner to the Registrar, Co-operative Societies, NABARD & OSCB requested to make it convenient to attend the interview on the date, time and venue.	
10	01-02-2019	Resolution regarding appointment of Shri S.C. Das as CEO of the SDCC Bank Ltd. passed	
11	01-02-2019	Letter of appointment issued to Shri S.C. Das and he assumed charges as CEO	
12	02-02-2019	The then President's letter to the Registrar, Co-operative Societies for approval of Appointment of SC Das as CEO after resolution effecting the same was passed by the Committee on 01.02.2019	
13	02-02-2019	Letter by the President to the Regional Director, RBI, to accord necessary approval for the appointment of SC Das as CEO of SDCB.	
14	18-02-2019	In absence of any reply from the concerned authority, President informed about the deemed approval by the Registrar.	
15	20.12-2019	W.P (C)No. 5641/2019 filed challenging the order of rejection dtd. 23.02.2019 wherein the said order was set aside and the Hon'ble Court while disposing of the matter directed to re-look into the issue of appointment and status quo in respect of appointment was to be maintained till the decision was taken.	
16	10-01-2020	Order of rejection regarding approval of CEO of the Bank. The appointment is not approved under Section 28(3-b)(1) of the OCS, 1962.	

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17	06.02.2020	The order dtd. 10.01.20 was also challenged vide W.P (C) No.1846/2020 wherein this Hon'ble Court was pleased to issue notice and directed to maintain status quo in respect of functioning of the CEO.	
18	01.05.2020	The Committee of Management was superseded on expiry of five years and the Collector was appointed for management of the affairs of the Bank.	Annexure-3
19	03.06.2020	The CEO also filed a writ petition bearing W.P(C) No. 10806/2020 challenging the order dtd. 10.01.20 wherein the wherein this Hon'ble Court was pleased to issue notice and directed to maintain status quo in respect of functioning of the CEO.	
20	09-06-2021	Managing Director, OSCB had informed the Registrar, Auditor General, Co-operative Societies, Collector, Sundargarh-cum-Administrator of the Bank to initiate the disciplinary action against the present CEO and conduct special audit of the Bank for investigate regarding the financial improprieties and incidence of loss to the Bank.	
21	11-06-2021	Auditor General Of Cooperative Societies, Odisha directed to conduct the Special Audit on the affairs of Sundergarh District Central Cooperative Bank, Sundergarh on alleged illegal appointment of the incumbent CEO.	
22	23-09-2021	Half Margin Memos issued to the Petitioners by the Auditor	
23	12-10-2021	Compliance to the half margin memo by CEO.	
24	01-11-2021	Judgment by this Hon'ble Court whereby,	

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		Court directed to the authorities to go ahead with electing Committee of Bank as well as its affiliated societies.	
25	08.02.2022	The Auditor General communicated to the Principal Secretary the special audit report wherein the Committee of Management has been made liable for irregularities and suggested recovery of the loss of Rs 4,56,36,577/-	
26	13.03.2022	The Petitioner filed W.P (C) No. 6981/2022 challenging the order of appointment of auditors to conduct special audit, the audit report and the surcharge proceedings.	Annexure-2
27	16.07.2024	The Hon'ble Single Bench dismissed the W.P (C) No. 6981/2022	Annexure-1

CUTTACK

Date: 14-8-2024.



ADVOCATE
(SHRADHA DAS)
ENR NO.O-959/2018
Mob- 7978134166



IN THE HIGH COURT OF ORISSA, CUTTACK

WRIT APPEAL NO. **2310** OF 2024

(Arising out of W.P(C) No. 6981 of 2022)

(Disposed of vide judgment dated 16.07.2024)

CODE NO. 281700

IN THE MATTER OF:

An appeal under Article 4 of the Orissa High Court Order 1948 read with Clause-10 of the letter patent of the High Court Jurisdiction & Chapter-VIII, Rule-2(1) of Orissa High Court Rules;

AND

IN THE MATTER OF:

An application challenging judgement dtd.16.07.2024 passed in W.P (C) No.6981/2022 by the Hon'ble Single Bench.

AND

IN THE MATTER OF:

An application under the provisions of Odisha Cooperative Societies Act & Rules made there under.

AND

ADHINAH B&HERA
8-6-2008

Pradipta

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

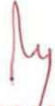
IN THE MATTER OF:

Sri Bhabani Prasad Majhi, aged
about 57 years, S/o- Sri Jogeswar
Majhi, At- Bhawani Bhawan Area,
At- Sai Bihar, PO/PS/Dist-
Sundargarh, Odisha, Pin- 770001.

...

APPELLANT**(Petitioner before the Hon'ble Single Judge)****VERSUS**

1. State of Odisha, represented by the Principal Secretary to Government, Cooperation Department, Loka Seva Bhawan, Sachivalaya Marg, Bhubaneswar- 751001, Dist-Khurdha.
2. Auditor General of Cooperative Societies, Odisha, Directorate of Cooperative Audit, Bhubaneswar, Dist- Khurdha.
3. Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle, At- Composite Cooperative Building, (Near D.E.O. Office), PO/Dist- Sundargarh, Pin- 770001, Odisha.
4. Sri Durga Prasad Dash, SAAGCS, Office of the Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle, C/o- Deputy Registrar of Cooperative


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Societies, Sundargarh Division, PO/Dist-Sundargarh.

5. Sri Sudhir Kumar Panigrahi, SAAGCS,
Office of the Assistant Auditor General of
Cooperative Societies, Sundargarh Audit
Circle, C/o- Deputy Registrar of Cooperative
Societies, Sundargarh Division, PO/Dist-Sundargarh.


... **RESPONDENTS**

(Opposite Parties 1 to 5 before the

Hon'ble

Single Judge)

The matter out of which this Writ Petition arises was before this Hon'ble Court in W.P(C) No. 5641 of 2019, disposed of on 20.12.2019, W.P(C) No.8131/2019, disposed of on 20.12.2019, CONTC No.1510 of 2019, disposed of 20.12.2019, W.P(C) No.1846 of 2020, disposed of as withdrawn on 18.11.2020, W.P(C) No. 10806/2020, pending adjudication in this Hon'ble Court, W.P(C) No. 19986/2020, disposed of on 17.08.2021, W.P(C) No. 32889 of 2020, disposed of on 17.08.2021, W.P(C) No. 32134/ 2020, disposed of on 01.11.2021 & W.P(C) No. 39657 of 2021, disposed of as withdrawn on 08.03.2022, W.P (C) No.20413/2022 disposed of on 16.07.2024.


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Regd.No-ON-04/1995



To
The Hon'ble Chief Justice of Orissa High Court and
His Lordships Companion Justices of the said Hon'ble
Court.

The humble petition of the
Appellant, named above;



MOST RESPECTFULLY SHEWETH:-

1. That the Appellant is filling this Writ Appeal challenging the judgement dtd. 16.07.2024 passed in W.P (C) No.6981/2022 passed by the Hon'ble Single Judge Bench of this Hon'ble Court without considering the merits of the case. A copy of the said order dtd. 16.07.2024, is annexed herewith as **ANNEXURE-1.**
2. That Appellant had filed the writ petition challenging the order dated 11.06.2021 passed by the Auditor General of Cooperative Societies, Odisha, directing to hold Special Audit on the question of appointment of Chief Executive Officer of the Bank when the matter is under subjudice and this Hon'ble Court in W.P(C) No. 1846 of 2020 on 06.03.2020 has directed that status quo as on 06.03.2020 in respect of functioning of the Chief Executive Officer of the District Central Cooperative Bank, Sundargarh shall be maintained by the Parties, which is in clear contravention under the provisions


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contained under Section-62 of Odisha Co-operative Societies Act.

3. That further the Appellant had challenged the Special Audit conducted by the Auditors on the ground that the Auditors appointed by the Registrar is not in consonance with Section 62 and Rule 58 (5) of OCS Act and OCS Rules respectively. Besides the ground of challenge was also that the Special Audit was unilaterally conducted without giving the petitioner any opportunity to file objection as required against half margin memos as provided in 2nd proviso to Rule-58 of Odisha Co-operative Societies Rules.
4. That the Appellant also challenged the notices issued by Asst. Auditor General of Co-operative Societies, Sundargarh asking the petitioner to show cause as to recovery of Audit objected amount in Surcharge Proceeding No. 16, 17 & 18 of 2022 respectively, the same being completely illegal on the basis of a unilateral ex-parte Audit Report, in clear violation of principles of natural justice.
5. That the aforementioned impugned order dtd. 11.06.2021 which was under Annexure-1, the audit report was at Annexure-2 and the copies of the surcharge proceedings were at Annexure-3 Series of the Writ Petition.



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6. That the Appellant had challenged the aforesaid order to conduct special audit, the consequential Audit report and consequential Surcharge Proceedings on the following contentions:

- i. The entire Special Audit has been conducted without jurisdiction being not in conformity with Section 62 of the OCS Act read with Rule 58 of OCS Rules.
- ii. In view of the provisions in 2nd proviso to Section 62 (1) of OCS Act read with Sub Rule- 5 of Rule 58 of OCS Rules, this being a special audit, the same could not have been conducted by the Auditors appointed under Annexure-1.
- iii. In view of the mandatory provisions contained under 2nd proviso to Section 62 (1) read with Sub Rule 5 of Rule 58, it is only and only the Chartered Accountant from the panel of National Bank meaning thereby NABARD is authorized to conduct audit in respect of a Central Cooperative Bank.

In view of the aforesaid clear mandates of law, the order authorising the Auditors other than the Chartered Accountant from the panel of National Bank is illegal, contrary to law and patently without jurisdiction.


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7. That not only the Special Audit was conducted without jurisdiction, the subject matter of the special audit was beyond the scope. The following was the scope of the impugned special audit:-
1. Illegal appointment of Sri Suresh Chandra Das as Chief Executive Officer of the Bank.
 2. Financial indiscipline/irregularities, misutilization of funds causing loss to the Bank on borrowings and repayment to the Odisha State Cooperative Bank.
 3. Put the Bank ineligible for finance from OSCB due to default in repayment, non-remittance of collection of loan from PACS during the period from 01.04.2018 to 31.05.2021.
8. That the aforesaid allegations are baseless and have been framed against the Petitioner and the elected representatives from their respective Primary Cooperative Society.
9. That pertaining the first allegation regarding illegal appointment of Sri Suresh Chandra Das as Chief Executive Officer of the Bank is false, as utmost transparency has been adopted in the appointment process.
10. That in order to substantiate the same the Appellant humbly submits the short fact leading



to filing of this Writ Petition is that during 2017 realizing that there is requirement of engagement of one well experienced Chief Executive Officer, the Management of the Petitioner's Bank passed Resolution for appointment of Chief Executive Officer from the open market qualifying proper criteria fixed by NABARD. The said proposal was accepted by the Managing Committee and requested the President to move to Registrar of Cooperative Societies for approval of the same. A copy of the Resolution of the meeting held on 31.08.2017 annexed as Annexure-4 of the writ Petition.

11. That the President of the Bank issued letter dated 04.09.2017 inviting suggestions from the Registrar of Cooperative Societies regarding the Bank's proposal for appointment of a Chief Executive Officer from the open market. (Annexure-5 of the Writ Petition)
12. That vide letter dated 7.10.2017, the President of the Bank has communicated letter to the Registrar of Cooperative Societies about difficulties and stalemate in the Bank. In the said letter there are several communications referred to wherein allegations were levelled against Sri A.N.Mohanty, A.G.M, O.S.C. Bank who was in charge of the Chief Executive Officer. A copy of


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letter dated 7.10.2017 issued to the Registrar of Cooperative Societies by the Management Committee through the President is annexed herewith as (Annexure-6). At this stage, it may be submitted here that Sri P.K.Mohanty was supposed to retire with effect from 31.01.2019. As per the H.R. Policy in its Clause-6 (D)(i), *"the Managing Committee of the Bank shall be the Appointing Authority of the Chief Executive Officer"*. Accordingly, the Managing Committee in its Resolution dated 03.08.2018 authorized the President of the Bank to move to the Registrar of Cooperative Societies for appointment of own Chief Executive Officer of the Bank. (Annexure-7 Series)

13. That it is pertinent to mention here that the Committee of Management of the Bank vide its Resolution dated 28.09.2018 authorized the President to go ahead for appointment of Chief Executive Officer from the open market through advertisement. (Annexure-8)
14. That pursuant to decision of the Committee of Management under Annexure-7, the Ex-President communicated to the Registrar of the Cooperative Societies highlighting the Bank's problems and requested to intervene in the matter personally and pass suitable order on priority basis, so that the post of Chief Executive

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Notary, Cuttack Town
ON-04/1995



Officer of the Bank can be filled up. (Annexure-9)

15. That despite receiving series of communications, the Registrar of Cooperative Societies sat over the matter. In terms of authorization of the Committee of Management, advertisement in the newspaper was published inviting applications for appointment of Chief Executive Officer of the Bank following the criteria in the H.R. Policy, as well as revised eligibility criteria issued by the NABARD. Copies of advertisements published in the newspaper "Sambad" is annexed in the writ petition as Annexure-10 & in the newspaper "Dharitri" is annexed as Annexure-11 respectively.
16. That the Committee of Management thereafter vide Resolution dated 28.12.2018 authorized the Ex-President to consult different departments for conducting interview of C.E.O before retirement of the then incumbent holding the post of C.E.O. (Annexure-12)
17. That in pursuance of the authorization, the ex-President of the Bank issued letter dated 23.01.2019 to all the concerned authorities to make it convenient to attend the interview fixed for the purpose of selection of the C.E.O. (Annexure-13)

18. That pursuant to advertisement published by the Bank, altogether 16 candidates responded to the selection process and have placed their candidature. After conducting preliminary scrutiny of the applications, letters were issued to the candidates found eligible for attending the Viva-Voce Test. After complying with all the formalities, the Selection Committee constituted for the purpose of selection conducted Viva-Voce Test on 30.01.2019. For the purpose, letters were issued to all the members of the Selection Committee vide letter dated 28.01.2019. (Annexure-14)
19. That the ex- President issued letter dated 31.01.2019 to the Deputy Registrar of Cooperative Societies, Sundargarh to attend the meeting on 01.02.2019 for finalization of the process of appointment of C.E.O. (Annexure-15). Thereafter on 01.02.2019, the Committee of Management has approved selection of Sri Suresh Chandra Das out of all candidates who was found eligible to be appointed as C.E.O. (Annexure-16). Consequent upon approval by the Committee of Management, letter of appointment dated 01.02.2019 was issued to the selected candidate Sri Suresh Chandra Das. A copy of the appointment letter dated 01.02.2019 is annexed herewith as Annexure-17. Thereafter,


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Sri Suresh Chandra Das assumed charge of C.E.O vide his communication letter dated 01.02.2019. (Annexure-18). The Managing Committee of the petitioner's Bank has passed Resolution dated 01.02.2019 confirming appointment of Sri S.C.Das and has decided to move the Registrar of Cooperative Societies, Odisha under Section- 28(3)(b-1) of the Cooperative Societies Act. (Annexure-19) Consequent upon decision under Annexure-18, the Ex-president moved before the Registrar of Cooperative Societies, Odisha for according necessary approval as required under law regarding appointment of Chief Executive Officer. (Annexure-20). The ex-President also has also communicated this fact to the Regional Director of Reserve Bank of India, Bhubaneswar. (Annexure-21)

20. That despite receiving the aforesaid communications, since the Registrar of Cooperative Societies, Odisha sat over the matter, the pex-President again communicated letter dated 18.02.2019 about deeming approval of the appointment of C.E.O. (Annexure-22)
21. That only after letter under Annexure-20 was issued by the Ex-President, the Registrar of Cooperative Societies, Odisha communicated the impugned order under Annexure-1, which is

wholly illegal and contrary to law as stated above. The order refusing to accord approval is backed by no reasons. Particularly when there is no specific points mentioned as to what is the exact part of H.R. Policy has not been compiled with by the Selection Committee. Particularly when the Managing Committee of the Bank is empowered to appoint its own C.E.O, the Registrar of Cooperative Societies without assigning any reasons and without giving any opportunity of hearing to the Bank refused approval in favour of appointment of C.E.O, who has already been selected, appointed and started functioning. Hence, the whole order dated 23.02.2019 refusing to accord approval on appointment of Chief Executive Officer of the petitioner's Bank is liable to be quashed.

22. That the Management Committee of the Bank on the basis of resolution passed, initially filed W.P(C) No. 5641/2019 challenging the action of the Registrar of Cooperative Societies not giving post-facto approval as required under Section-28(3)(b-1) of the Cooperative Societies Act. The Writ Petition was disposed of with the following orders.

W.P(C) No. 5641 of 2019

Sl.No. of order: 7 Date of order: 20.12.2019


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Heard Sri P.K.Rath, learned Counsel for the petitioner and Sri Panda, learned Additional Government Advocate for the State.

This writ petition involves a challenge to the orders of Annexure-1.

Sri Rath, learned counsel for the petitioner referring to the order at Annexure-1 and taking this Court to the reasons assigned therein in interfering with the appointment of the petitioner and further referring to the provision at Section-28(3)(b-1) of the Odisha Cooperative Societies Act, 1962 contended that for the statutory provision reading otherwise, there appears, there is misapplication of the provision in passing the impugned order at Annexure-1.

To the contrary, Sri Panda, learned Additional Government Advocate for the State taking this Court to the National Bank for Agriculture and Rural Development at Annexure-A/2 submitted that the selection involving CEOs of the State Cooperative Banks remains contrary to the guidelines at Annexure-8 and attempted to justify the order at Annexure-1.

Considering the rival contentions of the parties and taking into account the resistance of the learned Additional Government

Advocate, this Court finds, this being not the reason of interference in the selection of CEOs, this has nothing to do with the matter at hand. It is on the other hand, looking to the provision at Section 3-b(1) of the Odisha Cooperative Societies Act, 1962, this Court finds, there is wrong application of this provision in deciding the matter involving Annexure-1. For this reason, the order at Annexure-1 remains unsustainable. This Court, therefore, interfering with the order at Annexure-1 sets aside the same. The consequential order at Annexure-2 is also interfered with and set aside. For requirement of re-visiting the issue by the Registrar, Cooperative Societies, O.P.No.2, the matter may be re-looked and order, as appropriate, be passed within three weeks from the date of communication of this order. Till a decision is taken in the matter, status quo in respect of the appointment of CEO of the petitioner's Bank shall be maintained.

With this order, the writ petition stands disposed of.

Issue urgent certified copy.

Sd/- B.Rath, J''

23. That the Registrar of Cooperative Societies, thereafter passed order dated 10.01.2020

refusing to grant approval of the appointment of the Chief Executive Officer. (Annexure-23)

24. That the Management Committee challenged the said decision in W.P(C) No. 1846/ 2020. In the said Writ Petition, there was Interim order passed by this Hon'ble Court, which reads as follows;

W.P(C) No.1846 of 2020

Sl. No. of order: 02

Date of order:

6.02.2020

Legible copy of the document vide Annexure-9 being filed in Court, defects with regard to non-filing of the same stands ignored.

Heard Mr. P.K. Rath, learned counsel for the petitioner.

Issue notice on the question of admission.

Since the opposite party nos.1 & 2 will be represented by the State Counsel, no notice need be issued to them. Let two extra copies of the brief be served on the learned State Counsel by 10th of February, 2020.

Notice be issued to the opposite party nos.3 & 4 by way of Speed Post with A.D. or Registered Post with A.D. fixing a short returnable date, for which requisites shall also be filed within the time stipulated hereinabove.

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

Counter affidavit, if any, shall be filed within a period of six weeks from the date of receipt of notice.

Sd/- Biswanath Rath, J''

I.A. No.771 of 2020

Sl. No. of order: 02

Date of order:

6.02.2020

Notice as above.

Accept one set of process fee.

As an interim measure, it is directed that status quo as on today in respect of the functioning of the Chief Executive Officer of the District Central Co-operative Bank Ltd., Sundargarh shall be maintained by the parties till the next date.

Issue urgent certified copy as per rules.

Sd/-Biswanath Rath, J''.

25. That the newly appointed Chief Executive Officer has also challenged the orders passed by the Registrar of Cooperative Societies dated 10.01.2020 by filing separate W.P(C) No. 10806 of 2020. In the said Writ Petition, the following Interim order was passed.


W.P(C) No. 10806 of 2020

Sl. No. of order: 02

Date of order:

3.06.2020

This matter is taken up through Video Conferencing.


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd No-ON-04/1995

Heard Mr. B.K. Sharma, learned counsel for the petitioner.

Issue notice on the question of admission.

Since the opposite party nos.1 & 2 will be represented by the State Counsel, no notice be issued to them. Let two extra copies of the brief be served on the learned State Counsel by 5th of June, 2020.

Notice be issued to the opposite party nos.3 & 4 by way of Speed Post with A.D. or Registered Post with A.D. fixing a short returnable date, for which requisites shall also be filed within the time stipulated hereinabove.

Counter affidavit, if any, shall be filed within a period of six weeks from the date of receipt of notice.

Sd/-Biswanath Rath, J".

I.A. No.4806 of 2020

Sl. No. of order: 03

Date of order:

3.06.2020

Notice as above.

Accept one set of process fee.

As an interim measure, it is directed that status quo as on today in respect of the functioning of the Chief Executive Officer of the District Central Co-operative Bank Ltd.,


PRADIPTA KUMAR MOHANTY
 Notary, Cuttack Town
 Regd No-ON-04/1995

Sundargarh shall be maintained by the parties till the next date.

It is the responsibility of the petitioner to serve copy of this order on the competent authority.

Sd/- Biswanath Rath, J''

26. That while the matter stood thus, the Management Committee on completion of its 5(five) years term was superseded. In place of the Management Committee, the Registrar of Cooperative Societies appointed Collector, Sundargarh District as the Administrator to manage the affairs of the Bank.
27. That such a supersession of the Management Committee and appointment of Collector as Administrator was challenged in this Hon'ble Court in W.P(C) No. 32134 of 2020. The said Writ Petition has been disposed of vide judgment dated 01.11.2021. (Annexure-24)
28. That pertaining to refinance, there was another Writ Petition filed in this Hon'ble Court i.e. W.P(C) No.32889 of 2020, which was disposed of directing the Special Relief Commissioner, Odisha to mediate and resolve the issue.
29. That the Special Relief Commissioner meanwhile has passed an order dated 16.10.2021. The said order is illegal and apparently wrong on the face of it. The Ex-

President has challenged the said order dated 16.10.2021 by filing separate Writ Petition vide W.P (C) No.5095/2022. (Annexure-25)

30. That be that as it may, when the matter regarding appointment of Chief Executive Officer is still pending adjudication in this Hon'ble Court with Interim order passed therein, the Managing Director of Odisha State Cooperative Bank who out of jealousy with all sorts of bias, malafides and caprices has issued orders vide reference dated 03.06.2021 and 09.06.2021 to the Registrar of Cooperative Societies, Auditor General of Cooperative Societies, Odisha & Collector, Sundargarh to conduct Special Audit on the question of appointment of Chief Executive Officer and other matters involving the Chief Executive Officer.
31. That under the provisions contained under Section-62 of the Cooperative Societies Act, the Managing Director has no authority to recommend conducting Special Audit in respect of a District Central Cooperative Bank. Such recommendation dated 03.06.2021 and 09.06.2021 are without jurisdiction and are liable to be quashed.
32. That the Principal Secretary to Government with an observation to obtain leave from the Hon'ble




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High Court for conducting Special Audit disposed of the matter.

33. That vide impugned order under of Special Audit has been directed involving the issue regarding appointment of Chief Executive Officer.
34. That within the meaning of provisions contained under Section-62, appointment of the Chief Executive Officer cannot form subject matter of any Audit. Fact remains that without obtaining any leave as recommended from this Hon'ble Court, the order of Special Audit was passed to conduct Special Audit.
35. That the Auditors appointed to conduct Special Audit have issued half-margin memos on the following points.
- (i) Appointment of Chief Executive Officer.
 - (ii) Appointment of Security services through outsourcing.
 - (iii) Construction of building by spending money without approval.
36. That so far as later two points out of aforesaid three, the impugned order of Special Audit do not permit them to conduct the Special Audit and include in the report. Hence, that part of the Half-Margin Memo and Special Audit are without jurisdiction. So far as appointment of

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Chief Executive Officer is concerned, the matter is still sub-judice in this Hon'ble Court and without obtaining any leave from the Hon'ble High Court, direction for conducting Special Audit could not have been issued. Hence, such order of Special Audit is again without jurisdiction.

The Special Audit has been conducted without complying with any of the provisions mandatorily required under Section-62 (2) of the Act.

37. That after receiving half-margin memos, the petitioner submitted application for grant two months' time for the purpose of replying half-margin memos after perusing documents and collection of materials. Since the half margin memos involved collection of several documents and the petitioner was out of office, two months' time was prayed for. This fact is very much available in the half-margin memos received by the petitioner and the endorsement made by the Auditor himself on the subjects of compliance.
38. That the Auditors, however, without passing any order on the application for grant of time, the compliance to the half margin memo unilaterally, proceeded with the Audit and completed the same. Consequently, report has been furnished which itself forming issuance of


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Surcharge Notices under Annexure-3 Series of the writ petition.

39. That the entire Special Audit as initiated is in violation of principles of natural justice. The petitioner on the one hand is still to meet the allegations against him. The petitioner is challenging the authority of Auditor General to conduct Audit beyond the scope of Section-62 as contained under Chapter-8 of Orissa Cooperative Societies Act. The appointment of the Chief Executive Officer not being within the ambit & scope of Audit as provided under Section-62, the Auditor General has gone and acted beyond his jurisdiction while conducting beyond his subject.
40. That on the aforesaid background of facts particularly when the petitioner is asking for time to provide him with copies utilized against him, the entire action of completing the Audit and submitting a Report is demonstrative of the fact that the Auditor General is acting under the instructions of present Managing Director, Odisha State Cooperative Bank, against whom there are litigations pending in this Hon'ble Court in the shape of various Writ Petitions.
41. That be that as it may, the entire action being in violation of Article-14 of the Constitution of India and Cooperative Societies Act, are liable to be quashed. The petitioner earlier with other

Directors had approached this Hon'ble Court in W.P(C) No. 39657 of 2021. During pendency of the Writ Petition, since certain development was taken place, the petitioner was permitted to withdraw the Writ Petition with liberty to file better application and thereafter filed W.P (C)No. 6981/2022. A copy of the W.P (C)No. 6981/2022 is annexed herewith as

ANNEXURE-2.

42. That although the Deputy Registrar of Co-operative Societies, Sundargarh Division and the Management-in-charge of SDCCB (Sundargarh District Central Cooperative Bank) had filed intervention and further filed counter challenging the maintainability of the Writ Petition, they did not appear at the time of hearing.
43. That vide order dtd.15.02.2024 the Hon'ble Single Bench directed the Counsel for the State to obtain instructions regarding the jurisdiction and the scope of the Special Audit.
44. That in reply to the same it was submitted that there are two kinds of Audit of account under Section 62 (i) The Audit General in nature & (ii) Special Audit (1)(II) of the Act
The impugned audit being a special audit by the order passed by the Auditor General, second



provisio to Sub-Section 1 of Section 62 is not applicable.

45. That in reply to the above it was submitted on behalf of the Petitioner that the aforesaid submission of the State was sans any merit as Sub rule- 5 of Rule 58 of OCS Rules was ignored which states that in case of a special audit of the Society in pursuance to Clause (ii), of Sub-Section (1) of Section 62, the provision of the Act, and Rules as applicable to audit of accounts of the Society, shall apply for such special audit, re-audit or concurrent audit, as the case maybe. Hence on conjoint reading of Section 62(1)(i),(ii) and Rule 58 (5), the provisions as contained under Section 62 (1) and the 2ndProvisio to the same is clearly and unerringly is applicable in case of any special audit.
46. That in the teeth of the aforesaid clear mandates of law, the Special Audit of the Central Co-operative could not have been conducted by an Auditor other than provided in the 2ndprovisio to Section 62 (1) of OCS Act i.e. Chartered Accountants out of the panel maintained by the National Bank. (NABARD)
47. That in view of the aforesaid submission the impugned order has been passed by making out a third case which was never argued by any of



the parties at the time of hearing. Specifically at Para 18 & 19 of the impugned order, the burden of appointing the auditor under Section 62-(1-a) has been cast on the Committee Management who allegedly did not convene the general body meeting to appoint CA firms for such an audit, since the Management Committee is itself implicated in misappropriation.

48. That it is pertinent to mention that at the time of issuance of order to conduct special audit i.e., on 11.06.2021 which is under Annexure-1 of the writ petition, the term of the committee of management had already expired with effect from 01.05.2020 and the Collector and the District Magistrate, Sundargarh were appointed to manage the affairs of the of SDCCB. A copy of the order dtd.01.05.2020 is annexed herewith as ANNEXURE-3.
49. That in view of the above the allegation regarding the general meeting not being convened by the Committee of Management that was no longer in existence does not arise. The present petitioner at Para 21 of the Writ Petition under Annexure- 24 has brought to the notice of the Ld. Single Bench regarding the expiry of the tenure of the Management and appointment of the Collector as the Management-in-charge much prior to the impugned order of Special

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Audit. Even such supersession was challenged vide W.P(C) No. 32134 of 2020. Hence the impugned order has been passed without any application of mind and is liable to be set aside

50. That the Learned Single Judge vide impugned order under Annexure-1 dismissed the writ petition on the abovementioned grounds.

Being aggrieved by the judgment dated 16.17.2024, passed in W.P(C) No.6981 of 2022 by the Hon'ble Single Judge of this Hon'ble Court, the appellant above named begs to prefer this Writ Appeal on the following amongst other grounds.


GROUND S


- (A) For that the impugned order passed by the Hon'ble Single Judge contrary to the settled position of law as well as factually inaccurate and is liable to be set aside.
- (B) For that the impugned order passed by the Learned Single Judge is misconceived as the burden of appointment of the auditor from the Authority prescribed in the Act (from the CA firm by convening a General Body Meeting) has been shifted to the Committee of Management in pursuance of Section 62 (1-a), since the said Committee of Management was not in existence at the time and the Collector


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and the District Magistrate, Sundargarh were managing the affairs of the of the Bank as per the order of the Registrar dtd. 01.05.2020 (Annexure-3 of Appeal Memo) which is much prior to the passing of the impugned order to conduct special audit dtd.11.06.2021 (@Annexure-1 of the Writ Petition). Hence the allegation regarding the General Meeting not being convened by the Committee of Management that was no longer in existence, does not arise. In view of the above ground the impugned judgement has been passed without application of mind and is liable to be set aside.

- (C) For that learned Single Bench has made out a third case which does not arise on the face of records, submissions of the parties and the same is beyond the pleadings and averments of the writ petition and the counter affidavit. Hence such an impugned order is liable to be set aside on this very ground.
- (D) For that it is a settled position of law, that any order passed by an authority without jurisdiction is a nullity. Although the learned Single Bench has assessed prima facie jurisdictional error with respect to the Special Audit of SDCCB not being conducted by Chartered Accountants from the panel approved by the National Bank in compliance with the provisions of Section 62,





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the said null and void order has been regularised by alleging the lack of responsibility of a supersede/non-existent Management of Committee for convening of General Body meeting for appointment of such Auditor which is fatal.

- (E) For that the Hon'ble Single Judge has failed to consider the fact that Special Audit with regard to appointment of the CEO is beyond the scope of the conditions specified under Clause (ii) of Section 62 (1) and has gone wrong in holding that the refusal of appointment of the CEO by the Registrar has never been contested in this Court since in W.P(C) No. 5641/2019, W.P(C) No. 1846/ 2020 and W.P (C) No.10806/2020 the said refusal was challenged before this Hon'ble Court. Hence the impugned order is factually inaccurate and is liable to be quashed.
- (F) For that while passing such an impugned order, the Learned Single Bench has failed to exercise its jurisdiction under Article 226 by remaining silent regarding the issue of violation of principles of natural justice by the Respondents by conducting an ex-parte Special Audit without giving the petitioner a fair opportunity for compliance of the Half Margin Memo as per Rule 58 of OCS Rules.

- (G) For that the power to convene General Body Meeting and Special Meeting of General Body is under Section 29 and 30 of the OCS, Act. Although the Committee of Management had been superseded on completion of its term, the onus lied with the Collector who was the management-in-charge of the Bank to call for such General Body Meeting or Special Meeting of General Body for appointment of CA firm approved by NABARD for the purpose of Special Audit. Moreover, there is no proof of any requisition in writing from the Registrar for conducting a Special Meeting. In view of the above there is no such General Body Meeting conducted for appointment of the Auditor by the incumbent Management-in-charge to conduct the Special Audit of SDCCB, hence the said audit has been conducted without jurisdiction and is liable to be set aside.

PRAYER

 The Appellant, therefore, pray that your lordships would be graciously pleased to admit this Writ Appeal, call for the records and after hearing the parties allow the same, set aside the impugned judgment dated 16.07.2024, passed in W.P(C) No.6981 of 2022 by the Hon'ble Single Judge of this Hon'ble Court under Annexure-1 of


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Roll No. ON-04/1995

the Appeal Memo and allow the writ petition setting aside Annexure-1, Annexure-2 and Annexure-3 Series of the Writ Petition.

And for this act of kindness, the Appellant shall as in duty bound ever pray.


BY THE APPELLANT THROUGH

Cuttack,

Dated: 14.08.2024



ADVOCATE
SHRADHA DAS
En.No.-O/959/2018
Mob-7978134166


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

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AFFIDAVIT

**IN THE HON'BLE HIGH COURT OF ORISSA:
CUTTACK**

W.A NO. 2310 OF 2024

IN THE MATTER OF:

Bhabani Prasad Majhi ... APPELLANT

-Versus -

State of Odisha & Ors... RESPONDENTS

I, Sri Bhabani Prasad Majhi, aged about 57 years, S/o- Sri Jogeswar Majhi, At- Bhawani Bhawan Area, At- Sai Bihar, PO/PS/Dist- Sundargarh, Odisha, Pin- 770001., Occupation- Businessmandoo hereby solemnly affirm and state as follows;

1. That I am the Appellant in the aforesaid Writ Appeal and Petitioner of the Interim Application and well conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the cause of action out of which this Writ Petition was before this Hon'ble Court in W.P (C) No.20413/2022 disposed of on 16.07.2024 and a series of other cases which is certified in the Appeal Memo.

ADARSH DEBATA
0-616-1004


My

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

3. The contents of this Writ Appeal /Interim Application be read as part and parcel of the present affidavit and are not repeated for the sake of brevity.
4. I say that the Annexures filed along with the Writ Appeal/Interim Application are true and copies of their respective original.
5. That the facts stated in the abovementioned Writ Appeal/Interim Application are true and correct to the best of my knowledge and information derived from records. The legal submissions made being as per the advice of Counsel, which I believe to be true. The prayer clause which I believe to be true as per the legal advice received. And I also declare as follows;

DECLARATION.

I, Sri Bhabani Prasad Majhi, aged about 57 years, S/o- Sri Jogeswar Majhi, At- Bhawani Bhawan Area, At- Sai Bihar, PO/PS/Dist- Sundargarh, Odisha, Pin- 770001, do hereby solemnly affirm that the facts stated in Paragraph 1 to 50 of the Writ Appeal are true to my own knowledge and fact and true to the best of my information, and based on records maintained by


PRADIPTA KUMAR MOHANTI
Notary, Cuttack Town
Regd.No-ON-04/1995

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the Opposite Parties/Respondents and for the petitioner/appellant.

I believe the information to be true as they are based on records maintain by the Appellants/Respondents as indicated in the annexures attached to this Writ Appeal.

Solemnly declare at Cuttack the above affidavit and declaration and said certify my name and signature on the 14th day of August, 2024.

Identified by

Trilochan Bag
Advocate 18 Clerk
14/8/24

Bhabani Prasad Majhi

DEPONENT

Solemnly affirmed before me by Sri Bhabani Prasad Majhi, aged about 57 years, S/o- Sri Jogeswar Majhi, above named deponent who is identified before me by. Sri Trilochan Bag, Advocate Clerk, whom I personally know.

This 14th day of August 2024.

Cuttack,

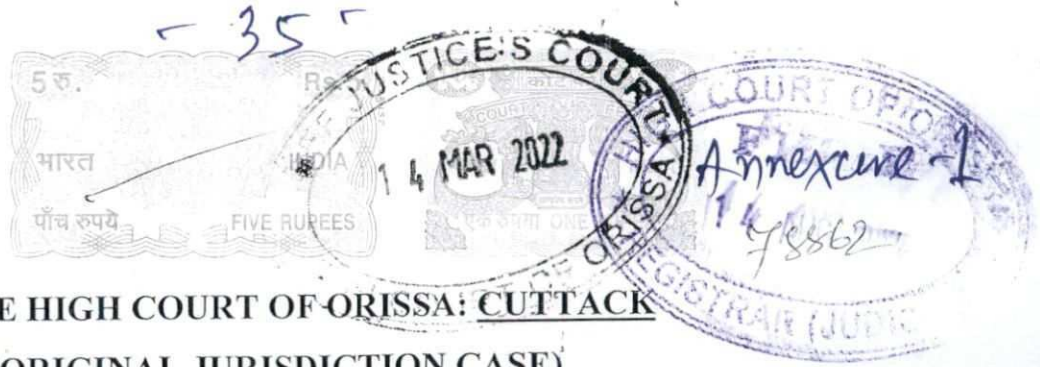
Date: 14.08.2024

Notary Public, Cuttack.

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

Advocate for Appellant





IN THE HIGH COURT OF ORISSA: CUTTACK
(ORIGINAL JURISDICTION CASE)

W.P (C) NO. No. 6921 OF 2022

CODE NO. 281700

IN THE MATTER OF:

Presented in Court

An application under Article 226 and 227 of
the Constitution of India.

B.O.

AND

14/03/2022 IN THE MATTER OF:

An application under the provisions of Odisha
Cooperative Societies Act & Rules made
there under.

AND

IN THE MATTER OF:

Sri Bhabani Prasad Majhi, aged about 55
years, S/o- Sri Jogeswar Majhi, At- Bhawani
Bhawan Area, At- Sai Bihar, PO/PS/Dist-
Sundargarh, Odisha, Pin- 770001.

PETITIONER

VERSUS

1. State of Odisha, represented by the Principal
Secretary to Government, Cooperation
Department, Loka Seva Bhawan, Sachivalaya
Marg, Bhubaneswar- 751001, Dist-Khurdha.
2. Auditor General of Cooperative Societies,
Odisha, Directorate of Cooperative Audit,
Bhubaneswar, Dist- Khurdha.



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3. Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle,
At- Composite Cooperative Building, (Near D.E.O. Office), PO/Dist- Sundargarh, Pin- 770001, Odisha.
4. Sri Durga Prasad Dash, SAAGCS,
Office of the Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle, C/o- Deputy Registrar of Cooperative Societies, Sundargarh Division, PO/Dist- Sundargarh.
5. Sri Sudhir Kumar Panigrahi, SAAGCS,
Office of the Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle, C/o- Deputy Registrar of Cooperative Societies, Sundargarh Division, PO/Dist- Sundargarh.
6. Sundargarh District Central Co-operative Bank, Ltd, represented by
Sundargarh District Co-operative Bank, At/PO/Dist- Sundargarh.

through management-in-charge of **OPPOSITE PARTIES**

OP NO. 6 impleaded as
party vide.
Horticulture's
Order NO. 5
dated. 14-09-2022
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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6981 of 2022

&

W.P.(C) No.20413 of 2022

(In the matters of applications under Articles 226 and 227 of the Constitution of India, 1950).

(In W.P.(C) No.6981 of 2022)*Bhabani Prasad Majhi*

....

*Petitioner(s)**-versus-**State of Odisha & Ors.*

....

Opposite Party(s)

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner(s)

:

*Mr. P.K. Rath, Sr. Adv.**Along with associates**Ms. Sradha Das, Adv.**For Opposite Party(s)*

:

*Mr. G.R. Mahapatra, ASC**Mr. Subir Palit, Sr. Adv.**Along with associates*(In W.P.(C) No.20413 of 2022)*Pradyumna Kumar Tripathy and
Ors.*

....

*Petitioner(s)**-versus-**State of Odisha & Ors.*

....

Opposite Party(s)

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner(s)

:

*Mr. P.K. Rath, Sr. Adv.**Along with associates**Mr. N.K. Sahu, Adv.**For Opposite Party(s)**Mr. G.R. Mahapatra, ASC*



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CORAM:

DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-25.04.2024

DATE OF JUDGMENT: -16.07.2024

Dr. S.K. Panigrahi, J.

1. Since common question of facts and law are involved in both the Writ Petitions, the same were heard together and are being disposed of by this common judgment. However, this Court felt it apposite to deal the W.P.(C) No.6981 of 2022 as the leading case for proper adjudication of both the cases.
2. The Petitioner has filed W.P.(C) No.6981 of 2022 challenging the appointment of Auditors by the Auditor General of Cooperative Societies, Odisha, who are not the Chartered Accountants and not from the panel approved by the National Bank.
3. The petitioner also challenges the scope of the Audit which is mainly on the issue of appointment of Suresh Chandra Das as Chief Executive Officer of the Bank by the Management Committee.
4. Consequently, the petitioner challenges the Audit Report and notices seeking recovery of amounts pursuant to the Audit Report, which is completely without jurisdiction in violation of provisions contained under Section 62 of OCS Act, 1962 and in violation of principles of natural justice as well.
5. In this Writ Petition, the petitioner further challenges the Special Audit conducted by the Auditors which was conducted without giving him an opportunity to file his objection as required against half margin memos



as prescribed under in 2nd proviso of Rule 58 of Odisha Co operative Societies Rules.

6. He further challenges the notices issued by Assistant General of Co-operative Societies, Sundargarh asking him to file show-cause as to the recovery of Audit objected amount in Surcharge Proceeding Nos. 16, 17 & 18 of 2022. The same being an ex-parte Audit Report which is a clear violation of natural justice, the petitioner also challenges the appointment of Auditors, to conduct Audit, wherein the scope of audit 1 has been unnaturally expanded.

I. FACTUAL MATRIX OF THE CASE:

7. Succinctly put, the facts of the case are as follows:

- (i). During 2017 realizing that there is requirement of engagement of one well experienced Chief Executive Officer, the Management of the Petitioner's Bank passed Resolution for appointment of Chief Executive Officer from the open market qualifying proper criteria fixed by NABARD.
- (ii). As per the H.R. Policy in its Clause-6(D)(i), "the Managing Committee of the Bank shall be the Appointing Authority of the Chief Executive Officer".
- (iii). Accordingly, the Managing Committee in its Resolution dated 03.08.2018 authorized the President of the Bank to move to the Registrar of Cooperative Societies for appointment of own Chief Executive Officer of the Bank and vide its Resolution dated 28.09.2018 authorized the President to go ahead for appointment of Chief Executive Officer from the open market through advertisement.





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- (iv). Pursuant to decision of the Committee of Management the petitioner communicated to the Registrar of the Cooperative Societies highlighting the Bank's problems and requested to intervene in the matter personally and pass suitable order on priority basis, so that the post of Chief Executive Officer of the Bank can be filled up.
- (v). In terms of authorization of the Committee of Management, advertisement in the newspaper was published inviting 'applications for appointment of Chief Executive Officer of the Bank following the criteria in the H.R. Policy, as well as revised eligibility criteria issued by the Committee of Management thereafter vide Resolution dated 28.12.2018 authorized the President to consult different departments for conducting interview of CEO before retirement of the then incumbent holding the post of CEO.
- (vi). Pursuant to advertisement published by the Bank, there were altogether 16 candidates who responded to the call for candidates and placed their candidature. After conducting preliminary scrutiny of the applications, letters were issued to the candidates found eligible for attending the Viva-Voce Test.
- (vii). After complying with all the formalities, the Selection Committee constituted for the purpose of selection conducted Viva-Voce Test on 30.01.2019. For the purpose, letters were issued to all the members of the Selection Committee vide letter dated 28.01.2019. The petitioner issued letter dated 31.01.2019 to the Deputy Registrar of Cooperative Societies, Sundargarh to attend the meeting on 01.02.2019 for finalization of the process of appointment of C.E.O. Thereafter on 01.02.2019, the



Committee or Management approved selection of Sri Suresh Chandra Das, out of all candidates, to be appointed as C.E.O.

- (viii). Consequent upon approval by the Committee of Management, letter of appointment dated 01.02.2019 was issued to the selected candidate Sri Suresh Chandra Das. Thereafter, Sri Suresh Chandra Das assumed charge of C.E.O vide his communication letter dated 01.02.2019. The Managing Committee of the petitioner's Bank passed Resolution dated 01.02.2019 confirming appointment of Sri S.C. Das and decided to move the Registrar of Cooperative Societies, Odisha under Section 28(3)(b-1) of the Cooperative Societies Act.
- (ix). As the matter stood thus, the petitioner again communicated letter dated 18.02.2019 about deeming approval of the appointment of CEO. Only after letter under Annexure-20 was issued by the petitioner, the Registrar of Cooperative Societies, Odisha communicated the impugned disapproving the appointment of CEO alleging role of SC Das in financial indiscipline/irregularity, misutilization of funds etc.
- (x). The Management Committee of the Bank on the basis of resolution passed, filed W.P.(C) No. 5641/2019 challenging the action of the Registrar of Cooperative Societies not giving post-facto approval as required under Section 28(3)(b-1) of the Cooperative Societies Act. The Writ Petition was disposed of with this court setting aside the impugned order dated 23.02.2019 and ordering the Registrar of Cooperative Societies to relook into the matter.
8. The Registrar of Cooperative Societies, passed order dated 10.01.2020 again refusing to grant approval of the appointment of the Chief



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Executive Officer. The Management Committee challenged the said decision in W.P(C) No. 1846/ 2020.

9. While the matter stood thus, the Management Committee on completion of its 5(five) years term was superseded. In place of the Management Committee, the Registrar of Cooperative Societies appointed Collector, Sundargarh District as the Administrator to manage the affairs of the Bank. It was challenged in this Court in W.P(C) No. 32134 of 2020.
10. There was another Writ Petition filed in this Court vide W.P(C) No.32889 of 2020, which was disposed of directing the Special Relief Commissioner, Odisha to mediate and resolve the issue.
11. The Auditor General of Cooperative Societies, Odisha passed an order dated 11.06.2021 which elucidates that that in exercise of power under Section-61(l) (ii) of Odisha Cooperative Societies Act, 1962, Sri Bharat Chandra Behera, OAS (SS), Auditor General, Cooperative Societies, Odisha, Bhubaneswar authorized Sri Durga Prasad Das, SAAGCS & Sri Sudhir Kumar Panigrahi, SAAGCS of Sundargarh Audit Circle, Sundargarh to conduct Special Audit on the affairs of Sundargarh District Cooperative Bank Ltd, Sundargarh on the following points;
 - (a) Illegal appointment of Sri Suresh Chandra Das as Chief Executive Officer of the Bank.
 - (b) Financial indiscipline/ irregularities, misutilization of funds causing loss to the Bank on borrowings and repayment to the Odisha State Cooperative Bank.

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(c) Put the Bank ineligible for finance from OSCB due to default in repayment, non remittance of collection of loan from PACS during the period from 01.04.2018 to 31.05.2021.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

12. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:

(i). The order refusing to accord approval is backed* by no reasons. Particularly when there is no specific points mentioned as to what is the exact part of H.R. Policy has not been complied with by the Selection Committee. Particularly when the Managing Committee of the Bank is empowered to appoint its own C.E.O, the Registrar of Cooperative Societies without assigning any reasons and without giving any opportunity of hearing to the Bank refused approval in favour of appointment of C.E.O, who has already been selected, appointed and started functioning. Hence, the whole order dated 23.02.2019 refusing to accord approval on appointment of Chief Executive Officer of the petitioner's Bank is liable to be quashed

(ii). The entire Special Audit conducted is without jurisdiction being not in conformity with Section 62 of OCS Act read with Rule-58 of OCS Rules. In view of provisions contained in 2nd proviso to Section-62 (1) of O.C.S Act read with Sub Rule-5 of Rule-58 of OCS Rules, this being the Special Audit, the same could not have been conducted by the Auditors appointed under Annexure-1 but only the Chartered Accountant from



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the panel of National Bank i.e. NABARD is authorized to conduct the Audit in respect of a Central Cooperative Bank.

- (iii). The provisions contained under Section-62 sub section-2, any Audit under Sub Section-1 and 1(a) of Section-62 does not include the subject matter of appointment of Chief Executive Officer. Hence, the scope of the Audit as directed by the Auditor General authorizing the Auditor to audit the process of appointment of Chief Executive Officer again is without jurisdiction and is liable to be quashed.
- (iv). The petitioner has the right of complying the Half Margin Memo under Rule-58 of O.C.S. Rules. Though the petitioner wanted two months time and without giving him time as prayed for, concluded the Audit ex-parte while directing recovery of huge sum without giving any opportunity to confront the allegation is in violation of principles of natural justice.
- (v). The Chief Executive Officer, Odisha State Cooperative Bank He was trying to install his own man as the Chief Executive Officer of the Bank. The Committee, however, in disagreement in terms of Fit and Proper criteria and Human Resource Policy for Central Cooperative Bank of Odisha i.e. Staff Service Rules, 2011, Rule-6 Sub Rule-(d), wherein it is only the Managing Committee of the Bank shall be the Appointing Authority, following the Fit & Proper Criteria as given at (iv) of Sub Rule-D has appointed its Chief Executive Officer.
- (vi). The Managing Committee from time to time has passed Resolution and issued Advertisements inviting applications from open market constituting Selection Committee consisting of State Government and



other dignitaries for selection of Chief Executive Officer. Consequently, after following transparent method of selection, appointed its 10 Chief Executive Officer, who was opposed to by the then Chief Executive Officer of the Odisha State Cooperative Bank.

- (vii). The allegations of not making repayment to the Odisha State Cooperative Bank, the petitioner here contends that every Central Cooperative Bank of the State have right to receive refinance amount from the State Cooperative Bank. In the present case, in view of the dispute regarding appointment of the Chief Executive Officer, the then Managing Director though sanctioned Rs. 850 Crores for the year 2020-21, but did not release the same. As a result thereof, the Bank in absence of re-finance amount, could not repay the State Cooperative Bank's dues and it was artificially made defaulter at the behest of the then Managing Director. Hence, the entire Special Audit is without jurisdiction, contrary to law and deserves to be quashed.

- (viii). This Court in W.P(C) No.1846 of 2020 has directed that status-quo as on 06.03.2020 in respect of functioning of the CEO of the District Central Co-operative Bank, Sundargarh that shall be maintained by the parties.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

13. Per *contra*, learned counsel for the Opposite Parties intently made the following submissions:

- (i). The Special Audit of Sundargarh District Central Cooperative Bank was done on various points as per Rules when any gross misappropriation take place, the Auditor General of Co-operative Society, Orissa is duty bound to cause a special audit as per Section-62 (1) Sub- Section-II of the



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Orissa Co-operative Societies Act, 1962. A statutory Special Audit is conducted to unearth the truth based on the books and records fixing liabilities/responsibilities if any keeping firm adherence to Orissa Co-operative Societies Act, Rules, Circulars, Guidelines and by-laws of the concerned Societies.

(ii). The Special Audit is an Administrative Procedure and the allegation of the petitioner that the this Court directed to maintain status-quo in respect of functioning of CEO, but nowhere this Court has directed not to take any administrative procedure/ routine work as due for the Sundargarh district Central Cooperative Bank, Sundargarh for interest of stake holders. The Auditor General has every authority to examine the affairs of the society including financial administrative and managerial aspect. As there a huge financial involvement in the construction work, the scope of Audit/special Audit automatically comes. Hence, the allegation of the petitioner is not correct; more over there is no legal impediment from this Court, in this regard not to conduct Special Audit.

(iii). So far Section-62(1), Clause-(i) enumerates a statutory audit however Clause-(ii) elucidates a special audit. The Auditor General may, of his own motion or on a requisition from the registrar and shall on a directive from the State Government arrange for special audit, re-audit or conduct audit of accounts of any society or class of societies on day to day or such other basis as may be directed.

(iv). Moreover, there are certain other allegations levelled against the petitioner in respect of construction of new building of head office of



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bank and engagement of out-sourcing staffs and retired staffs. The Registrar of Co-operative Society (RCSO), being the administrative authority has refused to give approval to the appointment of the present CEO which was also not challenged before this Court.

- (v). The special audit of Sundargarh District Central Co- operative Bank, for the period from 01.04.2018 to 31.05.2021 was ordered as per the Clause-(ii) of Sub- Section(1) of Section-62 of OCS Act, 1962 read with Sub-Rule(5) of Rule-58 of OCS Rules, 1965.
- (vi). As per the above mentioned rule, when audit of OSCB/CCBs are conducted by the C.A firms duly appointed by the General Body out of panel approved by the National Bank as per Sub-Section(1) & (1-a) of Section-62 of OCS Act, 1962, the special audit of said institutions should have been conducted in the same manner. But where the committee of management is involved in any misappropriation, then the committee of management will never insist for a special audit and thereby they will never convene General Body to appoint C.A Firms to conduct special audit. It is revealed from the present case that committee of management of Sundargarh CCB Ltd had never convened General Body to appoint C.A Firm to cause special audit.
- (vii). The committee of management is supposed to be a party or committee of management is involved in any misappropriation then the committee of management will never insist for special audit and thereby they will never convene general body to appoint Chartered Accountant firms to conduct special audit. It is revealed from the present case that the committee of management of Sundargarh Central Co-operative Bank



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Limited had never convened general body to appoint chartered account firm to cause special audit. Section-62(1)-a speaks that without prejudice to the provisions contained in sub-section-(1) every society shall submit its accounts for audit by a auditor or a auditor firm to be appointed by the general body from out of panel approved by State Government or any authority by it in this behalf.

IV. COURT'S ANALYSIS AND REASONS:

14. The Special Audit of Sundargarh District Central Cooperative Bank was initiated in accordance with regulatory provisions designed to address cases of gross misappropriation. Specifically, under Section 62(1), Sub-Section II of the Orissa Cooperative Societies Act, 1962, the Auditor General of the Cooperative Society, Orissa, is mandated to conduct a special audit when such issues arise. This statutory special audit aims to uncover the truth based on an examination of the bank's books and records, thereby identifying any liabilities or responsibilities. The process is conducted with strict adherence to the Orissa Cooperative Societies Act, its rules, circulars, guidelines, and the by-laws of the relevant societies.

15. Contrary to the petitioner's claims, the Special Audit is an administrative procedure. The Court's directive to maintain the status quo regarding the CEO's functioning did not prohibit the performance of necessary administrative procedures or routine operations for the Sundargarh District Central Cooperative Bank. The Auditor General retains full authority to investigate the society's affairs, including financial, administrative, and managerial aspects. Given the significant



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financial implications of construction projects, an audit or special audit is naturally warranted. Therefore, the petitioner's allegations lack merit, and there is no legal barrier from this Court preventing the Special Audit.

16. Section 62(1) of the Orissa Cooperative Societies Act delineates the framework for statutory and special audits. Clause (i) outlines the statutory audit requirements, while Clause (ii) specifies the conditions for a special audit. The Auditor General is empowered to initiate a special audit independently, upon requisition from the registrar, or by directive from the State Government. This may involve a special audit, re-audit, or continuous audit of a society's accounts as necessary.
17. Additional allegation against the petitioner concern is the construction of a new head office building and the employment of outsourced and retired staff. The Registrar of Cooperative Society (RCSO), the administrative authority, has refused to approve the appointment of the current CEO, a decision that has not been contested in this Court.
18. The special audit of Sundargarh District Central Cooperative Bank, covering the period from April 1, 2018, to May 31, 2021, was ordered under Clause (ii) of Sub-Section (1) of Section 62 of the OCS Act, 1962, in conjunction with Sub-Rule (5) of Rule 58 of the OCS Rules, 1965. According to these rules, while audits of OSCB/CCBs are generally conducted by CA firms appointed by the General Body from a panel approved by the National Bank under Sub-Sections (1) and (1-a) of Section 62 of the OCS Act, 1962, the special audit of these institutions should follow the same procedure. However, if the management

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committee is implicated in misappropriation, it is unlikely to request a special audit and will not convene a General Body meeting to appoint CA firms for this purpose. In this case, it is evident that the management committee of Sundargarh CCB Ltd. never convened a General Body meeting to appoint a CA firm for conducting a special audit.

19. When the management committee is suspected of involvement in misappropriation, it is improbable that they will call for a special audit or convene the General Body to appoint CA firms for such an audit. The current case reveals that the management committee of Sundargarh Central Cooperative Bank Limited never convened a General Body meeting for this purpose. Section 62(1)-a stipulates that, notwithstanding the provisions of Sub-Section (1), every society must submit its accounts for audit by an auditor or audit firm appointed by the General Body from a panel approved by the State Government or an authorized entity.
20. With respect to the aforesaid discussion, this Court is not inclined to entertain the prayer of the Petitioner.
21. Both the Writ Petition are, accordingly, dismissed.
22. Interim order, if any, passed earlier in any of the Writ Petitions stands vacated.



Orissa High Court, Cuttack,
Dated the 16th July, 2024/



Sd/- Dr. S. K. Panigrahi, J.

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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6981 of 2022

&

W.P.(C) No.20413 of 2022

Bhabani Prasad Majhi

....

Petitioner(s)

(in W.P.(C) No.6981 of 2022)

*Pradyumna Kumar Tripathy and
Ors.*

(In W.P.(C) No.20413 of 2022)



Mr. P.K. Rath, Sr. Adv.

Along with associates

Ms. Sradha Das, Adv.

(in W.P.(C) No.6981 of 2022)

Mr. P.K. Rath, Sr. Adv.

Along with associates

Mr. N.K. Sahu, Adv.

(In W.P.(C) No.20413 of 2022)

-versus-

State of Odisha & Ors.

....

Opp. Party(s)

Mr. G.R. Mahapatra, ASC

Mr. Subir Palit, Sr. Adv.

Along with associates



CORAM:

DR. JUSTICE S.K. PANIGRAHI

Order

No.

ORDER

16.07.2024

16. 1. Both the matters are taken up through hybrid arrangement.
2. Learned counsel for the parties are present. Judgment prepared in separate sheets is delivered and pronounced in open Court in the presence of learned counsel for the parties and the order is passed accordingly as follows:
3. With respect to the aforesaid discussion, this Court is not inclined to entertain the prayer of the Petitioner.



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4. Both the Writ Petition are, accordingly, dismissed.
5. Interim order, if any, passed earlier in any of the Writ Petitions stands vacated.

Sd/- Dr. S.K. Panigrahi, J.

B.Jhankar



cert by $\frac{DP}{22.2.24}$

Date of Application :- 22.
 Date of Notification :- C.O. 07.24
 Date of Supply :- 23.
 Date of Ready :- 23.
 Date of Delivery :- 24

CA No-60983/2024

MEMO OF COSTS

	Rs.	P.
Application Fee.....	10	00
Folios / No. Pages.....18 x 2	36	00
Hologram Fees.....18 x 1	18	00
Photo Copier Fee.....18. x 1	18	00
For Typed Copies..... x 5	—	—
Total	82	00

(Rupees Eighty Two only)

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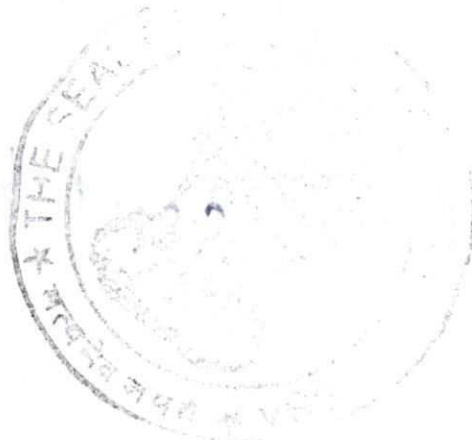
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Assistant Registrar (Estt.)
HIGH COURT OF ORISSA
Authorised Under Section-76, Act-I of 1872



14 AUG 2022

REGISTRAR (JUDICIAL)

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IN THE HIGH COURT OF ORISSA: CUTTACK

(ORIGINAL JURISDICTION CASE)

W.P (C) NO. No. 6981 OF 2022
CODE NO.

Sri Bhabani Prasad Majhi. ... PETITIONER

-Versus -

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CUTTACK

Date: 13-03 -2022

ADVOCATE
(PRAFULLA KUMAR RATH)
ENROLLMENT NO.O-1760/1994.
MOB-9437024028.

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IN THE HIGH COURT OF ORISSA: CUTTACK
(ORIGINAL JURISDICTION CASE)

W.P (C) NO. No. 6981 OF 2022

CODE NO.

IN THE MATTER OF:

An application under Article 226 and 227 of
the Constitution of India.

AND

IN THE MATTER OF:

An application under the provisions of Odisha
Cooperative Societies Act & Rules made
there under.

AND

IN THE MATTER OF:

Sri Bhabani Prasad Majhi, aged about 55
years, S/o- Sri Jogeswar Majhi, At- Bhawani
Bhawan Area, At- Sai Bihar, PO/PS/Dist-
Sundargarh, Odisha, Pin- 770001.

...

PETITIONER

VERSUS

1. State of Odisha, represented by the Principal
Secretary to Government, Cooperation
Department, Loka Seva Bhawan, Sachivalaya
Marg, Bhubaneswar- 751001, Dist-Khurdha.
2. Auditor General of Cooperative Societies,
Odisha, Directorate of Cooperative Audit,
Bhubaneswar, Dist- Khurdha.

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3. Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle,
At- Composite Cooperative Building, (Near D.E.O. Office), PO/Dist- Sundargarh, Pin- 770001, Odisha.
4. Sri Durga Prasad Dash, SAAGCS,
Office of the Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle, C/o- Deputy Registrar of Cooperative Societies, Sundargarh Division, PO/Dist- Sundargarh.
5. Sri Sudhir Kumar Panigrahi, SAAGCS,
Office of the Assistant Auditor General of Cooperative Societies, Sundargarh Audit Circle, C/o- Deputy Registrar of Cooperative Societies, Sundargarh Division, PO/Dist- Sundargarh.

... **OPPOSITE PARTIES**

The matter out of which this Writ Petition arises was before this Hon'ble Court in W.P(C) No. 5641 of 2019, disposed of on 20.12.2019, W.P(C) No.8131/2019, disposed of on 20.12.2019, CONTC No.1510 of 2019, disposed of 20.12.2019, W.P(C) No.1846 of 2020, disposed of as withdrawn on

18.11.2020, W.P(C) No. 10806/2020, pending adjudication in this Hon'ble Court, W.P(C) No. 19986/2020, disposed of on 17.08.2021, W.P(C) No. 32889 of 2020, disposed of on 17.08.2021, W.P(C) No. 32134/ 2020, disposed of on 01.11.2021 & W.P(C) No. 39657 of 2021, disposed of as withdrawn on 08.03.2022.

To

The Hon'ble Chief Justice and his Lordships
Companion Justices of the Hon'ble Court.

The humble petition of the
Petitioners, named above.

MOST RESPECTFULLY SHEWETH:-

1. That the petitioner is filing this Writ Petition challenging the order dated 11.06.2021 passed by the Auditor General of Cooperative Societies, Odisha, directing to hold Special Audit on the question of appointment of Chief Executive Officer of the Bank when the matter is under subjudice and this Hon'ble Court in W.P(C) No. 1846 of 2020 on 06.03.2020 has directed that status quo as on 06.03.2020 in respect of functioning of the Chief Executive Officer of the District Central Cooperative Bank, Sundargarh shall be maintained by the Parties, which is in clear contravention under the provisions contained under Section-62 of

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Odisha Co-operative Societies Act. A copy of such order dated 11.06.2021 is annexed herewith as ANNEXURE-1.

The petitioner also challenges the Special Audit conducted by the Auditors without giving the petitioner any opportunity to file objection as required against half margin memos as provided in 2nd proviso to Rule-58 of Odisha Co-operative Societies Rules. A copy of such Audit Report submitted by the Auditors is annexed herewith as ANNEXURE-2.

The petitioner further challenges the notices issued by Asst. Auditor General of Co-operative Societies, Sundargarh asking the petitioner to show cause as to recovery of Audit objected amount in Surcharge Proceeding No. 16, 17 & 18 of 2022 respectively, the same being completely illegal on the basis of an unilateral ex-parte Audit Report under Annexure-2, in clear violation of principles of natural justice. Copies of such notices dated 22.02.2022 issued vide No. 255, No. 260 & No.265 in Surcharge Proceedings No. 16, No.17 & No.18 respectively are annexed herewith as ANNEXURE-3 Series.

2. That the main grounds of challenge in this Writ Petition are;

- (a) In view of the direction of this Hon'ble Court to maintain status quo as on 06.03.2020 in respect of functioning of the Chief Executive Officer of the District Central Cooperative Bank, Sundargarh by the parties, the scope of Audit as provided under Section-62 of Odisha Co-operative Societies Act, appointment of a Chief Executive Officer is not prescribed to form subject matter of a Special Audit. In such view of the matter, the whole exercise of conducting Audit concerning appointment of Chief Executive Officer on the basis of order passed by the Government are without jurisdiction. The impugned order under Annexure-1, the Special Audit Report under Annexure-2 and the consequential Surcharge Proceedings on the basis of Report under Annexure-3 are vitiated in law in as much as without jurisdiction and are liable to be quashed.
- (b) On the face of the materials available on record in the half-margin memo itself, the petitioner having not been given opportunity to file reply to the half-margin memos as required under Rule-58 of Odisha Co-operative Societies Rules, the report without complying with the same is contrary to the



mandates of law in as much as in violation of principles of natural justice.

- (c) In view of the order passed by the Government under Annexure-1, the Auditors appointed to conduct Audit have no authority to enlarge the scope of Audit to the aspect as to construction of Bank's building, staff appointment etc which were never subject matter of the impugned order under Annexure-1. The whole Audit being in clear contravention of initial requisition, the reports furnished thereto are illegal and are liable to be quashed.
- (d) In view of the government's own order to conduct Audit after taking leave from this Hon'ble Court and leave has never been obtained in the pending Writ Petition, the Final Audit Report and all consequential reports are void abinitio.
3. That the petitioner is the Ex-President of the Sundargarh District Central Cooperative Bank, who is a citizen of India, resides within the territorial jurisdiction of this Hon'ble Court. The cause of action for filing of this Writ Petition has also arisen within the jurisdiction of this Hon'ble Court.

4. That the petitioner, the elected representative from his Primary Cooperative Society i.e. Karamdihi LAMPS was acting in the capacity as stated above.
5. That the short fact leading to filing of this Writ Petition is that during 2017 realizing that there is requirement of engagement of one well experienced Chief Executive Officer, the Management of the Petitioner's Bank passed Resolution for appointment of Chief Executive Officer from the open market qualifying proper criteria fixed by NABARD. The said proposal was accepted by the Managing Committee and requested the President to move to Registrar of Cooperative Societies for approval of the same. A copy of the Resolution of the meeting held on 31.08.2017 is annexed herewith as ANNEXURE-4.
6. That the President of the Bank issued letter dated 04.09.2017 inviting suggestions from the Registrar of Cooperative Societies regarding the Bank's proposal for appointment of a Chief Executive Officer from the open market. A copy of such letter dated 04.09.2017 is annexed herewith as ANNEXURE-5.
7. That vide letter dated 7.10.2017, the President of the Bank has communicated letter to the Registrar of Cooperative Societies about difficulties and

stalemate in the Bank. In the said letter there are several communications referred to wherein allegations were levelled against Sri A.N.Mohanty, A.G.M, O.S.C. Bank who was in charge of the Chief Executive Officer. A copy of letter dated 7.10.2017 issued to the Registrar of Cooperative Societies by the petitioner Society through the President is annexed herewith as ANNEXURE-6. At this stage, it may be submitted here that Sri P.K.Mohanty was supposed to retire with effect from 31.01.2019. As per the H.R. Policy in its Clause-6 (D)(i), "*the Managing Committee of the Bank shall be the Appointing Authority of the Chief Executive Officer*". Accordingly, the Managing Committee in its Resolution dated 03.08.2018 authorized the President of the Bank to move to the Registrar of Cooperative Societies for appointment of own Chief Executive Officer of the Bank. A copy of the Resolution dated 03.08.2018, relevant portion of the H.R Policy and eligibility criteria in respect of Chief Executive Officer of different Central Cooperative Banks issued by NABARD dated 17.01.2018 are annexed herewith as ANNEXURE-7 Series.

8. That it is pertinent to mention here that the Committee of Management of the Bank vide its Resolution dated 28.09.2018 authorized the President to go ahead for appointment of Chief

Executive Officer from the open market through advertisement. A copy of such Resolution dated 28.09.2018 is annexed herewith as ANNEXURE-8.

9. That pursuant to decision of the Committee of Management under Annexure-7, the petitioner communicated to the Registrar of the Cooperative Societies highlighting the Bank's problems and requested to intervene in the matter personally and pass suitable order on priority basis, so that the post of Chief Executive Officer of the Bank can be filled up. A copy of such letter dated 26.10.2018 is annexed herewith as ANNEXURE-9.
10. That despite receiving series of communications, the Registrar of Cooperative Societies sat over the matter. In terms of authorization of the Committee of Management, advertisement in the newspaper was published inviting applications for appointment of Chief Executive Officer of the Bank following the criteria in the H.R. Policy, as well as revised eligibility criteria issued by the NABARD. Copies of advertisements published in the newspaper "Sambad" is annexed herewith as ANNEXURE-10 & in the newspaper "Dharitri" is annexed herewith as ANNEXURE-11 respectively.
11. That the Committee of Management thereafter vide Resolution dated 28.12.2018 authorized the

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President to consult different departments for conducting interview of C.E.O before retirement of the then incumbent holding the post of C.E.O. A copy of such proceeding of the Committee of Management dated 28.12.2018 is annexed herewith as ANNEXURE-12.

12. That in pursuance of the authorization, the President of the Bank issued letter dated 23.01.2019 to all the concerned authorities to make it convenient to attend the interview fixed for the purpose of selection of the C.E.O. A copy of such letter dated 23.01.2019 is annexed herewith as ANNEXURE-13.
13. That pursuant to advertisement published by the Bank, there are altogether 16 candidates responded to the selection process and have placed their candidature. After conducting preliminary scrutiny of the applications, letters were issued to the candidates found eligible for attending the Viva-Voce Test. After complying with all the formalities, the Selection Committee constituted for the purpose of selection conducted Viva-Voce Test on 30.01.2019. For the purpose, letters were issued to all the members of the Selection Committee vide letter dated 28.01.2019. A copy of such letter dated 28.01.2019 is annexed herewith as ANNEXURE-14.

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14. That the petitioner issued letter dated 31.01.2019 to the Deputy Registrar of Cooperative Societies, Sundargarh to attend the meeting on 01.02.2019 for finalization of the process of appointment of C.E.O. A copy of such letter dated 31.01.2019 is annexed herewith as ANNEXURE-15. Thereafter on 01.02.2019, the Committee of Management has approved selection of Sri Suresh Chandra Das out of all candidates who was found eligible to be appointed as C.E.O. A copy of such Resolution dated 01.02.2019 is annexed herewith as ANNEXURE-16. Consequent upon approval by the Committee of Management, letter of appointment dated 01.02.2019 was issued to the selected candidate Sri Suresh Chandra Das. A copy of the appointment letter dated 01.02.2019 is annexed herewith as ANNEXURE-17. Thereafter, Sri Suresh Chandra Das assumed charge of C.E.O vide his communication letter dated 01.02.2019. A copy of such communication dated 01.02.2019 is annexed herewith as ANNEXURE-18. The Managing Committee of the petitioner's Bank has passed Resolution dated 01.02.2019 confirming appointment of Sri S.C.Das and has decided to move the Registrar of Cooperative Societies, Odisha under Section- 28(3)(b-1) of the Cooperative Societies Act. A copy of such Resolution dated 01.02.2019 is annexed herewith

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as ANNEXURE-19. Consequent upon decision under Annexure-18, the petitioner moved Registrar of Cooperative Societies, Odisha for according necessary approval as required under law regarding appointment of Chief Executive Officer. A copy of such letter dated 02.02.2019 is annexed herewith as ANNEXURE-20. The petitioner also has also communicated this fact to the Regional Director of Reserve Bank of India, Bhubaneswar. A copy of such letter dated 02.02.2019 issued to the Regional Director of Reserve Bank of India, Bhubaneswar is annexed herewith as ANNEXURE-21.

15. That despite receiving the aforesaid communications, since the Registrar of Cooperative Societies, Odisha sat over the matter, the petitioner again communicated letter dated 18.02.2019 about deeming approval of the appointment of C.E.O. A copy of such letter dated 18.02.2019 is annexed herewith as ANNEXURE-22.
16. That only after letter under Annexure-20 was issued by the petitioner, the Registrar of Cooperative Societies, Odisha communicated the impugned order under Annexure-1, which is wholly illegal and contrary to law as stated above. The order refusing to accord approval is backed by no reasons. Particularly when there is no specific points mentioned as to what is the exact part of

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H.R. Policy has not been compiled with by the Selection Committee. Particularly when the Managing Committee of the Bank is empowered to appoint its own C.E.O, the Registrar of Cooperative Societies without assigning any reasons and without giving any opportunity of hearing to the Bank refused approval in favour of appointment of C.E.O, who has already been selected, appointed and started functioning. Hence, the whole order dated 23.02.2019 refusing to accord approval on appointment of Chief Executive Officer of the petitioner's Bank is liable to be quashed.

17. That the Management Committee of the Bank on the basis of resolution passed , initially filed W.P(C) No. 5641/2019 challenging the action of the Registrar of Cooperative Societies not giving post-facto approval as required under Section-28(3)(b-1) of the Cooperative Societies Act. The Writ Petition was disposed of with the following orders.

W.P(C) No. 5641 of 2019

Sl.No. of order: 7 Date of order: 20.12.2019

Heard Sri P.K.Rath, learned Counsel for the petitioner and Sri Panda, learned Additional Government Advocate for the State.

This writ petition involves a challenge to the orders of Annexure-1.

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Sri Rath, learned counsel for the petitioner referring to the order at Annexure-1 and taking this Court to the reasons assigned therein in interfering with the appointment of the petitioner and further referring to the provision at Section-28(3)(b-1) of the Odisha Cooperative Societies Act, 1962 contended that for the statutory provision reading otherwise, there appears, there is misapplication of the provision in passing the impugned order at Annexure-1.

To the contrary, Sri Panda, learned Additional Government Advocate for the State taking this Court to the National Bank for Agriculture and Rural Development at Annexure-A/2 submitted that the selection involving CEOs of the State Cooperative Banks remains contrary to the guidelines at Annexure-8 and attempted to justify the order at Annexure-1.

Considering the rival contentions of the parties and taking into account the resistance of the learned Additional Government Advocate, this Court finds, this being not the reason of interference in the selection of CEOs, this has nothing to do with the matter at hand. It is on the other hand, looking to the provision at Section 3-b(1) of the Odisha Cooperative Societies Act, 1962, this Court finds, there is wrong application of this provision in deciding the matter involving Annexure-1. For this reason, the order at Annexure-1 remains unsustainable. This Court,



therefore, interfering with the order at Annexure-1 sets aside the same. The consequential order at Annexure-2 is also interfered with a set aside. For requirement of re-visiting the issue by the Registrar, Cooperative Societies, O.P.No.2, the matter may be re-looked and order, as appropriate, be passed within three weeks from the date of communication of this order. Till a decision is taken in the matter, status quo in respect of the appointment of CEO of the petitioner's Bank shall be maintained.

With this order, the writ petition stands disposed of.

Issue urgent certified copy.

Sd/- B.Rath, J''

18. That the Registrar of Cooperative Societies, thereafter passed order dated 10.01.2020 refusing to grant approval of the appointment of the Chief Executive Officer. A copy of such order dated 10.01.2020 is annexed herewith as ANNEXURE-23.
19. That the Management Committee challenged the said decision in W.P(C) No. 1846/ 2020. In the said Writ Petition, there was Interim order passed by this Hon'ble Court, which reads as follows;

W.P(C) No.1846 of 2020

Sl. No. of order: 02

Date of order: 6.02.2020

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Legible copy of the document vide Annexure-9 being filed in Court, defects with regard to non-filing of the same stands ignored.

Heard Mr. P.K. Rath, learned counsel for the petitioner.

Issue notice on the question of admission.

Since the opposite party nos.1 & 2 will be represented by the State Counsel, no notice need be issued to them. Let two extra copies of the brief be served on the learned State Counsel by 10th of February, 2020.

Notice be issued to the opposite party nos.3 & 4 by way of Speed Post with A.D. or Registered Post with A.D. fixing a short returnable date, for which requisites shall also be filed within the time stipulated hereinabove.

Counter affidavit, if any, shall be filed within a period of six weeks from the date of receipt of notice.

Sd/- Biswanath Rath,J''

I.A. No.771 of 2020

Sl. No. of order: 02 Date of order: 6.02.2020

Notice as above.

Accept one set of process fee.

As an interim measure, it is directed that status quo as on today in respect of the functioning of the Chief Executive Officer of the District



Central Co-operative Bank Ltd., Sundargarh shall be maintained by the parties till the next date.

Issue urgent certified copy as per rules.

Sd/-Biswanath Rath, J".

20. That the newly appointed Chief Executive Officer has also challenged the orders passed by the Registrar of Cooperative Societies dated 10.01.2020 by filing separate W.P(C) No. 10806 of 2020. In the said Writ Petition, the following Interim order was passed.

W.P(C) No. 10806 of 2020

Sl. No. of order: 02 Date of order: 3.06.2020

This matter is taken up through Video Conferencing.

Heard Mr. B.K. Sharma, learned counsel for the petitioner.

Issue notice on the question of admission.

Since the opposite party nos.1 & 2 will be represented by the State Counsel, no notice be issued to them. Let two extra copies of the brief be served on the learned State Counsel by 5th of June, 2020.

Notice be issued to the opposite party nos.3 & 4 by way of Speed Post with A.D. or Registered Post with A.D. fixing a short returnable date, for which requisites shall also be filed within the time stipulated hereinabove.

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Counter affidavit, if any, shall be filed within a period of six weeks from the date of receipt of notice.

Sd/-Biswanath Rath, J".

I.A. No.4806 of 2020

Sl. No. of order: 03 Date of order: 3.06.2020

Notice as above.

Accept one set of process fee.

As an interim measure, it is directed that status quo as on today in respect of the functioning of the Chief Executive Officer of the District Central Co-operative Bank Ltd., Sundargarh shall be maintained by the parties till the next date.

It is the responsibility of the petitioner to serve copy of this order on the competent authority.

Sd/- Biswanath Rath, J"

21. That while the matter stood thus, the Management Committee on completion of its 5(five) years term was superseded. In place of the Management Committee, the Registrar of Cooperative Societies appointed Collector, Sundargarh District as the Administrator to manage the affairs of the Bank.
22. That such a supersession of the Management Committee and appointment of Collector as Administrator was challenged in this Hon'ble Court in W.P(C) No. 32134 of 2020. The said Writ

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Petition has been disposed of vide judgment dated 01.11.2021. A copy of the judgment is annexed herewith as ANNEXURE-24.

23. That pertaining to refinance, there was another Writ Petition filed in this Hon'ble Court i.e. W.P(C) No.32889 of 2020, which was disposed of directing the Special Relief Commissioner, Odisha to mediate and resolve the issue.
24. That the Special Relief Commissioner meanwhile has passed an order dated 16.10.2021. The said order is illegal and apparently wrong on the face of it. The petitioners reserve their right to challenge the said order dated 16.10.2021 by filing separate Writ Petition. A copy of the said order dated 16.10.2021 is annexed herewith as ANNEXURE-25.
25. That be that as it may, when the matter regarding appointment of Chief Executive Officer is still pending adjudication in this Hon'ble Court with Interim order passed therein, the Managing Director of Odisha State Cooperative Bank who has been jealously with all sorts of bias, malafides and caprices has issued orders vide reference dated 03.06.2021 and 09.06.2021 to the Registrar of Cooperative Societies, Auditor General of Cooperative Societies, Odisha & Collector,



Sundargarh to conduct Special Audit on the question of appointment of Chief Executive Officer and other matters involving the Chief Executive Officer.

26. That under the provisions contained under Section-62 of the Cooperative Societies Act, the Managing Director has no authority to recommend conducting Special Audit in respect of a District Central Cooperative Bank. Such recommendation dated 03.06.2021 and 09.06.2021 are without jurisdiction and are liable to be quashed. Copies of such orders dated 03.06.2021 & 09.06.2021 are annexed herewith as ANNEXURE-26 Series.
27. That the Principal Secretary to Government with an observation to obtain leave from the Hon'ble High Court for conducting Special Audit disposed of the matter.
28. That vide impugned order under Annexure-1, Special Audit has been directed involving the issue regarding appointment of Chief Executive Officer.
29. That within the meaning of provisions contained under Section-62, appointment of the Chief Executive Officer cannot form subject matter of any Audit. Fact remains that without obtaining any leave as recommended from this Hon'ble Court, the order under Annexure-1 was passed to conduct Special Audit.

30. That the Auditors appointed to conduct Special Audit have issued half-margin memos on the following points.

- (i) Appointment of Chief Executive Officer.
- (ii) Appointment of Security services through outsourcing.
- (iii) Construction of building by spending money without approval.

31. That so far as later two points out of aforesaid three, the impugned order under Annexure-1 do not permit them to conduct the Special Audit and include in the report. Hence, that part of the Half-Margin Memo and Special Audit are without jurisdiction. So far as appointment of Chief Executive Officer is concerned, the matter is still sub-judice in this Hon'ble Court and without obtaining any leave from the Hon'ble High Court, direction for conducting Special Audit could not have been issued. Hence, such order under Annexure-1 is again without jurisdiction.

The Special Audit as per order under Annexure-1 has been conducted without complying with any of the provisions mandatorily required under Section-62 (2) of the Act.

32. That after receiving half-margin memos, the petitioner submitted application for grant two months time for the purpose of replying half-margin memos after perusing documents and

collection of materials. Since the half margin memos involved collection of several documents and the petitioner was out of office, two months time was prayed for. This fact is very much available in the half-margin memos received by the petitioner and the endorsement made by the Auditor himself on the subjects of compliance. Copies of the half-margin memos are annexed herewith as ANNEXURE-27 Series.

33. That the Auditors, however, without passing any order on the application for grant of time, the compliance to the half margin memo unilaterally, proceeded with the Audit and completed the same. Consequently, report has been furnished under Annexure-2 which itself forming issuance of Surcharge Notices under Annexure-3 Series.
34. That the entire Special Audit as initiated pursuant to Annexure-1 is in violation of principles of natural justice. The petitioner on the one hand is still to meet the allegations against him. The petitioner is challenging the authority of Auditor General to conduct Audit beyond the scope of Section-62 as contained under Chapter-8 of Orissa Cooperative Societies Act. The appointment of the Chief Executive Officer not being within the ambit & scope of Audit as provided under Section-62, the Auditor General has gone and acted beyond his jurisdiction while conducting beyond his subject.

35. That on the aforesaid background of facts particularly when the petitioner is asking for time to provide him with copies utilized against him, the entire action of completing the Audit and submitting a Report pursuant to Annexure-3 is demonstrative of the fact that the Auditor General is acting under the instructions of present Managing Director, Odisha State Cooperative Bank, against whom there are litigations pending in this Hon'ble Court in the shape of various Writ Petitions.
36. That be that as it may, the entire action being in violation of Article-14 of the Constitution of India and Cooperative Societies Act, are liable to be quashed. The petitioner earlier with other Directors had approached this Hon'ble Court in W.P(C) No. 39657 of 2021. During pendency of the Writ Petition, since certain development was taken place, the petitioner was permitted to withdraw the Writ Petition with liberty to file better application. The Writ Petition was disposed of with the aforesaid liberty. The petitioner thereafter is filing this fresh Writ Petition.
37. That the petitioner has no other speedy and efficacious remedy than to invoke the extraordinary jurisdiction of this Hon'ble Court.

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PRAYER

The petitioner, therefore, pray that your Lordships would be graciously pleased to admit this Writ Petition, call for the records and after hearing the parties allow the same, issue writ/writs in the nature of certiorari/mandamus and/or any other further writ/direction and quash the order dated 11.06.2021 passed by the Auditor General of Cooperative Societies, Odisha, Bhubaneswar under Annexure-1 & the Audit Report under Annexure-2 and the Surcharge Proceedings under Annexure-3 Series.

And for this act of kindness, the petitioner shall as in duty bound ever pray.

By the Petitioner through

Cuttack,

Dated: 13.03.2022

**ADVOCATE
(PRAFULLA KUMAR RATH)
ENROLLMENT NO.O-1760/1994
Mobile No. 9437024028.**

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AFFIDAVIT

I, Sri Bhabani Prasad Majhi, aged about 55 years,
S/o- Sri Jogeswar Majhi, At- Bhawani Bhawan Area,
At- Sai Bihar, PO/PS/Dist- Sundargarh, Odisha, Pin-
770001, do hereby solemnly affirm and state as
follows:-

- 1) That I am the Petitioner in the aforesaid Writ
Petition as well as in the Interim Application.
- 2) That the facts stated above are true to the best of
my knowledge and belief based on official
records.

Identified by:

Bhabani Prasad Majhi

DEPONENT

Advocate' clerk.

CERTIFICATE

Certified that due to non-availability of cartridge
papers, thick white papers have been used.

Cuttack

Dated: 13.03.2022

ADVOCATE

(PRAFULLA KUMAR RATH)

ENROLLMENT NO.O-1760/1994

Mobile No. 9437024028.

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HIGH COURT OF JUDICATURE
BHUANESWAR

DIRECTORATE OF COOPERATIVE AUDIT: ODISHA: BHUBANESWAR.

Order No.VI(10)09/2021/Audit -4/ 3162 Dated. 11/06/2021

In pursuance of Letter No.-1158(3)/OSCB/HRDD/2021-22 dtd.dtd.19.06.2021 of the Managing Director, OSCB & order passed by the Principal Secretary to Govt. Cooperation Department, Odisha on UOI No.-1022/dt.03.06.2021 of OSCB and in exercise of the power conferred upon me under section -62(1) (II) of Odisha Cooperative Societies Act, 1962, I Sri Bharat Chandra Behera, OAS(SS), Auditor General, Cooperative Societies, Odisha, Bhubaneswar, do hereby authorise Sri Durga Prasad Dash, SAAGCS & Sri Sudhir Kumar Panigrahi, SAAGCS, of Sundergarh Audit Circle, Sundergarh to conduct the Special Audit on the affairs of Sundergarh District Central Cooperative Bank Ltd., Sundergarh on illegal appointment of Sri Suresh Chandra Das, Chief Executive Officer of the Bank, financial indiscipline/irregularities, misutilisation of funds causing loss to the Bank on borrowings and repayment to the OSCB put the bank ineligible for finance from OSCB due to defaulting in repayment non remittance of collection of loan from PACS etc. during the period from 01-04-2018 to 31-05-2021.

Fifteen mandays are allotted to conduct and complete the said Special Audit. The Special Audit must be reported in details on the above irregularities, illegalities along with the present status of borrowings from the OSCB Ltd.

The Special Audit shall be conducted as per the provisions of OCS Act 1962, OCS Rules 1965, provisions of the by-law, Rules of business of the Bank & as per Circular instruction/guidelines issued by RBI, NABARD, RCS(O) & AGCS(O), Bhubaneswar thereof from time to time. Specific/clear cut accountability/responsibility need to be fixed up in the Special Audit against the delinquents responsible for lapses, irregularities & illegalities committed by them. The delinquents need to be afforded reasonable opportunities of being heard by way of issuing summonses and Half-Margin Memos in a time bound manners in course of Special Audit.

Soon after completion of Special Audit, two draft copies of such report need to be submitted to this Directorate after making due scrutiny at the level of Asst. AGCS, Sundergarh. On approval of the said draft Special Audit Report, other copies of the report need to be submitted to this Directorate for issue and transmission of the same to concerned quarters.

11/06/2021
Auditor General of
Cooperative Societies, Odisha.

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Memo No. 3163/

Date 11/06/2021

Copy to Sri Durga Prasad Dash, SAAGCS & Sri Sudhir Kumar Panigrahi, SAAGCS of Sundergarh Audit Circle, Sundergarh for information with a direction to commence the Special Audit on 21.06.2021 positively & complete the same within the allotted mandays.

Auditor General of
Cooperative Societies, Odisha

Memo No. 3164/

Date 11/06/2021

Copy to Chief Executive Officer, Sundergarh District Central Cooperative Bank Ltd. Sundergarh for information with a request to produce all the Book & Records, documents & information to the Special Auditor as and when required by them.

Further, he is requested to comply the Half-Margin Memo of the special auditor within the date line so fixed by the special auditor for timely completion of Special Audit.

Auditor General of
Cooperative Societies, Odisha

Memo No. 3165/

Date 11/06/2021

Copy to Asst. AGCS, Sundergarh Audit Circle, Sundergarh/Asst. AGCS, Dhenkanal Audit Circle, Dhenkanal for information. He is directed to monitor and supervise the said Special Audit for timely completion of Special Audit. Further, he is directed to submit status/progress of Special Audit to this Directorate from time to time.

Auditor General of
Cooperative Societies, Odisha

Memo No. 3166/

Date 11/06/2021

Copy forwarded to Deputy Registrar, Cooperative Societies, Sundergarh Division Sundergarh for information and necessary action.

Auditor General of
Cooperative Societies, Odisha

Memo No. 3167/

Date 11/06/2021

Copy forwarded to Administrator, Sundergarh District Central Cooperative Bank Sundergarh-cum- Collector & District Magistrate, Sundergarh for favour of kind information and necessary action.

Auditor General of
Cooperative Societies, Odisha

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Memo No...../

84
Date 11/06/2021

Copy submitted to the Managing Director, Odisha State Cooperative Bank, Bhubaneswar/Registrar, Cooperative Societies, Odisha, Bhubaneswar for favour of kind information & necessary action with reference to Letter No.-1158(3)/OSCB/HRDD/2021-22/dtd.09-06-2021 of MD, OSCB Ltd.

3/69
Memo No...../

Auditor General of
Cooperative Societies, Odisha

Date 11/06/2021

Copy submitted to the Principal Secretary to Govt. Cooperation Department, Odisha, Bhubaneswar for favour of kind information and necessary action.

Auditor General of
Cooperative Societies, Odisha

SPECIAL AUDIT REPORT

OF

SDCC BANK LTD.

SUNDARGARH

For the Period

From 01.04.2018 TO 31.05.2021

*Certified that this Special Audit Report
Contains 34 Pages only*

Auditor


Auditor

Audited by:-
Sri Durga Prasad Dash, SAAGCS
Sri Sudhir Kumar Panigrahi, SAAGCS

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**HIGHLIGHT ON THE SPECIAL AUDIT OF SUNDARGARH DCCB Ltd. FOR THE PERIOD FROM
01.04.2018 TO 31.05.2021.**

In pursuance of letter No 1158(3) /OSCB /HRDD/2021-22 dt 19.06.2021 of the Managing Director OSCB and order passed by the Principal secretary to Govt. Cooperation Deptt., Odisha on UOI No 1022dt 03.06.2021 of OSCB and considering the facts of the said letters the Auditor General, Coop. Societies, Odisha ordered vide his order No 3162 dt 11.06.2021 to conduct the Special Audit of SDCC Bank for the period from 01.04.2018 to 31.05.2021 on the following subject matter:-

1. On the illegal appointment of Sri Suresh Ch.Das, as CEO of the SDCC Bank Ltd Sundargarh. 2. Financial indiscipline/irregularities SDCC Bank Ltd Sundargarh 3. Misutilisation of funds causing Loss to the bank on Borrowing and repayment to the OSCB, put the bank in ineligible for finance from OSCB due to defaulting in repayment non remittance of collection of loan from PACS etc.

Illegal appointment of Sri Suresh Ch.Das, as CEO of the SDCC Bank Ltd Sundargarh

The Bank Management of the SDCCB Ltd Sundargarh had decided to appoint a CEO of the bank from open market in their Committee meeting where the DRCS Sundargarh and DDM NABARD attended the meeting and suggested the Committee to consult the RCS (O) before taking any decision on this issue. Accordingly the Bank has requested the RCS (O) for seeking permission and modalities there on related to the appointment of a CEO from the open market but the Bank without waiting the permission of RCS (O) recruitment procedure made and appointed Sri Suresh C Das as CEO and Sri Das joined on dt 02.02.2019 as the CEO of the SDCC Bank Sundargarh. On examination of the appointment procedure of Sri Suresh C Das as the CEO of the SDCC Bank Sundargarh the Special audit found the following irregularities

Decision of the Committee of Management to appoint a CEO from open market without approval of the RCS (O) is irregular. Further, the Bank has not followed the H.R Policy 2011 of the Bank, where it is prescribed that if a post of CEO of the Bank shall be taken from the open market than it must follow Fit and proper criteria issued by the RBI/NABARD positively. But in the above case the Bank management without following the guideline of fit and proper criteria appointed Sri Suresh C Das as CEO of the Bank in his own sweet will is treated as illegal. The Special audit objected the appointment of said CEO of the Bank and liabilities has been fixed up for recovery of salary and other allowances paid to Sri Das to the tune of Rs 50,41,200.00 for the period from 02.02.2019 to 31.05.2021 from the members of the Bank Management as it is a loss to the bank because the bank could have gained if it had opted the deputed officers from the OSCB/Govt.

Further the Bank Management and the CEO of the SDCC Bank Sundargarh have filed cases in the Hon'ble High Court, Odisha challenging the non approval of the appointment of Sri Suresh C Das as the CEO of the bank by the RCS(O) and obtained the status quo on the matter which is more than six months at the time of sps audit.

Financial indiscipline/irregularities SDCC Bank Ltd Sundargarh

The Special audit objected the following :-

(i) CONSTRUCTION OF NEW BUILDING OF HEAD OFFICE OF BANK

(II) ENGAGEMENT OF OUTSOURCING STAFFS AND RETIRED STAFFS :-

(i) CONSTRUCTION OF NEW BUILDING OF HEAD OFFICE OF BANK

The RCS (O) has approved Rs 1.57 crore for construction of new building of H.O. of SDCC bank Ltd Sundargarh with certain guidelines i.e expenditure shall be met out of building fund of the bank, all the procedures of the construction of building shall be done as per the OPWD code, and not use the business fund of the Bank for construction of building work. On examination, the Special audit found that the bank Management has not followed the direction of the RCS (O) for utilization of building fund, observation of OPWD code and not use of business fund and constructed the building in its own sweet will incurring expenditure of Rs 1,22,77,000.00 which the special audit found irregular and illegal and for

which suggested action as deemed fit. Apart from the above said expenditure of Rs.1,22,77,000.00 the Bank has made additional expenditure of another Rs.1,05,00,000.00 in the above said building for interior works unauthorizedly without having necessary administrative approval from RCS(O), which the audit found illegal as it is financial loss to the bank and misutilization of funds. Incurring such expenditure exceeding the authority and limitation is also illegal. For such lapses the special audit fix up liabilities of recovery to the tune of Rs 1,05,00,000.00 upon the members of the Bank Management of the SDCC Bank Sundargarh.

ENGAGEMENT OF OUTSOURCING STAFFS AND RETIRED STAFFS :-

During the course of Special Audit it is noticed that the Sundargarh DCCB has engaged 27 Nos of Staff from outsourcing agency which is not coming under the the HR policy 2011 of the Bank and made expenditure against them for Rs.1,25,58,412.00 from 01.04.18 to 31.05.21. The Special Audit objected the appointment of the 27 No's of Staffs comprising up computer operator, Attendant, FLC Councilor and Driver {(Bank on wheel) which is not in operation}} as they are not approved by the HR policy 2011 prescribed by the RCS (O). As it is a loss to the Bank the Special Audit fix up liabilities of recovery of Rs.1,25,58,412.00 on the Members of the Bank Management who have allowed and approved such engagement without ensuring the legality of such appointment as per HR policy 2011 of the Bank.

Besides the Bank has also engaged 3 No's of retired staffs incurring expenditure to the tune of Rs., 27,34,500.00, for the period 01.04.2018 to 31.05.2021 by the approval of the bank management without obtaining approval from competent authority and in contravention of HR policy 2011 clause No.39A(2). The special Audit found such expenditure is loss to the Bank, so fix up liabilities of recovery of Rs 27,34,500.00 on the Members of the Bank Management for not discharging their duties to observe the HR policy 2011 of the Bank.

Misutilisation of funds causing Loss to the bank on Borrowing and repayment to the OSCB, put the bank ineligible for finance from OSCB due to defaulting in repayment non remittance of collection of loan from PACS etc.

The Special Audit noticed that the Bank not remitted the borrowing of loan amount of Rs 251.50 crore to the OSCB and has liable to pay overdue interest due for Rs 1,48,02,465.75 on the other hand the bank has retained the PACS collection amount of Rs 725.35 crore. Accordingly the CEO of the bank apprised the audit that as the OSCB has not given refinance of Rs 850.00 crore though sanctioned and to provide the STSAO loan to the farmer members in time and to achieve the national programme of ST SAO KCC loan finance he was compelled to retain the PACS collection money of RS 725.35 crore and waited for refinance to clear up the OSCB dues. But in subsequent period the OSCB did not release the sanction amount of Rs 850.00 crore resulting the current loan of SDCCB Sundargarh turned to overdue at OSCB level and it is not intentional but liability of OD interest is a business loss. The special audit observed that though the explanation of the CEO is a fact in this situation but as a rational banker he should look profit of the bank first than other things, As the bank is dealing with public money and giving interest to depositors such decision of the CEO is not at the best interest of the bank for which responsibilities fixed up against Sri Suresh Ch Das CEO of the SDCC Bank Sundargarh for his such lapses.


SPECIAL AUDITOR

SDCC BANK LTD SUNDARGARH


SPECIAL AUDITOR

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SPECIAL AUDIT REPORT OF SDCC BANK LTD. SUNDARGARH FOR THE YEAR PERIOD
01.4.2018 TO 31.05.2021

1.	Name of the Bank	:	The Sundargarh Dist. Central Cooperative Bank, Sundargarh.
2.	Address of the Society	:	At/P.O. – Sundargarh, Dist-Sundargarh (Odisha)
3.	Regd. No. and Date	:	No.90/SG/Dated 01.06.1955
4.	Date of final organization	:	Dated. 27.01.1956.
5.	Date of first General Body meeting of the Bank	:	Records not available
6.	Name of the present President/MIC/Administrator	:	Sri Nikhil Pavan Kalyan, IAS Collector & Dist. Magistrate, Sundargarh-Cum Administrator.
7.	Name of the present Chief Executive	:	Sri Suresh Ch. Das, CEO
8.	Name of the Chief Executive during the period of Special audit	:	1) Sri P.K. Mohanty, AGM OSCB, (01.04.2018 to 31.01.2019) 2) Sri A.K. Panda, AGM SDCCB (01.02.2019) 3) Sri Suresh Ch. Das, CEO, (02.02.2019 to till date)
9.	Name of the Special Auditor with designation	:	1. Sri Durga Prasad Dash, SAAGCS 2. Sri Sudhir Kumar Panigrahi, SAAGCS. Sundargarh Audit Circle {(Ref. Annx. 1) page 29 of Vol-II}.
10.	Name of the Statutory auditor with designation 2018-19	:	Ms MK & MK, C/A – 2018-2019 Ms Mishra Nayak & Associates, C/A – 2019-2020 Ms Bijay Dhaniram & Co, CA - 2020-21 Not Audited 01.04.2021 to 31.05.2021
11.	A) Name of the Committee of Management including President/MIC / Authorised Officers / Administrative Officer of the respective year of Special audit	:	<u>Year 01.04.2018 to 30.04.2020</u> The followings constituted the members of Management duly elected.
			1) Sri Bhabani Prasad Majhi, President
			2) Smt. Sasmita Joshi, Vice-President
			3) Sri Pradeep Kumar Singh, Director,
			4) Sri Pancha Barla, Director
			5) Sri Pradip Kumar Naik, Director
			6) Smt. Kamini Mohapatra, Director
			7) Sri Alok Prasad Patel, Director

		8) Sri Kishore Majhi, Director
		9) Sri Narayan Devsa, Director.
		10) Smt.Anju Toppo, Director
		11) Smt Goreti Kiro, Director
		12) Sri Parsuram Sahu, Director.
		13) Sri Machhindra Kalet, Director
		14) Sri Pradumna Kumar Tripathy, Director
		15) Smt Basanti Samanta, Director
		<u>01.05.2020 to 31.05.2021</u>
		Sri Nikhil Pavan Kalyan, IAS Collector & Dist.Magistrate, Sundargarh-Cum Administrator.
12.	Year of Special Audit	: For the year 01.04.2018 to 31.05.2021
13.	Authority of Special Audit	: Vide Order No.3162 Dated 11.06.2021 of the Auditor General of Co-op. Societies, (O) BBSR {(Ref. Annx-1) Page 29 of Vol-II}.
14.	Date of Commencement	: 21.06.2021
15.	Date of Completion	: 22.11.2021
16.	a)Nos. of days taken b)Audit fees	: 80 days(40 Days Each) Levied Rs.48000.00 @Rs.600 per day
17.	Place of Special Audit	: In the Office premises of SDCC Bank Ltd. (H.O.)
18.	Name of custodian of records who produced relevant records for special audit:	: Sri Suresh Ch.Das, CEO, SDCC Bank Ltd. Sundargarh
19.	(A) Aim & objective of the Society	: The SDCCB Ltd. Sundargarh is functioning since 65 years of service. It deals with tapping of deposits and finance of loan to the public along with Cooperative Institutions in the area of operation of SDCC Bank Ltd. Sundargarh.
	(B) Objective of the Society	: The main objective of the Branch as per its registered bye-law are as follows:-
		1) To arrange for marketing of products of members and Cooperative Institution.
		2) To borrow and advance loan in shape of Short Term, Long Term, Medium Term, Conversion loan in simple

		<p>interest to members and Cooperative Institution on the pledge of their products.</p> <p>3) To tap deposits from members and non-members.</p> <p>4) To encourage self-help and cooperation among members and Cooperative Institution.</p> <p>5) To undertake such other business and activities as may be conducive for the Govt. support price.</p>
20.	Scope of special audit/ circumstance of special audit.	<p>: In pursuance of letter No 1158(3) /OSCB /HRDD/2021-22 dt 19.06.2021 of the Managing Director OSCB and order passed by the Principal secretary to Govt. Cooperation Deptt. , Odisha on UOI No 1022dt 03.06.2021 of OSCB and considering the facts of the said letters the Auditor General, Coop. Societies , Odisha ordered vide his order No 3162 dt 11.06.2021 to conduct the Special Audit of SDCC Ltd Bank for the period from 01.04.2018 to 31.05.2021.</p>
21.	Verification of Cash	<p>: At the time of commencement of special audit physically verified the Postage Stamp 725.00.00 (Rupees Seven hundred twenty five) only being the closing postage balance of dated 20.06.2021 and the opening balance of dated 21.06.2021 with Sri Bijaya Kumar Patel, Banking Assistant Single lock and found correct Annx- 2(Page39 to 46 of Vol-II).</p> <p><u>Denominated</u></p> <p>20x20 = 400.00</p> <p>10 x20 = 200.00</p> <p><u>5x25 = 125.00</u></p> <p>Total = 725.00</p>
22.	List of books audited / Maintenance of records.	<p>: The special audit has been conducted basing on the following records which are produced by the CEO, SDCC Bank Ltd. Sundargarh The same has been checked during special audit for the period 01.04.2018 to 31.05.2021.</p> <p>1) Minute Book 2)Day Book, 3) CEO,Appointment File 4)Building File 3) Out Sourcing staff File 5)Borrowing and Repayment Register,H.R.Policy of the Bank 6) Bye-laws and 'fit & proper criteria issued by the RBI /NABARD etc.</p> <p>In connection with the special audit, Letter was issued on dated 21.06.2021 to the CEO,Sundargarh for production of records to verify and examine for the purpose of special audit for the year 2018-19 to31.05.2021. Accordingly CEO,Sundargarh has submitted the reply with above mentioned records on dated 22.06.2021 & 07.09.2021 Ref(Annx.3 (page-47 to 50 of Vol-II).</p>

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		<p>But, the CEO has failed to produce the following documents for verification and examination.</p> <p>1) Inspection/Visit Note/Inquiry report of administrative authorities if any for the year 2018-19 to 31.05.2021.</p> <p>2) Proceeding of the Minute Book of the Appointment Committee Ref(Annx.4 (Page-47 to 50 of Vol-II)).</p> <p>However, the special audit for the year 2018-19 to 31.05.2021 has been conducted basing on the available records.</p>
23.	Subject matter of special audit	<p>The subject matter of Special audit relating to illegal appointment of Sri Suresh Ch.Das, ECO of the bank, financial indiscipline/irregularities, misutilisation of funds causing loss to the bank on borrowing and repayment to the OSCB put the bank ineligible for finance from OSCB due to defaulting in repayment non remittance collection of loan from PACS ect.during the period from 01.04.2018 to 31.05.2021. Accordingly the Special Audit is commenced on date 21.06.2021 and the Audit examined the records/information produced by the CEO of the SDCC Bank Ltd. on the following subject matter Ref(Annx.1 Page-29 of Vol-II).</p> <p>A) Illegal appointment of Sri Suresh Ch.Das, CEO of the bank</p> <p>B) Financial indiscipline/irregularities</p> <p>C) Misutilisation of funds causing Loss to the bank on Borrowing and repayment to the OSCB, put the bank in ellegible for finance from OSCB due to defaulting in repayment non remittance of collection of loan from PACS etc.</p>
	<p><u>A) ILLEGAL APPOINTMENT OF SRI SURESH CH.DAS, AS CEO OF THE BANK</u></p> <p><u>FACTS</u></p> <p>The SDCC Bank Ltd. Sundargarh without making requisition to Govt. or OSCB for posting of CEO, the Management has taken the candidate from open market by way of recruitment and appointed Sri Suresh Ch.Das as CEO of the bank vide his Order No.6731 dt.01.02.2019 Ref(Annx.5(Page-52 to 53 of Vol-II)). The Spl audit examined the following records relating to appointment procedure adopted by the bank.</p> <p>The bank vide resolution No.4 dt 31.08.2017 resolved to appoint a CEO from the open market who qualify 'fit and Proper criteria' of NABARD wherein the DRCS, Sundargarh and DDM, NABARD suggested to consult the RCS (O) before taking any decision on this issue Ref(Annx.6(Page-54 of Vol-II)). Accordingly, the bank has requested the RCS(O) vide letter</p>	

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No.2622 dt.04.09.2017 and No.3051 dt.17.10.2017 and No.3492 dt.26.10.2018 for seeking permission and modalities there on related to the appointment of CEO from open Market **Ref(Annx.7(Page-56 to 57 of Vol-II).**

Than, the bank without waiting the permission of RCS (O) made advertisement in the local news paper 'THE SAMBAD' and 'THE DHARITRI' on dt.28.11.2018 for recruitment of CEO from open Market in the caption 'INVITATION FOR EXPRESSION OF INTEREST FOR CEO OF SDCCB **Ref(Annx.8(Page58 to 60 of Vol-II).** Accordingly the bank has received 9(Nine) Nos of application from open Market and selected Sri Suresh C Das as CEO out of above 9(Nine) applicants **Ref(Annx.9(Page61 to 76 of Vol-II).** Sri Das joined in the bank as CEO on dt.02.02.2019 **Ref(Annx.10(Page 77 of Vol-II)** and the bank vide Letter No.6772 dt.02.02.2019 requested to the RCS(O) to accord Administrative Approval of the appointment of Sri Surech C.Das as CEO of the bank **Ref(Annx.11(Page 78 to 79 of Vol-II).** But, the RCS(O) vide letter No.4172 dt.23.02.2019 did not accept appointment of Sri Suresh C Das as the CEO of the bank **Ref(Annx.12(Page 80 of Vol-II).** So, the Management has took the matter to the Hon'ble High Court and file WP(C) No.5641/2019 challenging the Order No.4172 dt.23.02.2019 of RCS(O) for disapproval of the appointment of Sri S.C.Das CEO of the bank. Further, as per direction of the Hon'ble High Court on dt.20.12.2019 the RCS(O) relooked the matter and passed Order No.978 dt.10.01.2020 in which RCS (O) stand on his decision. In addition the Bank Management files a case in Hon'ble High Court vide WP(C) No.1846/2020 challenging Order No.978 dt.10.01.2020 of the RCS (O) and got the 'Status Quo' in the matter on dt 06.02.2020. Besides, Sri Suresh C.Das CEO has also filed WP(C) No.10806/2020 and No.18381/2020 in the Hon'ble High Court and got 'Status Quo' on dt.03.06.2020 and 03.09.2020 respectively. Sri S.C.Das is continuing as CEO of the bank from 02.02.2019 to till date **Ref (Annx.13(Page 82 to 110 of Vol-II).**

FINDING

In pursuance of the facts and examination of relevant records/file, OCS Act & Rule, Bye-laws, H.R. Policy 2011 of the Bank and information submitted by the bank, the Special audit noticed the following irregularities against the procedure adopted by the bank on appointment of Sri Suresh C. Das, as CEO of SDCCB Sundargarh from date of Advertisement to till completion of appointment.

1. Decision of the Committee of Management vide resolution No.04 dt 31.08.2017 for posting of a CEO in the Bank from the open market and accordingly Advertisement made in the News papers 'THE SAMBAD' and 'THE DHARITRI' on dt.28.11.2018 in the captioned 'INVITATION FOR EXPRESSION OF INTEREST FOR CEO, SDCCB' despite of note of decent of the DRCS Sundargarh and DDM NABARD in the said meeting and non compliance of 'fit and proper' criteria as per the guidelines of H.R. Policy 2011, NABARD guidelines as well as U/s 33(A) of OCS Act 1962 is found to be irregular and illegal **Ref (Annx.14(Page 111 to 116 of Vol-II).**

2. As per Circular No.13/IDD-01/2018 of the NABARD has relaxed the age limit for eligibility entry level for CEO to 62 years and directed the State Govt. to revise their State Service Rule & Regulation accordingly. But, in case of Odisha, the State Govt. has not revised the same as well as the HR Policy 2011 of the Bank. As per State Service Rule & Regulation the age limit for retirement from service is 60 years which means that a person cannot be eligible above 60 years for appointment of the CEO of the bank. The age of Sri Surech, C, Das as per his application is above 60 years and his candidature for the said post is found to be ineligible and illegal **Ref (Annx.14 & 15(Page 111 to 126 of Vol-II).**

3. As per the Fit and Proper Criteria prescribed by NABARD for posting of CEO, he must be an

existing employee of the bank or he must be deputed from the Govt. or any other organization with necessary NOC from his parent department employer. But, in case of Sri Suresh C.Das he is neither existing staff of the Bank nor he has been deputed from any other Agencies/ Govt. department. So, it violets the guideline No 2,3 & 4 of NABARD RPCD. CO. RCBd 131/13.01.03/2011-12 of Fit and proper criteria for appointment of CEO in the SDCCB which is found to be irregular and illegal Ref (Annx.14(Page 111 to 116 of Vol-II)).

4. Further in the meeting of the Committee of Management resolution No.04 dt 31.08.2017 the DRCS Sundargarh and DDM NABARD suggested to consult the RCS (O) before taking any decision on the issue of appointment of CEO. But COM of the Bank has not carried out their suggestion and appointed Sri Suresh.C.Das as CEO of the Bank in their own suit will. Further the RCS (O) vide his letter No 4172 dt 23.02.2019 has also disapproved the appointment of Sri Suresh C. Das as CEO of the SDCC Bank Ltd. The Special audit found that appointment of Sri Suresh C. Das as CEO of the Bank is irregular and illegal and objected the financial benefit given to Sri Das by way of Salary and other allowances to the tune of Rs 50,41,200.00 for the period from 01.02.2019 to 31.05.2021 and liabilities have to fix up for said payment against the members of Committee of Management of the SDCC Bank Ltd. Sundargarh who have accepted and confirm the appointment of Sri Suresh C Das as CEO of the Bank in the meeting of the Committee of Management dt 01.02.2019 Ref (Annx.16(Page 121 of Vol-II)).

OBSERVATION

In pursuance of the facts, finding and examination of relevant records the Special audit observe that the appointment of Sri Suresh C Das as CEO of the SDCC Bank Ltd. Sundargarh is irregular and illegal and the audit also objected the financial benefit given to Sri Suresh C Das by way of salary and other allowances to the tune of Rs 50,41,200.00 for the period from 01.02.2019 to 31.05.2021.

Accordingly the members of the Committee of Management of SDCC Bank Ltd. Sundargarh as given below

The name of the members of the Committee of Management.

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3 Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel. 5.Sri Kishor Majhi 6.Sri Narayan Devsa
7. Smt. Anju Toppo. 8. Smt.Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11.Sri Pancha Barla 12.Sri Machhindra Kalet.
13. Smt Kamini Mohapatra

were informed the different defects/irregularities in the appointment of the CEO of the bank vide Half Margin Memo issued on dt.23.09.2021 to submit their compliance within 7 days from the date of receipt of memo. Further, the Spl audit issued series of letter in different dates to the CEO SDCC Bank Ltd. Sundargarh to serve the memoes on the above members Ref (Annx.17 (Page 127 to 130 of Vol-II)). Finally all the members received the half margin memoes in a long gap of more than one month and requested the Special audit to provide minimum two to four months for compliance of the memo as given below Ref (Annx.18 (Page 131 to 175 of Vol-II)).

SINo	Name of members of COM	Date of receipt of Memo	Remarks
1	Sri Bhabani Prasad Majhi	10.11.2021	Pray for two month time for Compliance ✓
2	Smt. Sasmita Joshi	14.10.2021	Pray for two month time for Compliance
3	Sri. Pradeep Ku. Naik	19.10.2021	Pray for two to three month time for Compliance.
4	Sri Alok Prakash Patel	01.11.2021	Pray for four month time for Compliance
5	Sri Kishor Majhi	01.11.2021	Pray for three to four month time for Compliance.
6	Sri Narayan Devsa	01.11.2021	Pray for two to three month time for Compliance.
7	Smt. Anju Toppo	25.10.2021	Pray for two to three month time for Compliance
8	Smt. Goreti Kiro	01.11.2021	Pray for two to three month time for Compliance.
9	Sri Parsuram Sahu	01.11.2021	Pray for four month time for Compliance
10	Sri Pradeep Singh	14.10.2021	Pray for two month time for Compliance
11	Sri Pancha Barla	14.10.2021	Pray for two to three month time for Compliance.
12	Sri Machhindra Kalet	30.10.2021	Pray for three month time for Compliance
13	Smt Kamini Mohapatra	18.10.2021	Pray for three month time for Compliance

As Spl audit is a time bound programme and for giving sufficient opportunity to the members of being heard as per natural justice as provided U/S 62, of the OCS Act 1962, and taking into consideration to the prayer made by the above members for allowing extra time for compliance, the special audit allowed time to all members to submit their complainance within 13.11.21 and Sri Bhabani Prasad Majhi Ex- President of SDCC Bank Ltd. Sundargarh as he has received the memo on dt 10.11.2021 allowed time to submit his compliance by 21.11.2021 **Ref(Annx.19(page 176 to 177 of Vol-II)).** But above all, the members did not submit their compliance of memo in stipulated time given to them or till completion of audit. So, the Spl audit observed that they are nothing to comply on the defects noticed. As the appointment of Sri Suresh C Das as CEO of the SDCC Bank Ltd. Sundargarh is irregular and illegal, hence the special audit objected the financial benefit given to Sri Suresh C Das by way of salary and other allowances to the tune of Rs 50,41,200.00 for the period from 01.02.2019 to 31.05.2021.

Further, the COM has filed a case in the Hon'ble High Court vide WP(C) No.1846/2020 challenging Order No.978 dt.10.01.2020 of the RCS (O) and got the 'Status Quo' in the matter on dt. 06.02.2020. Besides, Sri Suresh C. Das CEO has also filed WP(C) No.10806/2020 and No.18381/2020 in the Hon'ble High Court and got 'Status Quo' on dt.03.06.2020 and 03.09.2020 respectively on the same matter. But, as per the verdict of the Hon'ble Supreme Court of India in Criminal appeal No.1375-1376 of 2013, it is clearly mention that the period of 'Status Quo' is to be maintained for a period of six months unless in an exceptional case by a speaking order such stay extended and further in the verdict it is also mentioned that the speaking order must show that the case was of such exceptional nature that continuing the

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stay was more important than having the trial finalized. So, the WP(C) No.1846/2020, WP(C) No.10806/2020 & No.18381/2020 (Annx.13(page 86 to 110 of Vol-II) are not effective as per direction of the Humble Supreme Court of India .The Spl.audit also requested the CEO of the bank to submit any such speaking order on extension of 'Status Quo' vide letter dt.05.08.2021, but the bank could not produce any such ^{order} to the Spl audit(Annx.20(page 178 of Vol-II)).

CONCLUSION

In pursuance of the facts , finding, observation and examination of relevant records the special audit concludes that the appointment of Sri Suresh C Das as CEO of the SDCC Bank Ltd. Sundargarh is irregular and illegal, hence the special audit objected the financial benefit given to Sri Suresh C Das by way of salary and other allowances to the tune of Rs 50,41,200.00 for the period from 01.02.2019 to 31.05.2021. As the expenses paid for the CEO is a loss to the bank on the ground that the bank could have gained if it had opted deputed officers from the OSCB Ref(Annexure-21,page-179 of Volume-II). Hence, the special audit fix up liabilities of recovery of the expenses amount of Rs 50,41,200.00 upon the members of the committee of Management of the SDCC Bank Ltd. , Sundargarh jointly stated below with recommendation of surcharge action U/S 67 of OCS Act 1962.

The name of the members of the Committee of Management .

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3 Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel . 5.Sri Kishor Majhi 6.Sri Narayan Devsa
7. Smt. Anju Toppo. 8. Smt.Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11.Sri Pancha Barla 12.Sri Machhindra Kalet.
13. Smt Kamini Mohapatra.

SUGGESTION

Besides the above circumstances, the then D.R.C.S., Sundargarh being the Local Administrative Authority, remained silent over the issue of the appointment of the C.E.O., of S.D.C.C. Bank except only giving a descent view in the Committee Meeting held on Dt. 31.08.2017. He could have intimated to his higher authority on issue of the different irregular procedure adopted in the appointment of C.E.O of the Bank from time to time through inspection/enquiry or any other way and taken step to rectify the irregular process of appointment. His silence over this matter favoured the Bank to appoint a C.E.O. in such an irregular way. Likewise the then R.C.S., Odisha, Bhubaneswar, is also remained silent over the matter except disapproving the appointment of the C.E.O. of the S.D.C.C. Bank vide Letter No:-4172 dated 23.02.2019 without resorting to take action in the probation period (i.e. within three months from the date of joining of the CEO) either U/S 32 or 123(A) of O.C.S Act 1962. So the activities of the then D.R.C.S., Sundargarh and the then R.C.S (O), BBSR, in the matter of appointment of the C.E.O., S.D.C.C.Bank, Sundargarh, can't be over looked and suggested for action as deemed fit.

B) FINANCIAL INDISCIPLINE/IRREGULARITIES:

- i). CONSTRUCTION OF NEW BUILDING OF HEAD OFFICE OF SDCCB BANK Ltd.
- ii) ENGAGEMENT OF OUTSOURCING STAFFS AND RETIRED STAFFS :-

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CONSTRUCTION OF NEW BUILDING OF HEAD OFFICE OF BANK

FACTS

During the course of Special Audit of S.D.C.C. Bank Ltd., Sundargarh, for the period from 01.04.2018 to 31.05.2021, the following records relating to the construction of new building were examined:

1. Minutes proceeding of the Committee of Management.
2. Construction of new building files of the H.O.
3. Plan and estimation.
4. Administrative approval of the construction of new building .
5. Technical approval of competent Authority.
6. Measurement Book relating to construction of Building.

The Committee of Management of the Sundargarh District Central Co-op. Bank Ltd. Vide its resolution No:- 08 dated: 09.03.2018 approved the construction of new building of H.O. with plan and estimate of Rs. 1,57,51,568.00 inclusive of electrical, water supply and sanitary expenses.

The Bank got the administrative approval from the R.C.S., (O), BBSR for Rs 1.57 crore against this proposed building vide Letter No: 10461 Dated: 28.05.2018 subject to observation of the following due procedure.

- i. Expenditure should be incurred as per the provision made under capital expenditure head in the budget for the year 2018-19.
- ii. Building fund should be utilized first.
- iii. Under no circumstances business fund of the Bank should be diverted for the project.
- iv. Execution of the project should be done as prescribed in OPWD code.

After obtaining the administrative approval from the R.C.S.(O), BBSR, the Bank decided to construct the building through Sadar Block, Sundargarh and accordingly funds were allotted time to time to the Sadar Block Sundargarh for total of Rs. 12368630.00 and the Sadar Block has made expenditure to the tune of Rs. 1,22,77,000.00 and handed over the building to the Bank with technical approval and Measurement Book obtained from the competent Authority.

Apart from this the Bank management vide resolution No:- 14 dated 29.01.2020 and resolution No:-04 dated 02.02.2020 approved the plan and estimate of another Rs. 97.00 Lakhs for interior decoration i.e electrical, plumbing, fire fighting, furniture and furnishing works. Accordingly tender was invited in the local news paper "The Prameya" on dated: 02.02.2020 reference Letter No:- 5401 dated 31.01.2020 of the D.C.C.Bank , Sundargarh. Three bidders have applied for the proposed work namely, Akar Solution, Jharsuguda, Konarka Enterprises, Rajgangpur & Nutech Office System, Kolkata. Out of above three bidders, the Nutech Office System, Kolkata was selected for construction of proposed work for Rs. 10500000.00. The proposed building was completed on 30.03.2020 with total expenditure of Rs. 10500000.00 as per Measurement Book.

FINDING

In pursuance of the facts and on examination of records of construction of New Building of H.O. the following irregularities are noticed:

1. The RCS (O) has approved of Rs.1.57 Crores Vide Letter No.10461 dt.28.05.2018 for construction of New Building of H.O subject to observation of four numbers of guidelines

out of which the following three numbers of guidelines are not followed by the Bank. As against the administrative approval of 1.57 crores for construction of building of SDCC Bank Ltd. the Bank has incurred the total expenditure of Rs. 1,22,77,000.00 as per the M.B. duly produced for the purpose.

(a) As per the guide lines of the RCS (O), the Bank should make expenditure for the construction of Building out of its "Building fund" of the Bank. But, the Spl. audit found that the bank has not followed the direction of the RCS(O) and not utilized its building fund in this aspect which is found to be irregular.

(b) RCS (O) has restricted the Bank not to divert business fund for the project. But, Special audit found that the Bank has not followed the direction of the RCS (O) and used the business fund for construction of building which is found to be illegal.

(c) The RCS (O) has stipulated to execute the project as per procedure prescribed in OPWD code, but the bank has not followed the direction of the RCS (O) and made the construction of the Building through the Block Development office Sadar, Sundargarh. The purpose of the RCS (O) for transparency in the construction of the building by following OPWD code found to be violated and irregular.

2. Apart of the above said expenditure for construction of building of SDCC Bank Ltd. Sundargarh the Bank has made expenditure of another Rs 1.05 cores in the above said building for interior works un-authorizedly without having necessary administrative approval from the RCS (O) which is financial loss to the bank and misutilization of funds. Further incurring such expenditures exceeding the authorities and limitation is treated as illegal.

OBSERVATION

In pursuance of the facts, finding and examination of relevant records of construction of new building of the Bank, the special audit observed that the committee of management has committed defects/irregularities as narrated in findings, the members of the Committee of Management of SDCC Bank Ltd., Sundargarh as given below:-

The name of the members of the Committee of Management .

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3 Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel . 5. Sri Kishor Majhi 6. Sri Narayan Devsa
7. Smt. Anju Toppo. 8. Smt. Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11. Sri Pancha Barla 12. Sri Machhindra Kalet.
13. Smt Kamini Mohapatra 14. Smt Basanti Samant, 15 Sri Pradyumna Ku. Tripathy,
- 16 Sri Suresh C Das CEO.-cum Ex- officio member

were informed the different defects/irregularities in the construction of New building of the bank vide Half Margin Memo issued on dt.23.09.2021 and they have been allowed 7 days time to submit their compliance from the date of receipt of memo and requested the CEO SDCC Bank Ltd. Sundargarh to serve the memoes on the above members **Ref(Annexure-17, Pgae-127.130 of Volume-II)**. Finally all the members received the half margin memoes in a long gap of more than one month and requested the Special audit to provide minimum two to four months for compliance

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of the memo as given below Ref(Annexure-24, Page-442 to 448 of Volume-II).

SINo	Name of members of COM	Date of receipt of Memo	Remarks
1	Sri Bhabani Prasad Majhi	10.11.2021	Pray for two month time for Compliance
2	Smt. Sasmita Joshi	14.10.2021	Pray for two month time for Compliance
3	Sri. Pradeep Ku. Naik	19.10.2021	Pray for two to three month time for Compliance.
4	Sri Alok Prakash Patel	01.11.2021	Pray for four month time for Compliance
5	Sri Kishor Majhi	01.11.2021	Pray for three to four month time for Compliance.
6	Sri Narayan Devsa	01.11.2021	Pray for two to three month time for Compliance
7	Smt. Anju Toppo	25.10.2021	Pray for two to three month time for Compliance
8	Smt.Goreti Kiro	01.11.2021	Pray for two to three month time for Compliance.
9	Sri Parsuram Sahu	01.11.2021	Pray for four-month time for Compliance
10	Sri Pradeep Singh	14.10.2021	Pray for two month time for Compliance
11	Sri Pancha Barla	14.10.2021	Pray for two to three month time for Compliance.
12	Sri Machhindra Kalet	30.10.2021	Pray for three month time for Compliance
13	Smt Kamini Mohapatra	18.10.2021	Pray for three month time for Compliance
14	Smt Basanti Samant	05.11.2021	No prayer
15	Sri Pradyumna Ku. Tripathy	29.10.2021	Pray for three month time for Compliance
16	Sri Suresh C Das CEO -cum Ex- officio member	28.10.2021	No prayer

As Spl audit is a time bound programme and for giving sufficient opportunity to the members of being heard as per natural justice as provided U/S 62 of the OCS Act 1962. Taking into consideration to the prayer made by the above members for allowing extra time for compliance of memo the special audit further allowed time to members except Sri Bhabani Prasad Majhi Ex-President of SDCC Bank Ltd. Sundargarh as he has received the memo on dt 10.11.2021 for compliance of memo to be submitted before the special audit within 13.11.21 and Sri Bhabani Prasad Majhi has been allowed time to submit his compliance by 21.11.2021 Ref(Annexure-19, page-176 to 177 of Volume-II). But, above all, members did not submit their compliance of memo in stipulated time given to them or till completion of audit. So, the Spl audit observed that they have nothing to comply on the defects noticed. Further the Bank Management without following the guidelines of RCS(O) as stipulated in the approval order the Bank management has constructed the building through the Sadar Block Sundargarh in their own suit will which is found to be irregular and illegal. Apart from the expenditure of construction of building as approved by the RCS (O) the Bank Management has made another expenditure of Rs 1.05 Crore in the above said building for interior works unauthorizedly without having the necessary administrative approval from

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the RCS(O) which is financial loss to the Bank and misutilization of funds. Further incurring such expenditure exceeding the authorities and limitation is treated as illegal.

CONCLUSION.

In pursuance of the facts, finding, observation and examination of relevant records the special audit comes to conclude that the Bank Management without following the guidelines of RCS(O) as stipulated in the approval order, the Bank management has constructed the building through the Sadar Block Sundargarh in their own suit which is found to be irregular and illegal. Apart from the expenditure of construction of building as approved by the RCS (O) the Bank Management has made another expenditure of Rs 1.05 Crore in the above said building for interior works unauthorizedly without having the necessary administrative approval from the RCS(O) which is financial loss to the Bank and misutilization of funds. Further incurring such expenditure exceeding the authorities and limitation is treated as illegal.

Hence the special audit fix up liabilities for recovery of the tune of Rs 1,05,00,000.00 upon the members of the committee of Management of the SDCC Bank Ltd., Sundargarh as stated below jointly with recommendation of surcharge action U/S 67 of OCS Act 1962. And the special audit further suggest necessary administrative action as deemed fit against the members of the Committee of management as as stated above in the observation for not following the due procedure in construction of the Bank building as per the approval order of the RCS (O).

The name of the members of the Committee of Management.

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3 Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel . 5.Sri Kishor Majhi 6.Sri.Narayan Devsa
7. Smt. Anju Toppo. 8. Smt.Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11.Sri Pancha Barla 12.Sri Machhindra Kalet.
13. Smt Kamini Mohapatra 14. Smt Basanti Samant, 15 Sri Pradyumna Ku. Tripathy,
- 16 Sri Suresh C Das CEO -cum Ex- officio member

SUGGESTION

The COM of the ^{bank} is binding upon the OCS Act & Rule, Bye-laws and guide line of the competent authorities which should be followed in true spirit.

ii). ENGAGEMENT OF OUT SOURCING STAFF AND RETIRED STAFFS

FACTS

During the course of Special Audit of S.D.C.C. Bank Ltd., Sundargarh, for the period from 01.04.2018 to 31.05.2021, the following records relating to engagement of outsourcing staff were examined:

1. Minutes proceeding of the Committee of Management.
2. Engagement of Out sourcing staff files of the Bank .
3. Information submitted by the bank.

On checking of records as supplied by the bank it is noticed that, the bank has been engaging outsourcing staff to manage its day to day business of the bank since 2002 as per decision of the COM and MIC of the bank time to time. During the period under Spl.audit the Bank has approved to

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engage its outsourcing staff from M/s Golden Security Service, Rourkela vide COM resolution No.9 dt.09.03.2018 Further due to improper and irregular service of the M/s Golden Security Service, Rourkela the COM has engaged M/S Sumit Security Service, Bhubaneswar vide letter No.1779 dt.17.07.2020 and got approval of the same from Collector and Dist Magistrate Cum Administrator of SDCCB, Sundargarh on dt.02.09.2020.

The bank has engaged 54 Nos of outsourcing staff in different branches and Head Office of the Bank as on 31.05.2021 **Ref (Annx-25, page-489 to 494 of Volume-III).**

Similarly the bank has engaged 3 Nos of retired staffs of the Bank also to manage the affairs of the bank. The bank has approved such engagement from time to time vide resolution No-10 Dated-20.09.2019, resolution No-05 Dated-31.03.2020, resolution No-01 Dated-20.10.2014, resolution No-17 Dated-29.01.2020, resolution No-09 Dated-27.02.2019 **Ref(Annexure-26, page-495 to 500 of Volume-III).**

FINDING

In pursuance of the facts and on examination of records and informations of engagement of outsourcing staff and retired staff the following irregularities are noticed:-

There are 54 No's of out sourcing Staffs found engaged in the bank through security agency during the Spl.audit period i.e-01.04.2018 to 31.05.2021. Out of above staffs, 27 No's of out Sourcing staff are not according to the H.R.policy 2011 of the Bank prescribes by the RCS (O). The detail list of 27 No's of such staffs with total expenditure to the tune of Rs.1,25,58,412.00 for the period from 01.04.2018 to 31.05.2021 which is found to be irregular and illegal as the post of computer operator, attendant, FLC councillor and driver engaged on Bank on wheel (i.e.As the post Driver is mentioned in the HR Policy here the audit object 2(Two) persons who are engaged for purpose of Bank on Wheel, but this programme is found not operating during the period of Spl.audit.) are not approved in H.R policy of the Bank **Ref(Annexure-27, page-501 to 503 of Volume-III).**

Further, there are 3 No's of retired Staffs found re-engaged in the Bank after their retirement without obtaining the administrative approval from the competent authority and which is also not according to the Clause 39 A.2 of H.R. policy 2011 of the Bank approved by the RCS(O). The Bank has made expenditure to the tune of Rs.27,34,500.00 during period of the Special audit for such re-engagement of staffs which is found to be unauthorized and illegal. The detail list of said staff are stated below with total expenditure made against them **Ref(Annexure-28, page-504 to 506 of Volume-III).**

1. Sri C.M. Singh, Manager	: -Rs.15000.00 PM X 38 =	570000.00
2. Sri A.K. Panda, AGM	: -Rs.50500.00 PM X 29 =	1464500.00
3. Sri A.K. Rout, Manager	: -Rs.25000.00 X 28 =	700000.00
		Rs.2734500.00

The Clause No.4 and Clause No 39-(A) (2) of HR Policy 2011 of the Bank it is stated as follows:-

Clause No.4-CLASSIFICATION OF EMPLOYEE

'Outsourcing is not a form of recruitment. It is essentially a process of hiring of personnel from an outside agency, for undertaking specified non-core functions of the Bank. It has assumed importance as a means to control the Cost of Management and address the shortage of manpower and encourage redeployment of staff. The Banks could consider outsourcing one or more of the following non-core functions, which is only an illustrative list. Depending on local availability of

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services and cost effectiveness, Banks may take a view.

- (i) Sweeping, Cleaning and Maintenance.
- (ii) IT and software development and maintenance.
- (iii) Training and Capacity Building of staff.
- (iv) Legal Service.
- (v) Drivers
- (vi) Canteen Services
- (vii) Business facilitators, intermediaries and recovery agents.
- (viii) Courier Service
- (ix) Binding, Photocopying and scanning services
- (x) Security guards.'

Clause No.39 A.2.-RETIREMENT OF SERVICE

'Extention in Service shall not be granted to any employee other than the support staff beyond 58 years and in case of support staff beyond 60 years'.

OBSERVATION

In pursuance of the facts, finding and examination of relevant records on engagement of outsourcing staff and retired staff of the Bank, the special audit observe the following

(a) The Special audit period i.e 01.04.2018 to 31.05.2021. Out of above staffs, 27 No's of out Sourcing staff are not according to the H.R. policy 2011 of the Bank prescribed by the RCS (O). The detail list of 27 No's of such staffs with total expenditure to the tune of Rs.1,25,58,412.00 for the period from 01.04.2018 to 31.05.2021 enclosed with this memo which is found to be irregular and illegal, as the post of computer operator, attendant, FLC councillor and driver engaged on Bank on wheel are not approved in H.R policy of the Bank which is treated as illegal, unauthorized and financial loss to the Bank.

(b) During the course of Spl.audit, on examining the list of retired Staffs re-engaged by the bank the following defects/irregularity noticed as detail below.

3 No's of retired Staffs re-engaged in the Bank after their retirement without obtaining the administrative approval from the competent authority and which is also not according to the H.R. policy 2011 of the Bank approved by the RCS(O) found to be unauthorized and illegal. The Bank has made expenditure to the tune of Rs.27,34,500.00 from 01. 04.2018 to 31.05.2021. The detail list of said staff are stated below with total expenditure made against them .

1.Sri C.M.Singh, Manager :-Rs.15000.00 PM X38 =570000.00

2.Sri A.K.Panda, AGM :-Rs.50500.00 PM X 29 =1464500.00

3.Sri A.K.Rout, Manager :-Rs.25000.00 X 28 = 700000.00

Rs.2734500.00

Accordingly the members of the Committee of Management of SDCC Bank Ltd. Sundargarh as given below

The name of the members of the Committee of Management .

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3 Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel . 5.Sri Kishor Majhi 6.Sri Narayan Devsa
7. Smt. Anju Toppo. 8. Smt.Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11.Sri Pancha Barla 12.Sri Machhindra Kalet.
13. Smt Kamini Mohapatra 14. Smt Basanti Samant, 15 Sri Pradyumna Ku. Tripathy,
- 16 Sri P.K.Mohanty CEO –cum Ex- officio member

were informed the different defects/irregularities in the engagement of outsourcing staffs and retired staffs vide Half Margin Memo issued on dt.28.09.2021 to submit their compliance within 7 days from the date of receipt of memo. Further, the Special Audit issued series of letter in different dates to the the CEO SDCC Bank Ltd. Sundargarh to serve the memoes on the above members **Ref(Annexure-17, page-127 to 130 of Volume-II)**. Finally all the members received the half margin memoes in-a long gap of more than one month and requested the Special audit to provide minimum two to four months for compliance of the memo as given below **Ref(Annexure-29, page-507 to 569 of Volume-III)** .

SINo	Name of members of COM	Date of receipt of Memo	Remarks
1	Sri Bhabani Prasad Majhi	10.11.2021	Pray for two month time for Compliance
2	Smt. Sasmita Joshi	14.10.2021	Pray for two month time for Compliance
3	Sri. Pradeep Ku. Naik	19.10.2021	Pray for two to three month time for Compliance.
4	Sri Alok Prakash Patel	01.11.2021	Pray for four month time for Compliance
5	Sri Kishor Majhi	01.11.2021	Pray for three to four month time for Compliance.
6	Sri Narayan Devsa	01.11.2021	Pray for two to three month time for Compliance.
7	Smt. Anju Toppo	25.10.2021	Pray for two to three month time for Compliance.
8	Smt.Goreti Kiro	01.11.2021	Pray for two to three month time for Compliance.
9	Sri Parsuram Sahu	01.11.2021	Pray for four month time for Compliance
10	Sri Pradeep Singh	14.10.2021	Pray for two month time for Compliance
11	Sri Pancha Barla	14.10.2021	Pray for two to three month time for Compliance.
12	Sri Machhindra Kalet	30.10.2021	Pray for three month time for Compliance
13	Smt Kamini Mohapatra	18.10.2021	Pray for three month time for Compliance
14	Smt Basanti Samant	05.11.2021	No prayer
15	Sri Pradyumna Ku. Tripathy	29.10.2021	Pray for three month time for Compliance

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16	Sri P.K.Mohanty CEO – cum Ex- officio member	Not received	-----
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As Spl audit is a time bound programme and for giving sufficient opportunity to the members of being heard as per natural justice as provided U/S 62 of the OCS Act 1962. Taking into consideration to the prayer made by the above members for allowing extra time for compliance of memo the special audit further allowed time to members except Sri Bhabani Prasad Majhi Ex-President of SDCC Bank Ltd. Sundargarh as he has received the memo on dt 10.11.2021 for compliance of memo to be submitted before the special audit within 13.11.21 and Sri Bhabani Prasad Majhi has been allowed time to submit his compliance by 21.11.2021 **Ref(Annx-19, page-176 to 177 of Vol-II)**. But, above all, members did not submit their compliance of memo in stipulated time given to them or till completion of audit. So, the Spl audit observed that they have nothing to comply on the defects noticed. Further the special audit observe engagement of 27 Nos of outsourcing staffs and three Nos of retired staffs in the SDCC Bank Ltd. Sundargarh is found to be irregular and illegal as those posts are not prescribed in the HR policy 2011 of the Bank and the Bank has also not obtained approval of engagement of such post at bank.

Another Half Margin Memo was issued on dt.30.09.2021 to the Collector and Dist Magistrate Cum Administrator of the SDCC Bank Ltd. for giving post facto approval to MS Sumeet Security Service for supply of man power and accordingly the above 27 Nos of security staffs are reengaged and allowing above three numbers of retired staff to continue to work in the Bank **Ref(Annexure-30, page-570 to 576 of Volume-III)**.

Basing on the Half Margin Memo dated 30.09.2021, the Collector & District Magistrate, Sundargarh-cum-Administrator, SDCC Bank Ltd. ,Sundargarh, has submitted his compliance report on dated 18.10.2021 and stated that the engagement of 27 Nos of Outsourcing and 3 Nos of retired staffs are based on Clause-4 of H.R.Policy 2011 of the Bank. On observation of compliance report, it is found that the post of Computer Operator, Attendant & F.L.C. is coming under Core Banking Business and the post of Driver (Bank on Wheel) was not required as revealed from page 02 of the compliance report submitted by the Collector & District Magistrate, Sundargarh-cum-Administrator, SDCC Bank Ltd. ~~Ltd.~~, Sundargarh. Further, his compliance on re-engagement of 03 Nos of retired staffs which is based on the Clause No:-04 of H.R.Policy 2011 for encouragement of re-deployment of staffs for cost-effectiveness is not accepted as the H.R. Policy Clause No:- 39 A-2 stated that 'Extention in Service shall not be granted to any employee other than the support staff beyond 58 years and in case of support staff beyond 60 years. Hence his compliance is not satisfactory in both cases. However, the District Magistrate, Sundargarh-cum-Administrator, SDCC Bank Ltd. ~~Ltd.~~, informed the Special Audit to take action for their removal/disengagement, if they are found surplus for core official management. Hence the District Magistrate, Sundargarh-cum-Administrator, SDCC Bank Ltd. ~~Ltd.~~, is also not free from the charges. However as the ~~the~~ Collector & District Magistrate, Sundargarh is dealing with district administration and doing multiferiuos work, and the office of the administrator work of the Bank is an additional work it is not possible for him to look deep into the all matters of the bank hence the bank personnel should have to lead him in correct way in all the activities of the Bank .Incase of the above said lapses the Bank has not lead the Collector in a proper way, so the audit did not fix up any financial liabilities against the collector and District Magistrate-cum-Administrator SDCCB Ltd., Sundargarh. However, the special audit request the

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Collector & District Magistrate, Sundargarh-cum-Administrator, SDCC Bank Ltd. Ltd., Sundargarh to act prudently as far as possible in all the activities of the SDCC Bank Ltd. Sundargarh.

CONCLUSION.

In pursuance of the facts , finding, observation and examination of relevant records the special audit concludes that:-

1. The engagement of 27 Nos of Outsourcing staffs comprising of Computer Operator, Attendant, F.L.C. & Driver are illegal violating Clause No:-04 of H.R.Policy 2011 of the Bank.
2. The re-engagement of 03 Nos of retired staffs in the Bank is also illegal which violates the Clause No:- 39 A-2 of H.R. Policy 2011 of the Bank.

Beside the above circumstances, the Spl audit objected the financial benefit given to the above mentioned 27 Nos of Outsourcing staffs for Rs. 12558412.00 and 03 Nos of retired staffs for Rs. 2734500.00 in total Rs. 15292912.00 by way of remuneration for the period from 01.04.2018 to 31.05.2021 as it is loss to the bank. So, the Spl audit fixed up joint liabilities and suggested recovery against the following members of the COM and Sri Prafulla Ku. Mohanty, C.E.O cum Ex-Officio member.

The name of the members of the Committee of Management .

1. Sri Bhabani Prasad Majhi
2. Smt. Sasmita Joshi
3. Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel
5. Sri Kishor Majhi
6. Sri Narayan Devsa
7. Smt. Anju Toppo
8. Smt. Goreti Kiro
9. Sri Parsuram Sahu
10. Sri Pradeep Singh
11. Sri Pancha Barla
12. Sri Machhindra Kalet.
13. Smt Kamini Mohapatra
14. Smt Basanti Samant,
15. Sri Pradyumna Ku. Tripathy,
16. Sri P.K. Mohanty CEO -cum Ex- officio member

SUGGESTION

The COM of the ^{bank} should be followed the OCS Act & Rule, Bye-laws and HR Policy 2011 of the bank duly approved by the RCS(O) at the time of engagement of outsourcing as well as retired staff for the better interest of the bank.

C. MISUTILISATION OF FUNDS CAUSING LOSS TO THE BANK ON BORROWING AND REPAYMENT TO THE OSCB, PUT THE BANK IN ELLEGIBLE FOR FINANCE FROM OSCB DUE TO DEFAULTING IN REPAYMENT NON REMITTANCE OF COLLECTION OF LOAN FROM PACS ETC.

FACTS:-

The M.D OSCB has alleged in UOI note No1022 dt.03.06.2021 that, the Sundargarh DCCB availed refinance of Rs.610.5 crore in the year 2019-20 against ground level crop loan disbursement of Rs.878.96 crore which was due for recovery during 2020-21. During the year 2020-21, the Bank has collected recovery of crop loans to the tune of Rs.983.22 crore, but remitted an amount of Rs.373.06 crore along with interest dues of Rs.14.06 crore out of the total refinance loan of Rs.610.50 crore availed during 2019-20. Thereby, the bank retained the balance recovered loan of Rs.610.16 (Rs.983.22 CR- Rs.373.06 CR) at their level and defaulted in payment of loan dues of OSCB availed during 2019-20 Principal of Rs.251.50 crore and Interest of Rs.2.73 crore including penal

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interest by committing the following financial irregularities/improprieties/indiscipline such as Ref(Annexure-31, page-577 to 605 & Annexure-1, page-35 of Volume-III):-

1. As per the principle of onlending finance and the policy of reimbursement/refinance of loans from OSCB against crop loan disbursed at ground level, the DCCB is required to pass/remitt the recoveries in respect of crop loans without resorting to reloaning or otherwise utilization at their level as provided in relevant laws, rules, bye-laws, circular instructions and KCC guideline thereon. The Sundargarh DCCB has committed the breach in the above financial discipline by retaining the recoveries without remitting the same to liquidate the loans availed under the refinance facility extended by OSCB.
2. The DCCB has retained the recoveries of crop loan and misutilised the amount meant to be remitted to OSCB to the extent of RS.251.50 crore and accrued thereon. Consequently the receivable loan due of OSCB has also been blocked which has lead to NPA at OSCB level.
3. Due to misutilisation of recovered dues, the bank is liable to pay penal interest dues of Rs.0.84 crore as on 31.05.2021.
4. Due to default in payment of loan dues the bank has lost the eligibility to borrow from OSCB.

So, from the above circumstances caused loss to the bank to the extent of Rs.4.51 crore as on 31.05.2021 as alleged by MD OSCB Ltd.

Basing on the above allegation the Spl audit examined the books of records/information as well as final audit report supplied by the bank time to time relating to refinance from OSCB and Advances to the PACS alongwith PACS collection Vrs OSCB remittance for the period 2018-19 to 31.05.2021 and deduce the following facts Ref(Annexure-31, page-577 to 605 of Volume-III).

1. The statement on refinance from OSCB and Advances to the PACS on ST SAO loan from 2018-19 to 31.05.2021 is detail below:-

As per Statutory Audit Report

SLNo	YEARS	ST SAO ADVANCES TO PACS	ST SAO REFINANCE FROM OSCB	DIFFERENCE (ADVANCES - REFINANCE
1	2	3	4	5
1	2018-19	7099583836.22	4608000000.00	2491583836.22
2	2019-20	8799581226.02	6105000000.00	2694581226.02
3	2020-21	10970130543.95	0.00	10970130543.95
4	2021-22(01.04.21 to 31.05.21)	1034396619.50	0.00	104396619.50

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SL NO	OUT OF WHICH FERT C.C. ADVANCES	EXCESS ADVANCES NOT REIMBURSED FROM OSCB	PACS COLLECTION RETAINED AT DCCB LEVEL
	6	7	8
1	245782681.46	2245801154.76	2372677865.36
2	242088855.00	2452492371.02	3221691879.48
3	275604950.89	10694525593.06	7253495378.96
4	6658811.50	1027737808.00	1023730508.73

From the above tabular data it is found that during the year 2018-19, the DCCB has Advances ST SAO loan to PACS Rs.709.96 crore comprising of Refinance from OSCB of Rs.460.80 crore and own fund of Rs.249.16. Out of the own fund it has retained of Rs.237.27 crore from PACS collection and utilized it towards ST SAO Advances to PACS.

During the year 2019-20, the DCCB has Advances ST SAO loan to PACS Rs.879.96 crore comprising of Refinance from OSCB of Rs.610.50 crore and own fund of Rs.269.46. Out of the own fund it has retained of Rs.322.17 crore from PACS collection and utilized it towards ST SAO Advances to PACS.

During the year 2020-21, the DCCB has Advances ST SAO loan to PACS Rs.1097.01 crore from its own fund without any refinance from the OSCB. Out of its own fund it has retained of Rs.725.35 crore from PACS collection and other sources of Rs.371.66 (F.D with OSCB & Others bank of Rs.1034.79+Govt.Securities Rs.200.02+Deposit collection Rs.29.26+Fert C.C loan 27.56) utilized it towards ST SAO Advances to PACS.

During the year 2021-22 (01.04.21 to 31.05.21), the DCCB has Advances ST SAO loan to PACS Rs.103.44 crore from its own fund without any refinance from the OSCB. Out of its own fund it has retained of Rs.102.37 crore from PACS collection and other sources of Rs.1.07 (Deposit collection Rs.0.40+Fert C.C loan Rs.0.67) utilized it towards ST SAO Advances to PACS.

2. Regarding PACS collection Vrs OSCB remittance of Sundar DCCB on ST SAO loan from 2018-19 to 31.05.2021 is detail below:-

SLNO	YEARS	PACS COLLECTION		
		PRINCIPAL	INTEREST	TOTAL
1	2	3	4	5
1	2018-19	6175657531.09	541845427.27	6717502958.36
2	2019-20	7964873360.48	648588482.00	8613461482.48
3	2020-21	9849437824.96	598508748.00	10447946572.96
4	2021-22 (01.04.21 to 31.05.21)	946197127.73	77533381.00	1023730508.73

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SLNO	OSCB REMITTANCE			PACS COLLECTION RETAINED AT DCCB LEVEL
	6	7	8	
	PRINCIPAL	INTEREST	TOTAL	
1	4150000000.00	194825093.00	4344825093.00	2372677865.36
2	5188000000.00	203769963.00	5391769963.00	3221691879.48
3	3010000000.00	184451194.00	3194451194.00	7253495387.96
4	0.00	0.00	0.00	1023730508.73

From the above tabular data it is found that during the year 2018-19, the DCCB has collected ST SAO loan from PACS Rs.671.75 crore comprising of principal of Rs.617.57 and interest of Rs.54.18 crore and remitted to OSCB of Rs.434.48 crore comprising of principal of Rs.415.00 and interest of Rs.19.48 crore and retained of Rs.237.27 crore from its collection.

During the year 2019-20, the DCCB has collected ST SAO loan from PACS Rs.861.35 crore comprising of principal of Rs.796.49 and interest of Rs.64.86 crore and remitted to OSCB of Rs.539.188 crore comprising of principal of Rs.518.80 and interest of Rs.20.38 crore and retained of Rs.322.17 crore from its collection.

During the year 2020-21, the DCCB has collected ST SAO loan from PACS Rs.1044.79 crore comprising of principal of Rs.984.94 and interest of Rs.59.85 crore and remitted to OSCB of Rs.319.45 crore comprising of principal of Rs.301.0 and interest of Rs.18.45 crore and retained of Rs.725.35 crore from its PACS collection.

During the year 2021-22(From 01.04.2021 to 31.05.2021), the DCCB has collected ST SAO loan from PACS Rs.102.37 crore comprising of principal of Rs.94.62 and interest of Rs.7.75 crore and did not remit to OSCB and retained of Rs.102.37 crore from its collection.

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HIGH COURT OF CHHATTISGARH
FILED
14 AUG 2022
REGISTERED
JALANDHAR

**STATEMENT SHOWING REFINANCE VRS REMITTANCE TO OSCB ALONGWITH OVER DUE
POSITION OF ST SAO LOAN FOR THE PERIOD FROM 2018-19 TO 31.05.2021.**

SL NO	YEARS	OUTSTANDING AT THE BEGINNING OF THE YEAR	REFINANCE FROM OSCB DURING THE YEAR	REMITTANCE TO OSCB DURING THE YEAR	BALANCE OUTSTANDING AT THE END OF THE YEAR	OUT OF WHICH O.D.
1	2	3	4	5	6	7
1	2018-19	415.00	460.80	415.00	460.80	0.00
2	2019-20	460.80	610.50	518.80	552.50	0.00
3	2020-21	552.50	0.00	301.00	251.50	251.50
4	2021-22(01.04.21 to 31.05.21)	251.50	0.00	0.00	251.50	251.50

From the above tabular data it found that, the Sundargarh DCCB has failed to repay the ST SAO loan due of Rs.251.50 crore during the year 2020-21 inspite of retention of PACS collection to the tune of Rs.725.35 and bear total interest of Rs.48108013.70 instead of Rs.4.51 crore including over due interest of Rs.14802465.75. Out of over due interest Rs.6396164.38 constitute for the year 2020-21 and of Rs.8406301.37 constitute for the year 2021-22(01.04.21 to 31.05.21).

FINDING

In pursuance of the facts and on examination of records and informations of misutilization of funds causing loss to the Bank on borrowing and repayment to the OSCB, put the bank in eligible for finance from OSCB due to defaulting in repayment/ non remittance of collection of loan from PACS etc. the following irregularities are noticed:-

1. As per the principle of onlending finance and the policy of reimbursement/refinance of loans from OSCB against crop loan disbursed at ground level, the DCCB is required to pass/remit the recoveries in respect of crop loans without resorting to reloaning or otherwise utilization at their level as provided in relevant laws, rules, bye-laws, circular instructions and KCC guideline thereon. During the year 2020-21 it is noticed that the Bank has not borrowed ST loan from OSCB and made advances of Rs.1069.45 crores to the PACS out of its own fund, comprising of Rs.36.42 crores as F.D. withdrawal from OSCB, Rs 107.37 crores as F.D. withdrawal from others Banks, Rs.200.02. crores as withdrawal of Govt. Securities Rs 725.35 crore from ST loan and interest collection and Rs.0.29 crores met from its deposits total 1069.45 crore, which violates the KCC norms and guidelines.

2. The Sundargarh DCCB has failed to repay the ST SAO loan due of Rs. 251.50 crore during the year 2020-21 inspite of retaintion of PACS collection to the tune of Rs. 725.35 and bear total interest of Rs. 48108013.70 instead of Rs. 4.51 crore including over due interest of Rs. 14802465.75. Out of over due interest Rs. 6396164.38 constitute for the year 2020-21 and of Rs. 8406301.37 constitute for the year 2021-22 (01.04.21 to 31.05.21). As the bank has Advances out of retention amount for ST SAO loan to the PACS and eligible to get interest at normal rate, so it is not justify to make the bank liable total interest of Rs. 48108013.70. So, Spl audit found that the bank is liable for Rs. 14802465.75. out of Rs. 48108013.70 **Ref(Annexure-33, page-609 to 610. of Volume-III).**

3. It is also noticed that the Bank has defaulted in repayment of ST SAO loan borrowing from OSCB to the tune of Rs. 251.50 Crores during the period 16.01.2021 to 31.05.2021 **Ref (Annx-31, page-577 to 605 of Vol-III).** The bank has to repay the ST borrowing loans of OSCB in time and to save the Bank from payment of unnecessary penal interest to the tune of Rs 1,48,02,465.75 as well as to save the Bank from ineligibility of refinance of ST KCC loan from OSCB. The Special audit felt that decision for non payment of ST loan borrowing of OSCB in time is imprudent and brought financial loss to the bank as well as to the OSCB Ltd.

OBSERVATION

In pursuance of the facts, findings and on examination of records and informations the Spl audit observed that, the bank has committed the above mention irregularities as narrated its finding and misutilise of funds causing loss to the Bank on borrowing and repayment to the OSCB, put the bank in ellegible for finance from OSCB due to defaulting in repayment/ non remittance of collection of loan from PACS etc.

Accordingly Half Margin Memo dt. 28.09.2021, issued to Sri Suresh C Das, CEO of the bank for necessary compliance of the said defects/irregularities and Sri Das has submitted his compliance report on dt. 07.10.2021 and stated that, for the year 2019-20 credit limit application was submitted by my predecessors and I executed the loan agreement on 04.06.2019 against their sanction limit of Rs. 800.00 crores. Unfortunately, OSCB neither accepted the loan agreement nor communicated the reason thereof. As such, Bank could not borrow from OSCB against the ground level disbursement. On the other hand, the Bank continued to repay the borrowing availed from OSCB in previous year. However, to our repeated verbal requests over phone, OSCB advised at the last part of Khariff-2019 to submit loan agreement afresh in the signature of Sri A.K. Pandey, AGM who was earlier incharge of CEO on retirement of Sri P.K. Mohanty (my predecessor) and submit drawal proposals. In this manner, the Bank availed all sorts of refinance from OSCB upto 31.03.2020.

For the year 2020-21, I submitted the credit limit application vide letter No: 5741 dt. 17.02.2020 for Rs. 850.00 crore and the same amount was sanctioned vide OSCB letter No: 214(17) dt. 27.06.2020. Accordingly, I submitted loan agreement vide letter No: 340 dt. 27.04.2020. But the loan agreement submitted in my signature was not accepted by OSCB although they recognized my signature at the time of sanction. After a long persuasion with OSCB for the purpose of submitting drawal proposals, they advised to authorize a Senior Officer of the Bank for the purpose of borrowing. As such, Sri B.K. Mohapatra, AGM was authorized by the Administrator and was communicated to OSCB vide Bank's letter No: 1832 dt. 21.07.2020. But it remained pending at their level for pretty long days without any action. Later at a lapse of about two months, on our repeated persuasion, they advised to make a fresh agreement in the signature of the officer authorized (B.K. Mohapatra, AGM) for borrowing. In the line of their advice, a fresh agreement was

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submitted vide letter No: 2615 dt. 16.09.2020. Bank submitted relevant portion of OCS Act and later Bye-laws of the Bank too submitted as desired by OSCB. It is apprehended, in this process of 4 months they applied dilly-dally method to kill time so that Khariff season would be over. Finally on 27.11.2020 OSCB intimated that refinance would not be allowed in the signature of Officer other than the CEO. The audit is expected to agree with us that this reply could have been pretty before 30th September, 2020.

It is pertinent to state that OSCB was taking the stock of progress in Khariff finance in the State through VC two to three times in a month from July-2020. In some of the VC Commissioner was also reviewing. In all such VC as well as physical meetings OSCB have encouraged us to go for more & more financing to cover up the deficit of other Banks and was assuring too that they would sort out the refinance problem shortly. OSCB has also issued a certificate recognising the Bank as the Top Achiever in the State. In such scenario, we had no idea that all such things told/ assured by a State level Officer of the stature of MD, OSCB would come out in a refusal after killing a period of 08 months of the year.

Further, in one hand, OSCB is telling that refinance would not be allowed in the signature other than that of CEO. On the other hand, they are not allowing the CEO to make drawal. It is hoped such nature of double standard would be clearly understood by the Audit. On the other hand, the Bank repaid the entire loan of Rs. 315.00 crore disbursed in Khariff-2019 during 2020-21 from Bank's own resources. The Bank too had cleared all such dues to OSCB upto December-2020 towards Principal & Interest on account of Khariff & Rabi as well as dues against schematic borrowing. Repayment made against Khariff & Rabi alone towards Principal was Rs. 358.50 crore.

It is a fact that the Bank could not pay back the dues of Rs. 251.50 crore due between 16.01.2021 to 31.03.2021. But it is worth mentioning here that Bank has financed Rs. 949.51 crore by December, 2020 against which borrowing eligibility from OSCB was Rs. 712.00 crore. The total refinance eligibility under crop loan was Rs. 815.00 crore against the finance of Rs. 1086.92 crore in year 2020-21. Further, the finance against allied sector along with SHG/ JLG was Rs. 98.68 crore against which refinance eligibility was more than Rs. 93.00 crore.

The Bank invests its surplus resources mainly in Govt. Securities or Bank Deposit. The following table illustrated below can justify the loss that the Bank sustained in absence of refinance available under crop loan leaving the refinance available under other segments.

(Rs. in crore)

Quarter	Finance	Refinance eligibility	Funds available for investment	Period available for investment	Return @ 6% from Govt.-Securities
June 2020	427.90	321.00	321.00	3 months	4.81
Sept.,2020	596.66	447.50	447.50	6 months	13.42
Dec, 2020	352.85	264.00	264.00*	2 months	2.64
March, 2021	490.25	367.68	116.00**	1 month	0.58
Total					21.45

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*The amount of Rs. 100.00 crore due between 22-30 Jan., 2021 was supposed to be cleared in 1st week of Jan., 2021 for which funds available for investment for a period of two months only.

**Between Jan to Mar., 2021 amount of Rs. 251.50 cr. would have been repaid. As such clear funds available were Rs. 116.00 crore for investment.

This is just an illustration only. But in real sense period of investment could have been more in last two quarter of the year taking days product into account.

The question of default arises out of non-payment against borrowing dues fell between Jan to March., 2021. Since upto the last the Bank was hopeful to get refinance on the assurance of OSCB on different VCs. The Bank continued financing to the poor tribal farmers of the District in order to grounding the programme of the popular Government towards availability of crop loan @ 0% upto Rs. 50,000/- and @ 2% for the above and also to the SHG members of the District. While reviewing the progress in VCs the Apex Bank being the financer never advised to stop financing to the members instead of repaying their loans. Even the Inspect Team of OSCB never advised to stop finance to farmers by defaulting to OSCB.

It may not be out of place to mention here that NABARD sanctions ST-Credit limit in favour of OSCB on account of 17 CCBs of the State to extent 45-50% of the ground level disbursement. In the year 2020-21, OSCB has availed the entire limit sanctioned by NABARD including the limit sanctioned amount relates this Bank pledging surplus bond of other DCCBs. But OSCB never expressed their anxiety for providing refinance to this Bank for the cause of tribal farmers of the District as they are keen to impose penal interest for the default. As it shows, they are functioning at State level only to collect interest / penal interest but not for the cause of the members of the down level cooperatives.

Furthermore, it is worth mentioning here that for the year 2021-22 the OSCB has sanctioned a limit of Rs. 970.00 cr. in favour of this Bank vide their letter No. 333(17) dt. 22.04.2021 against the proposal submitted in my signature.

During the period, the Bank has also collected penal interest of Rs. 359.94 lakh from the members during this period. The Bank has never manage its fund imprudently rather for its prudential financial management, the bank has earned a trading profit of Rs. 11.51 crore from its investment in Govt. Securities during the year.

In view of the above, whatever penal interest is charged by OSCB is due to their highhandedness. Had they allowed refinance to the bank in time as they were allowing in last part of 2018-19 & in the entire year of 2019-20 after my joining in the signature of second line officer or in my signature in obedience to the order of the Hon'ble High Court of Odisha, the Bank could have earned about Rs. 21.45 crores of profit as illustrated above. While calculating penal interest this things should be taken into account where the Bank a support to have lost the opportunity to earn more than Rs. 21.45 crore in Treasury Market by investing its surplus fund. Thus the only Cooperative Bank in the State of national reputé was not only forcibly driven to make default but was defamed clandestinely in a well-planned manner deliberately.

Therefore, it is quite evident that the bank has never taken any imprudent decision not

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sustained any financial loss.

From the above compliance of the CEO Sri Seresh C.Das it is observed that, the OSCB has neglected in the refinance of ST SAO loan disbursement to the Sundargarh DCCB such as:-

1. The OSCB has allowed refinance to the bank by the signature of Sri A.K.Panda, AGM second line officer of the bank from dt.01.01.2019 to 31.03.2020 of RS.610.50 **Ref(Annex-35, page-645 of Vol-III)** in place of permanent CEO of the bank in violation of provision the OCS Act U/S 28(3-b)(2)(b) and (d). As per the Bye-laws of bank clause No.37 (4) Sri A.K. Panda, AGM is eligible for a period of 30 days in the absence of the CEO. But OSCB allowed refinance to bank in the signature of Sri A.K.Pand, AGM beyond 30 days without approval of the RCS(O) as provided Clause No.37(5) of the Bye-laws **Ref(Annexure-36, page-646 to 678 of Volume-III)**. Taking into the consideration of SOCB in the drawal with the signature of A.K.panda AGM SDCC Bank Ltd. second line officer the bank was hopeful to get further refinance from the OSCB and utilized the money collected from the PACS for Advancing of STSAO loan.
2. When the OSCB refuse to make refinance in the signature of A.K.Panda, AGM the bank has submitted loan agreement for Rs.850.00 crore in the signature of Sri Surech C.Das, CEO of the bank vide letter No.340 dt.27.04.2020. **Ref(Annexure-34, page-611 to 644 of Volume-III)** But, the loan agreement submitted in the signature Sri S.C.Das, CEO was not accepted by the OSCB, finally the bank submitted drawl proposal by an authorized senior officers Sri B.K.Mahapatra, AGM of SDCC Bank Ltd. vide letter No.2615 dt.16.09.2020 **Ref(Annexure-34, page-611 to 644 of Volume-III)**. The OSCB refused for refinance in the signature of Sri Mohapatra, AGM vide letter No.333 dt.27.11.2020 **Ref(Annexure-37, page-679 to 682 of Volume-III)** when Khariff period was already over. Such decision of the OSCB confused the bank to adopt way for refinance as the same was adopted by OSCB in case of drawal in the signature of Sri A. K. Panda AGM of the SDCC Bank Ltd.
3. The OSCB has sanctioned credit limit of Rs.850.00 **Ref(page-628 of Volume-III)** crore during 2020-21 and of Rs.970.00 crore during 2021-22 in the signature of the Sri Surech C.Das, CEO of the bank which is transmitted to the bank vide letter No.214 (17) dt.22.06.2020 and letter No.333(17) dt.22.04.2021 respectively **Ref(Annexure-34 & 37, page-611 to 644 of Volume-III)**, but disallowed the refinance in the signature Sri Das, CEO for Rs.850.00 Crore. As stated by the CEO in his compliance Report that the OSCB Ltd. has disallowed the refinance in his signature for Rs.850.00 Crore. If the above amount was refinance to the DCCB in time the bank could have earned profit of Rs.21.45 crore. So, the bank had no other option rather the situation compelled to advances to the PACS for the larger interest of the farmer as well as Govt. programme instead of remittance of PACS collection with violating as provided in relevant laws, rules, bye-laws, circular instructions and KCC guideline thereon. Hence, the Sundargarh DCCB has retained of PACS collection amount to the tune of Rs.725.35 ^{crore} without repaying the ST SAO loan due of Rs.215.50 crore to OSCB during the year 2020-21 and bear over due interest of Rs.14802465.75. On the other hand if the compliance of Sri Surech C.Das, CEO regarding earning of profit of Rs.21.45 Crore as illustrated is a fact than the activities of the OSCB can not be over looked.

So, Special audit observe that, if the OSCB has decided that the signature of Sri Suresh C Das is

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not legal and not acceptable, it could have not sanctioned the loan amount in the Signature of the CEO Sri Suresh C Das. Further in one hand the OSCB allowed loan to SDCC Bank Ltd. Sundargarh in the Signature of A.K.Panda AGM and in the otherhand. did not allow drawal in the Signature of Sri B.K.Mohapatra DGM has put the bank in to dilemma.

CONCLUSION

In pursuance of the above facts, findings, observation and on examination of records and informations on misutilization of funds causing loss to the Bank on borrowing and repayment to the OSCB, put the bank inellegible for finance from the OSCB due to defaulting in repayment/ non remittance of PACS collection etc. The special audit concludes that, when the OSCB has decided the signature of Sri Suresh C Das is not legal and not acceptable, it could have not sanctioned the loan amount in the Signature of the CEO Sri Suresh C Das. Further, on other hand the OSCB allowed loan to SDCC Bank Ltd. Sundargarh in the Signature of A.K.Panda AGM and did not allow drawal in the Signatüre of Sri B.K.Mohapatra DGM has put the bank into dilemma. and subsequently the bank incurred loss by way of paying OD interest to OSCB.

The compliance of the memo of Sri Suresh C Das CEO SDCC Bank Ltd. Sundargarh to the Special audit accepted taking into consideration of different empassee situation and aiming to cater the need of larger interest of the Farmer members and public as well as acheiving the target to the National Programme of ST KCC loan finance, the loss sustained by the Bank towards overdue interest on overdue loan is not a policy decision of the bank, rather a business loss. However, the Spl audit also concludes that as a rational banker Sri Suresh C. Das, CEO of the bank should give importance to earn profit as there is involvement of public deposit and the bank is paying interest to them and could have remitted Rs.251.50 crore out of PACS collection without retention and save the bank from extra burden of penal interest of Rs.14802465.75 found not a prudent decision taken by him which resulted loss to the bank as well as deviation of KCC Rules and Govt. guidelines on ST SAO finance and as such Sri Suresh C. Das, CEO is responsible for loss to the bank of Rs.14802465.75 and spl audit suggest for Surcharge Proceeding U/S section 67 of the OCS Act 1962.

SUGGESTION

The bank should follow the KCC guidelines prescribed by the competent authorities in case of ST SAO loan on borrowing from OSCB and lending to PACS.

24) **Any other matters incidental to special audit:- No Such**

25) **Any other matters/points to be added by the auditor or AGCS as per nature and kind of C.S.**
The then D.R.C.S., Sundargarh being the Local Administrative Authority, remained silent over the

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issue of the appointment of the C.E.O., Construction of building, engagement of outsourcing and retired staff and non repayment of OSCB dues of S.D.C.C. Bank Ltd. and not intimating the matter to his higher Authority about the different irregularities time to time through inspection/enquiry or any other way, so that such problem would not have happened and continued for long. Likewise the then R.C.S., Odisha, Bhubaneswar, also remained silent over the matter except disapproving the appointment of the C.E.O. of the S.D.C.C. Bank Ltd. vide Letter No:-4172 dated 23.02.2019 without resorting to take action either U/S 32 or 123(A) of O.C.S Act 1962. So the responsibilities of the then D.R.C.S., Sundargarh and R.C.S (O), BBSR can't be over looked.

SUMMATION OF TOTAL RECOVERIES:-

SL NO	NATURE OF RECOVERIES	PERSONS HELD LIABLE	AMOUNT	PAGES
1	<u>Illegal appointment of CEO</u>	1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3. Sri. Pradeep Ku. Naik 4. Sri Alok Prakash Patel. 5. Sri Kishor Majhi 6. Sri Narayan Devsa 7. Smt. Anju Toppo. 8. Smt. Goreti Kiro 9. Sri Parsuram Sahu 10. Sri Pradeep Singh 11. Sri Pancha Barla 12. Sri Machhindra Kalet. & 13. Smt Kamini Mohapatra Jointly.	Rs. 5041200.00	10 of Vol-I
2	<u>Financial indiscipline/irregularities:</u> i). Constuction of new building of head office of bank	1. Sri Bhabanj Prasad Majhi 2. Smt. Sasmita Joshi 3. Sri. Pradeep Ku. Naik 4. Sri Alok Prakash Patel. 5. Sri Kishor Majhi 6. Sri Narayan Devsa 7. Smt. Anju Toppo. 8. Smt. Goreti Kiro 9. Sri Parsuram Sahu 10. Sri Pradeep Singh 11. Sri Pancha Barla 12. Sri Machhindra Kalet. 13. Smt Kamini Mohapatra 14. Smt Basanti Samant, 15. Sri Pradyumna Ku. Tripathy, 16. Sri Suresh C Das CEO – cum Ex- officio member	Rs. 10500000.00	14 of Vol-I
	ii) Engagement of outsourcing staffs and retired staffs	1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3. Sri. Pradeep Ku. Naik 4. Sri Alok Prakash Patel. 5. Sri Kishor Majhi 6. Sri	15292912.00	19 of Vol-I

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		Narayan Devsa 7. Smt. Anju Toppo. 8. Smt.Goreti Kiro 9. Sri Parsuram Sahu 10. Sri Pradeep Singh 11.Sri Pancha Barla 12.Sri Machhindra Kalet. 13. Smt Kamini Mohapatra 14. Smt Basanti Samant, 15 Sri Pradyumna Ku. Tripathy, 16 Sri P.K.Mohanty CEO – cum Ex- officio member		
3.	Misutilisation of funds causing loss to the bank on borrowing and repayment to the OSCB, put the bank in ellegible for finance from OSCB due to defaulting in repayment non remittance of collection of loan from PACS etc.	Sri Suresh C Das, CEO	14802465.75	28 of Vol-I
		Grand Total	Rs.45636577.75	

SPECIAL REMARKS

In the bettle of legality and illegality between OSCB, Govt. and DCCB Sundargarh the poor tribal farmer members and the public of the Sundargarh district are suffering a lot and debarred from getting agricultural loan from the Govt. in time which canot be compensated by any means. So special audit suggests immediate remedial measure to be taken by the Govt. in this issue and save the poor tribal farmers as well as the public of the district.

DETAIL LIST OF ENCLOSURE

SL NO	LETTER NO & DATE	SUBJECT MATTER	ANNX.NO	PAGE Vol-II
1	3162 dt.11.06.2021	Authorization Order of AGCS, Odisha	01	29-31
2	1158/09.06.2021	Affairs of SDCCB Reported to AGCS(O) and RCS(O) reported by MD, OSCB Ltd.	01	32-36
3	6343/03.11.2021	Of AGCS(O) regarding extension of time.	01	37
4	NIL/03.09.2021	Of Special Auditors to AGCS(O) regarding extension of time.	01	38
5	NIL/21.06.2021	Commencement report of Special Audit	02	39-46
6	1520/07.09.2021	Supply of information to Special Audit by CCB .	03	47-50

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7	Nil / 01.09.2021	Supply of Inspection report to Special Audit	04	51
8	6731 / 01.02.2019	Appointment letter for CEO of the SDCCB Ltd.	05	52-53
9		Extract copy of the proceeding of the COM dt. 31.08.2017 resolution No.04	06	54
10		Extract copy of the proceeding of the COM dt. 28.09.2018 resolution No.09	07	55
11	3492 / 26.10.2018	Issued by DCCB for approval appointment of own CEO by RCS(O)	07	56-57
12	Nil / 20.11.2018	Advertisement in the local NEWS paper, the Dharitri, the Sambad	08	58-60
13	6463, 6465, 6467 to 6469, 6471 to 6473	Issue of letter for charges as Viva-voce test of of the candidates issued by DCCB	09	61-76
14	6442 / 01.02.2019	Assumption of CEO, SDCCB	10	77
15	6772 / 02.02.2019	Issued by DCCB for approval appointment of own CEO by RCS(O)	11	78-79
16	4172 / 23.02.2019	Issued by RCS(O) regarding non-approval of CEO in DCCB.	12	80-81
17		W.P(C) No. 5641 of 2019,	13	82-83
18	978 / 10.01.2020	Issued by RCS(O) regarding approval of CEO in DCCB.	13	84-85
19		W.P(C) No. 1846 of 2020,	13	86-87
20		W.P(C) No. 10806 of 2020,	13	88-108
21		W.P(C) No. 18381 of 2020,	13	109-110
22	15251 / 27.07.2011	H.R. Policy 2011 of the SDCCB	14	111-112
23	Circular No. 13/IDD-01/2018, RPCD.CO.RCBD 131/13.01.03/2011-12	relaxation of age limit and Fit for proper criteria issued by NABARD	14	113-116
24		Application & Bio-data of Sri SC Das for the post of CEO	15	117-118
25		Extract copy of the proceeding of the COM dt. 01.02.2019 resolution No.02	16	119-121
26		Salary & other Expenditure against Sri S.C. Das, CEO of SDCCB	16	122-126
27	Letter No: NIL Dt: 28.10.2021, 11.10.2021, 02.11.2021, No:- 2006 Dt:- 01.11.2021	Issued for non-submission of Serve Copy of Half Margin Memo of Dated: 23.09.21 & 28.09.21	17	127-130
28	L.N:- NIL Dt:- 23.09.21	Issued to Members of the COM regarding appointment of the CEO by the Bank	18	131-175
29	L.N- NIL, Dt: 11.11.21	Allow extra time to Sri B.P. Majhi for	19	176

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		compliance of H.M. Memo by Dt: 21.11.21		
30	L.N- NIL, Dt: 02.11.21	Allow extra time to COM for compliance of H.M. Memo by Dt:13.11.21	19	177 ✓
31	L.N- NIL, Dt: 05.08.21	Supply of information and records for Spl. Audit regarding extension of Status Quo against WPC No: 10806/2020	20	178 ✓
32	L.N- 4703, Dt: 03.10.2015	Issued by OSCB regarding payment of salary to CEO of the CCB	21	179 ✓
33		Extract copy of the proceeding of the COM dt. 09.03.2018 resolution No.08	22	180 ✓
34	L.N- 483, Dt: 04.05.2018	Issued by DCCB to RCS(O), for administrative approval for construction of H.O. main building	22	181-198 ✓
35	L.N- 10461, Dt: 28.05.2018	Issued by the RCS(O), to DCCB for administrative approval for construction of H.O. main building	22	199 ✓
36	L.N- 2522, Dt: 20.09.2021	Issued by the B.D.O, Sadar, regarding plan estimate administrative approval of construction of new building of H.O.	22	200-268 ✓
37	L.N- 977, Dt: 07.03.2019	Issued by the P.D., DRDA to B.D.O, Sadar, regarding plan estimate administrative approval of construction of new building of H.O.	22	269-322 ✓
38	L.N- 3194, Dt: 19.12.2019	Issued by the P.D., DRDA, Sundargarh to B.D.O, Sadar, regarding technical sanction and administrative approval of construction of new building of H.O.	22	323-400 ✓
39	L.N- 1618, Dt: 17.09.2021	Issued by the SDCCB to Spl. Audit regarding plan estimate technical sanction & Measurement Book of construction of new building of H.O.	22	401-433 ✓
40		Extract copy of proceeding of the technical Committee dt. 29.01.2020	23	434-436 ✓
41	Ref. No: 5401 / Dt: 31.01.2020	Advertisement in the local NEWS paper, the Sambad & the Prameya Dt: 02.02.2020 regarding interior works of new building of H.O.	23	437-438 ✓
42		Extract copy of proceeding of the Committee of Management dt. 12.02.2020 for finalization of tender	23	439-441 ✓
43	L.N:- NIL Dt:- 23.09.21 H.M.	Issued to Members of the COM regarding construction of new	24	442-488 ✓

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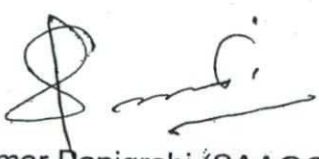


		building of H.O.		
44	L.N:- NIL Dt:- 03.08.21	Issued by Spl. Audit for Supply of information regarding Outsourcing & Retired Staffs	25	489
45		Extract copy of proceeding of the Committee of Management dt. 09.03.2018 Resolution No: 09 on M/S Golden Security Service	25	490-491
46		Extract copy of proceeding of the Committee of Management dt. 02.09.2020 regarding Outsourcing from M/S Sumeet Security Service	25	492
47	L.N: 1779 Dt: 17.07.2020	Issued to Sumeet Security Service for work Order	25	493
48		Detail List of Outsourcing Staffs	25	494
49		Detail List of Retired Staffs	26	495
50		Extract copy of proceeding of the Committee of Management dt. 20.10.2014, 27.02.19, 20.09.19, 29.01.20 & 31.03.20 on Retired Staffs	26	496-500
51	15251 / 27.07.2011	H.R. Policy 2011 on Outsourcing Staffs of the SDCCB	27	501-502
52		Statement on detail list of inelligible Outsourcing Staffs with total remuneration paid	27	503
53	15251 / 27.07.2011	H.R. Policy 2011 on Retired Staffs of the SDCCB	28	504-505
54		Statement on detail list of inelligible Retired Staffs with total remuneration paid	28	506
55	L.N:- NIL Dt:- 28.09.21	H.M Memo issued to Members of the COM regarding Outsourcing Staffs & Retired Staffs	29	507-569
56	L.N:- NIL Dt:- 30.09.21	H.M Memo issued to Collector & D.M. cum MIC, SDCC Bank Ltd., Sundargarh regarding Outsourcing Staffs & Retired Staffs	30	570-573
57	L.N:- 1537/ Dt:- 18.10.21	Compliance of the Collector & D.M. cum MIC, SDCC Bank Ltd., Sundargarh regarding Outsourcing Staffs & Retired Staffs	30	574-576
58	L.N:- NIL /Dt:- 23.07.21	Issued by Spl. Audit for supply of information on Sources and utilization of funds, borrowing &	31	577-580

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		remittance with OSCB.		
59	L.N:- 1275 /Dt:- 17.08.21	Information supplied by the CCB on Sources and utilization of funds, borrowing & remittance with OSCB.	31	581-605
60	L.N:- 1520 /Dt:- 07.09.21	Information supplied by the CCB on Sources of funds on STSAO Loan to PACS of Rs. 344.10 Crore & other information.	32	606-608
61		Statement showing default of repayment of ST borrowing with penal interest with SDCCB from 01.04.2018 to 31.05.2021	33	609-610
62	L.N:- NIL /Dt:- 28.09.21	H.M Memo issued to CEO Sri Suresh C Das regarding misutilisation of funds causing overdue interest of Rs. 1.48 crores & PACS collection retained at CCB level without remittance to OSCB & using it for finance & compliance of the CEO Sri Suresh C Das.	34	611-644
63		Information supplied by the CCB, Sundargarh on borrowing from OSCB ST(DTP) SF from 01.04.18 to 31.03.20.	35	645
64	L.N:- 1077 /Dt:- 28.07.2013	Bye Law of the SDCCB Ltd., Sundargarh.	36	646-682


Sudhir Kumar Panigrahi (SAAGCS)
Signature of the Spl. Auditor


Durga Prasad Dash (SAAGCS)
Signature of the Spl. Auditor

- 119 - 64

Amexure - 51

OFFICE OF THE ASST. AUDITOR GENERAL OF CO-OPERATIVE SOCIETIES,
SUNDARGARH AUDIT CIRCLE, SUNDARGARH.
Surcharge Proceeding No. 16/ 2022

Notice No. 255 / Dated: 22.02.2022

NOTICE U/S 67 OF OCS ACT, 1962 READ WITH RELEVANT PROVISION OF C.P.C 108 AND RULE 70 OF OCS RULES 1965

To

I. Sri Bhabani Prasad Majhi, President & Others Rs-5041200.00
SDCC Bank Ltd. *As per overleaf*

After consideration the reporting in Audit Report/ Inspection Report/ Enquiry Report/ Report of the Liquidator of SDCC Bank Ltd. for the period from 01.04.18 to 31.05.21. I Sri Bhabani Ranjan Purohit, Asst. AGCS, Sundargarh Audit Circle, Sundargarh, in exercise of powers conferred on me U/S 67 of the OCS Act, 1962 do hereby serve you notice requiring for filing answers cause to me if any in writing within 15 (fifteen) days of issue of this notice as to why the sum referred to in the said audit report/ Inspection Report/ Enquiry Report/ Report of Liquidator (copy of relevant extract enclosed herewith) as required under Rule-70 (1) as given below, should not be recovered from you and credited to the said Co-operative Society. You are allowed to go through records of Society u/s 70(4) of OCS Rule 1965 and while showing cause you may state, if you want to be heard in person. If no reply is received within the stipulated period, it would be presumed that you have nothing to state or to be heard in the matter and the proceeding would be decided on merit.

U/S. 70(4) of OCS Rule, 1965 you are allowed to look into the relevant records of the society if desired for furnishing explanation.
Date fixed for hearing toll-free 2022 at 11:00 A.M.

Amount involved.
Rs. 5041200.00/-

Audit/Inspection/Enquiry/Special Audit Report
And Liquidator report
Given under my hand & Seal

SAI
Asst. Auditor General of C.S.
Sundargarh

Memo No - 256 Dated-22.02.2022

Copy along with concerned copies of the notices forwarded to the Chief Executive Officer, SDCC Bank Sundargarh, for information. He is required to cause service of concerned copy of the notices to the above delinquents and return served copy to the under signed for further necessary action.

SAI
Asst. Auditor General, of C.S.
Sundargarh

Memo No. - 257(15) Dated. 22.02.2022

Copy forwarded to concerned delinquents.

SAI
Asst. Auditor General of C.S.
Sundargarh

Memo No. - 258 Dated 22.02.2022

Copy forwarded to the D.R.C.S. Sundargarh for information.

SAI
Asst. Auditor General, of C.S.
Sundargarh

Memo No. - 259 Dated 22.02.2022

Copy forwarded to the A.R.C.S. Sundargarh, Panchesh Bonac for information.

SAI
Asst. Auditor General of C.S.
Sundargarh

Abstract of recovery Rs. 5041200.00/-

- 65 - 120 -

Sl No	NATURE OF RECOVERIES	PERSONS HELD LIABLE	AMOUNT
1	Illegal appointment of CEO	1. Sri Bhabani Prasad Majhi	Rs. 5041200.00
		2. Smt. Sasmita Joshi	
		3. Sri Pradeep Ku. Naik	
		4. Sri Kishor Majhi ✓	
		5. Sri. Alok Prakash Patel	
		6. Sri Narayan Devsa	
		7. Smt. Anju Toppo	
		8. Smt. Goreti Kiro	
		9. Sri Parsuram Sahu	
		10. Sri. Pradeep Singh	
		11. Sri Pancha Barla	
		12. Sri Machindra Kalet	
		13. Smt. Kamini Mohapatra	

Pradeep
22/1/22

Asst. Auditor General
Co-operative Societies
Bundargarh

- 66 - 121 -

OFFICE OF THE ASST. AUDITOR GENERAL OF CO-OPERATIVE SOCIETIES,
SUNDARGARH AUDIT CIRCLE, SUNDARGARH.
Surcharge Proceeding No. 17/2022

Notice No-260 / Dated: 22.02.2022
NOTICE U/S 67 OF OCS ACT, 1962 READ WITH RELEVANT PROVISION OF C.P.C. 108 AND RULE 70 OF OCS
RULES 1965

L. Sri Bhabani Prasad Majhi, President & Others Rs-10500000.00
SDCC Bank Ltd *As per overleaf*

After consideration the reporting in Audit Report/ Inspection Report/ Enquiry Report/
Report of the Liquidator of SDCC Bank Ltd. for the period from 01.04.18 to 31.05.21, I Sri
Bigyan Ranjan Purohit, Asst. AGCS, Sundargarh Audit Circle, Sundargarh, in exercise of
powers conferred on me U/S 67 of the OCS Act, 1962 do hereby serve you notice requiring for filling
show cause to me if any in writing within 15 (fifteen) days of issue of this notice as to why the sum
(s) referred to in the said audit report/ Inspection Report/ Enquiry Report/ Report of Liquidator
(Copy of relevant extract enclosed herewith) as required under Rule-70 (1) as given below, should
not be recovered from you and credited to the said Co-operative Society. You are allowed to go
through records of Society u/s 70(4) of OCS Rule 1965 and while showing cause you may state, if
you want to be heard in person. If no reply is received within the stipulated period, it would be
presumed that you have nothing to state or to be heard in the matter and the proceeding would be
decided on merit.

U/S. 70(4) of OCS Rule, 1965 you are allowed to look into the relevant records of the society
if desired for furnishing explanation.
Date fixed for hearing to 16-3-22 at 11.00 A.M.

Amount involved.
Rs. 10500000/-

Audit/Inspection/ Enquiry/Special Audit Report
And Liquidator report.
Given under my hand & Seal

[Signature]
Asst. Auditor General of C.S.
Sundargarh

Memo No - 261 Dated-22.02.2022

Copy along with concerned copies of the notices forwarded to the Chief Executive Officer,
SDCC Bank Sundargarh, for information. He is required to cause service of concerned copy of the notices to
the above delinquents and return served copy to the under signed for further necessary action

[Signature]
Asst. Auditor General, of C.S.
Sundargarh

Memo No. - 262 (6) Dated: 22.02.2022

Copy forwarded to concerned delinquents.

[Signature]
Asst. Auditor General, of C.S.
Sundargarh

Memo No. - 263 Dated: 22.02.2022

Copy forwarded to the D.R.C.S, Sundargarh for information.

[Signature]
Asst. Auditor General, of C.S.
Sundargarh

Memo No. - 264 Dated: 22.02.2022

Copy forwarded to the A.R.C.S. Sundargarh/Panposh/Bonai/ for information.

[Signature]
Asst. Auditor General of C.S.
Sundargarh

Amount of recovery Rs. 10500000/-

67

122

SL No	NATURE OF RECOVERIES	PERSONS HELD LIABLE	AMOUNT
1	Financial discipline/irregularities	1. Sri Bhabani Prasad Majhi	Rs. 10500000.00
	i) Construction of new building of head office of Bank	2. Smt. Sasmita Joshi	
		3. Sri Pradeep ku. Naik	
		4. Sri Alok Prakash Patel	
		5. Sri Kishor Majhi	
		6. Sri Narayan Devsa	
		7. Smt. Anju Toppo	
		8. Smt. Goreti Kiro	
		9. Sri Parsuram Sahu	
		10. Sri Pradeep Singh	
		11. Sri. Pancha Barla	
		12. Sri Machindra Kalet	
		13. Smt. Kamini Mohapatra	
		14. Smt. Basanti Samant	
		15. Sri Pradyumna Ku. Tripathy	
		16. Sri Suresh C Das CEO-Cum Ex-officio member	

R.R. Pundarik
 22/2/22
 Asst. Auditor General
 Co-op
 Sundar Sank

- 68 - 123 -

OFFICE OF THE ASST. AUDITOR GENERAL OF CO-OPERATIVE SOCIETIES,
SUNDARGARH AUDIT CIRCLE, SUNDARGARH.
Surcharge Proceeding No. 18/2022

Notice No- 265 / Dated: 22.02.2022
NOTICE U/S 67 OF OCS ACT, 1962 READ WITH RELEVANT PROVISION OF C.P.C 108 AND RULE 70 OF OCS
RULES 1965

I. Sri Bhabani Prasad Majhi, President & Others Rs-15292912.00
SDCC Bank Ltd. As per overleaf

After consideration the reporting in Audit Report/ Inspection Report/ Enquiry Report/ Report of the Liquidator of SDCC Bank Ltd. for the period from 01.04.18 to 31.05.21, I Sri Bigyan Ranjan Purohit, Asst. AGCS, Sundargarh Audit Circle, Sundargarh, in exercise of powers conferred on me U/S 67 of the OCS Act, 1962 do hereby serve you notice requiring for filling show cause to me if any in writing within 15 (fifteen) days of issue of this notice as to why the sum (s) referred to in the said audit report/ Inspection Report/ Enquiry Report/ Report of Liquidator (Copy of relevant extract enclosed herewith) as required under Rule-70 (1) as given below, should not be recovered from you and credited to the said Co-operative Society. You are allowed to go through records of Society u/s 70(4) of OCS Rule 1965 and while showing cause you may state, if you want to be heard in person. If no reply is received within the stipulated period, it would be presumed that you have nothing to state or to be heard in the matter and the proceeding would be decided on merit.

U/S 70(4) of OCS Rule, 1965 you are allowed to look into the relevant records of the society if desired for furnishing explanation.

Date fixed for hearing to 16-03-2022 at 11.00 A.M.

Amount involved,
Rs. 15292912.00/-

Audit/Inspection/Enquiry/Special Audit Report
And Liquidator report.

Given under my hand & Seal

Asst. Auditor General of C.S.
Sundargarh

Memo No - 265 Dated-22.02.2022

Copy along with concerned copies of the notices forwarded to the Chief Executive Officer, SDCC Bank Sundargarh, for information. He is required to cause service of concerned copy of the notices to the above delinquents and return served copy to the under signed for further necessary action.

Asst. Auditor General of C.S.
Sundargarh

Memo No. - 264(16) Dated, 22.02.2022

Copy forwarded to concerned delinquents

Asst. Auditor General of C.S.
Sundargarh

Memo No. - 263 Dated, 22.02.2022

Copy forwarded to the D.R.C.S. Sundargarh for information.

Asst. Auditor General of C.S.
Sundargarh

Memo No. - 262 Dated, 22.02.2022

Copy forwarded to the A.R.C.S. Sundargarh/Panposh/Bonai for information.

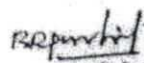
Asst. Auditor General of C.S.
Sundargarh

Memo No. - 261 Dated, 22.02.2022

Copy forwarded to the A.R.C.S. Sundargarh/Panposh/Bonai for information.

- 69 - 124 -

SL No	NATURE OF RECOVERIES	PERSONS HELD LIABLE	AMOUNT
1	i) Engagement of outsourcing staffs and retired staffs	✓ Sri Bhabani Prasad Majhi	Rs. 15292912.00
		2. Smt. Sasmita Joshi	
		3. Sri Pradeep ku. Naik	
		4. Sri Alok Prakash Patel	
		5. Sri Kishor Majhi ✓	
		6. Sri Narayan Devsa	
		7. Smt. Anju Toppo	
		8. Smt. Goreti Kiro	
		9. Sri Parsuram Sahu	
		10. Sri Pradeep Singh	
		11. Sri Pancha Barla	
		12. Sri Machindra Kalet	
		13. Smt. Kamini Mohapatra	
		14. Smt. Basanti Samant	
		15. Sri Pradyumna Ku. Tripathy	
		16. Sri P.K. Mohanty CEO-Cum Ex-officio member	


 22/1/22
 Asst. Auditor General
 Co-operative Societies
 Sundargarh

125

ANNEXURE - 4

EXTRACT COPY OF THE PROCEEDINGS OF THE MEETING OF THE COMMITTEE OF MANAGEMENT OF THE SUNDARGARH DISTRICT CENTRAL CO-OPERATIVE BANK LTD., SUNDARGARH HELD ON 31.08.2017 AT 10.00 AM IN THE CONFERENCE HALL OF THE BANK



AGENDA

XXXXXXX

RESOLUTION

XXXXXXXXXX

XXXXXXXXXXXXXX

04. To discuss regarding appointment of CEO from open market as per the guidelines of fit & proper criteria issued by NABARD

Taking into accounts of changing scenario in the Banking business, it is badly necessary to engage a well experienced CEO to the Bank. As the APEX bank, OSCB is unable to provide CEO as per the requirement of the Bank, it has become necessary to appoint a CEO from the Open market qualifying the 'Fit and Proper criteria' of NABARD for smooth running of the Bank. The proposal was accepted by the committee and the Committee requested the President to proceed to the RCS (Odisha) for approval of the same. However, the DRCS, Sundargarh and DDM NABARD suggested to consult the RCS (Odisha) before taking any decision on the issue.

XXXXXXXXXX


Sd/-
Chief Executive Officer

XXXXXXXXXXXXXX

True copy attested

XXXXXXXXXXXXXX

Sd/-
PRESIDENT


Chief Executive Officer

TRUE COPY ATTESTED

ADVOCATE

#17
A1-1

126 - ANNEXURE -



Ph: (06622) - 272022; 275050; 275022;

Fax: (06622) - 275122

E-mail: - sundargarhbank@gmail.com

The Sundargarh District Central Co-operative Bank Ltd.,

SUNDARGARH - 770 001

Regd. No: 90/SG/Dt:1.6.1955

No: SDCCB/GAD/ 2622/2017-18

Date: 04-09-2017

To

The Registrar,
Cooperative Societies
Odisha, Bhubaneswar



Sub: Seeking permission for appointment of C.E.O from the open market.


Sir,

The Committee of the Management of the Bank in their sitting dated 31.08.2017 have passed a resolution to appoint a Chief Executive Officer of the Bank vide Resolution no. 04 from the open market basing on "Fit and proper" criteria laid down by NABARD. The copy of the said resolution is enclosed herewith for your ready reference. Further the committee seeks your kind permission along with the modalities thereon related to the appointment of C.E.O from the open market.

Under the above circumstances, we would like to invite your kind suggestion and at the same time request your good office to please give necessary permission for appointing a C.E.O from the open market to our Bank with all criteria and modalities for which act of kindness we shall remain highly obliged.

With Regards,

Yours faithfully


PRESIDENT

TRUE COPY ATTESTED

ADVOCATE

127
Shabani Prasad Majhi
President

ANNEXURE

Date: 2.10.2017



No. SDCCB/GAD/5071/2017-18

To
The Registrar
Co-operative Societies
Odisha, Bhubaneswar

Sub: Relieve of Sri A. N Mohanty, A.G.M. O.S.C.B.

Ref: Your letter no. XIV-1/17-16100/Bank-3/Date-06.10.2017.

Sir,

With reference to the captioned subject I am to say that, taking into various negative aspects of Sri A. N Mohanty, A.G.M. O.S.C.B. into consideration, the alternative arrangement was made on date: 24.08.2017 whereby, Sri H. K Saha, A.G.M. was in charge of C.E.O. for the time being. The order was not confirmed in the Management Committee meeting dated: 31.08.2017 as per the direction of the RCS (O), Bhubaneswar and it stands to be ineffective. As per the instruction of the RCS (O), Sri A. N Mohanty was allowed to resume his charge again immediately, latest by 4th September 2017, which was communicated over phone by the D.R.C.S. Sundargarh on 31.08.2017. But, neither Sri Mohanty joined nor handed over the charges for which, as per the decision of Management Committee dated: 31.08.2017 I had to proceed Bhubaneswar on 5th September 2017 along with all relevant documents i.e. 19 nos. of enclosures and proceedings of the Management Committee dated: 31.08.2017 which were received by the office of the RCS (O) and O.S.C.B. Bhubaneswar on 05.09.2017.

It may be mentioned here that, I had written a confidential letter to Managing Director, O.S.C.B Ltd. vide letter no. SDCCB/GAD/2901/2017-18 dated: 22.09.2017 to withdraw the order no. 2504 dated: 24.08.2017, if necessary arrangement is made for posting of a new experienced C.E.O. immediately. A memo copy vide letter no. 2902 dated: 22.09.2017 was submitted to the office of the RCS (O) for favour of kind information and necessary action.

However, this letter may be treated as proposal for change of the C.E.O. (Sri A. N Mohanty) and relevant documents submitted on 5th September 2017 stands for justification. Further I may be allowed to meet personally on 09.10.2017 for appraisal of the facts in support of the allegation made against Sri A. N Mohanty, A.G.M. O.S.C.B. along with all relevant documents.

Further, vide letter no. 2972 dated: 27.09.2017 a letter was written to the Managing Director, O.S.C.B Ltd., for drawal of ST (SAO) reliance on which extract copy of Management Committee resolution dated: 20.09.2017 was attached regarding withdrawal of order no. 2504 for compliance of necessary action, which was also communicated to your good office and C.G.M. NABARD vide memo no. 2973(2) dated: 27.09.2017.

Therefore, you are requested to be kind enough and take necessary action for posting of a new experienced C.E.O. as early as possible.

Yours faithfully

[Signature]

PRESIDENT

Memo No: 3052

Date: 2.10.2017

Copy submitted to D.R.C.S. Sundargarh for favor of information and necessary action.

[Signature]
TRUE COPY ATTESTED

[Signature]
DIRECTOR

ADVOCATE

128
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ANNEXURE

EXTRACT COPY OF THE PROCEEDINGS OF THE COMMITTEE OF MANAGEMENT OF THE
SUNDARGARH DISTRICT CENTRAL CO-OPERATIVE BANK LTD., SUNDARGARH HELD ON
03.08.2019, AT 3.30 PM IN THE FLTC, SUNDARGARH.



AGENDA

XXXXXXX

Agenda No. 17
Any other permission of the Chair
a) To consider to discuss on the
recruitment of own CEO / Asst.
Secretary and Staff of the Bank.

RESOLUTION

XXXXXXXXXX

XXXXXXXXXXXXXX

The President of the Bank appraise the house regarding
superannuation of the present CEO of the Bank, who has retired on
31.01.2019. As per Clause No. 6 D (i) of the HR Policy - 2011 the
Managing Committee of the Bank shall be the Appointing Authority
of the CEO of CCBs subject to fulfillment of fit and proper criteria
prescribed by RBI / NABARD.

After threadbare discussion, it is resolved to authorize the President of
the Bank to move to RCS(O), Bhubaneswar for appointment of own
CEO of the Bank.

XXXXXXXXXX


Sd/-
Chief Executive Officer

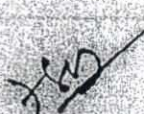
XXXXXXXXXXXXXX

True copy attested

XXXXXXXXXXXXXX

Sd/-
PRESIDENT


Chief Executive Officer

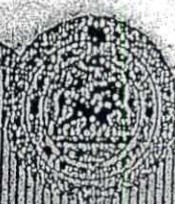


24-129

13



**HUMAN RESOURCE POLICY FOR
THE CENTRAL COOPERATIVE BANKS OF ODISHA
INCORPORATING
THE STAFF SERVICE RULES, 2011**



REGISTRAR, COOPERATIVE SOCIETIES, ORISSA
BHUBANESWAR

- 130
- C) The provisions of ORV Act and instructions issued by the State Government with regard to implementation of the Act shall be applicable for all fresh recruitments and promotion up to the rank Managers.

If management of any of the CCBs violate the provisions of the O.R.V. Act and the guidelines issued by the Government for the purpose, they shall be liable for prosecution under the existing law.

- D) ~~Appointment shall be made by the authorities as follows:~~

- ~~i) Managing Committee of the Bank shall be the Appointing Authority of the CEO of CCBs subject to fulfillment of fit and proper criteria prescribed by RBI / NABARD.~~
- ii) The Appointment Committee shall be the Appointing Authority in respect of the posts under Group - A and Group - B services.

The Appointing Authority shall appoint a Selection Committee consisting of the following members to assist it for selection of candidates out of the list furnished by the Recruitment Agency to assist in conduct of viva-voce test for selection of candidates.

1. The President of CCB
2. Chief Executive of the Bank
3. Divisional DRCS of the area
4. A professional preferably a representative of NABARD.



iv) Fit and proper criteria for CEOs of CCBs.

Appointment of professionally qualified CEOs for CCBs, as per the instructions on fit and proper criteria, issued by the RBI and NABARD from time to time should be ensured.

iii) While recruiting the weightage for tests shall be as under :

Written test - 80%

Interview - 20%

Specialization as defined (including 5% for specialized)

Provided that if for the posts notified for recruitment, specialized persons are not available or not found suitable, the respective posts shall go to the general candidates.

7(c) Proportion of Direct Recruits and promotees: In order to have an even spread of age-groups of Officers and other employees and to have a mix of younger officials and matured ones for improved performance, the following ratios of Direct Recruits and promotees in different grades are suggested:

Category	By Direct recruitment	By Promotion
Group-C		
Support Staff	100%	
Group-B		
Banking Assistants	70%	10% each shall be reserved for the Grade-VI(4) employees, Sub-Staff of the Bank and employees of the affiliate PACS provided they meet the benchmark criteria. Age relaxation up to 10 years will be allowed.
Group-A		
Junior Management (JM)	60%	40%
Middle Management	-	100%
Senior Management-II (SM-II)	-	100%
Senior Management-I (SM-I)	-	100%

No. ND. ED.COOP/ - /V-12/2017-18

17 January 2018

Circular No. 13/IDD-2/2018

The Registrar of Cooperative Societies (RCS)
All States and Union Territories

Dear Sir

Appointment of Directors and CEOs of State Cooperative Banks (StCBs) and District Central Cooperative Banks (DCCBs) as per Fit and Proper Criteria

The Fit and Proper criteria for appointment of CEOs in StCBs/ DCCBs issued by RBI are currently being adopted by StCBs/ DCCBs with effect from 06 July 2011. RBI has also relaxed the age limit for the appointment of CEOs of StCBs/ DCCBs, vide letter DCRB.CO.RCBD.No2366/19, dated 22/2017-18 dated 04 January 2018, as under:

- i) For entry level eligibility to be relaxed to 62 years
- ii) For superannuation, the upper age limit to be fixed at 20 years. However, the age of superannuation may be decided by RCS of the respective States, taking into consideration the recommendations of any of the Board of Directors (BoDs) of the individual StCB and DCCBs. With the overall limit of 20 years, individual StCB/ DCCB Boards are free to prescribe a lower retirement age for the CEO, as an internal policy, subject to approval of RCS of the respective State.

2. Accordingly, the States are requested to make necessary revisions in the appointment criteria of the CEOs of StCBs/ DCCBs, based on the State Service Rules and Regulations within the entry level eligibility of 62 years and the upper age limit of 20 years. The same may also be placed before the individual Boards of StCBs/ DCCBs for approval and adoption in the respective service regulations.

Yours faithfully

(Sd/- Arora)
Chief General Manager

National Bank for Agriculture and Rural Development

Headquarters Development Department
Plot No. 1/1, 1st Block, Gandhi-Bhata Complex, Connaught Place, New Delhi - 110028. Tel: 011-26624041 Fax: 011-26624042

133
78

Encl.No.NBTDD/1353 /V-52/2017-18 of date

Copy forwarded for information of and necessary action to:

1. EA to Chairman, NABARD, Head Office, Mumbai
2. EA to DMD (RA), NABARD, Head Office, Mumbai
3. EA to DMD (HRD), NABARD, Head Office, Mumbai
4. DCER, RBI, BKC, Mumbai
5. State Cooperative Banks/ District Central Cooperative Banks
6. UCs/ D-I-Cs/, Regional Offices, NABARD
7. Director/ Joint Director, BIRDs
8. Principal, NBSC



(Signature)
(Nilay D Kapoor)
General Manager

TRUE COPY ATTESTED

ADVOCATE

ANNEXURE--

EXTRACT COPY OF THE PROCEEDINGS OF THE COMMITTEE OF MANAGEMENT OF THE SUNDARGARH DISTRICT CENTRAL CO-OPERATIVE BANK LTD., SUNDARGARH HELD ON DATE 28.09.2018 AT 10:00 AM IN THE VIKASH BHAWAN, SUNDARGARH.



AGENDA

To consider for recruitment of CEO of the Bank in consonance with NABARD Circular No. 13/IDD-01/2018 dtd 17 January 2018.

RESOLUTION

XXXXXXXXXX

XXXXXXXXXXXX

The President expressed his anguish over the state of silence of the RCS(O), Bhubaneswar in the matter of Bank's proposals given vide letter No. GAD2622 dtd 04.09.2017 and 3051 dtd 07.10.2017 as well as number of personal contacts on the issue of posting of CEO of the Bank. As the present CEO is barely having 3-4 months in service at his hand, the members of the Committee urged the President to move ahead with the proposal for recruitment of CEO from the open market based on the NABARD guidelines communicated vide Circular No. 13/IDD-01/2018 dtd 17 January 2018.

The President enlightened on the 'Fit and Proper Criteria' for appointment of CEOs in SICBs / DCCBs issued by RBI and now under adoption w.e.f. 05 July 2017 has been relaxed in case of age limit vide letter DCCB.CO.RCDB.NO 2365 H9 51 022/2017-JR dtd 04 January 2018 and reproduced by NABARD vide its circular No. 13/IDD-01/2018 dtd 17 January 2018.

i) For entry level eligibility to be relaxed to 62 years.

ii) For superannuation, the upper age limit to be fixed at 70 years. However, the age of Superannuation may be decided by RCS of the respective States after taking into consideration the recommendations, if any, of the Board of directors (BoDs) of the individual SICB and DCCBs. Within the overall limit of 70 years, individual SICB/ DCCB Boards are free to prescribe a lower retirement age for the CEO, as an internal policy, subject to approval of RCS of the respective State.

The circular was read and discussed thoroughly and finally approved.

Under the above background, the Committee members reacted that the present procedure of appointment of CEO made by RCS(O) is contrary to the HR Policy-2011 where it was entirely entrusted to the individual bank by the RCS(O) under Section 33A (4) of the Act 1962 under the direction of Govt. in Cooperation Department (signed by Minister Cooperation on 20.07.2011). In view of the above, it was unanimously resolved to authorize the President to move ahead for appointment of the CEO of the Bank as in open market through advertisement in local leading daily.

XXXXXXXXXX

Sd/-

Chief Executive Officer

XXXXXXXXXXXX

XXXXXXXXXXXX

Sd/-

PRESIDENT

True copy attested

Chief Executive Officer
CHIEF EXECUTIVE OFFICER
SUNDARGARH DIST. CENTRAL
CO-OP BANK LTD.
SUNDARGARH

TRUE COPY ATTESTED

ADVOCATE

135
80
Bhabani Prasad Majhi

President



ANNEXURE-9

Date

19

No. SDCCB/GAD/ 3492

2018-19 Date: 26/10/18

To
The Registrar
Cooperative Societies,
Odisha, Bhubaneswar



Sub: Appointment of own CEO of the Bank.

Ref: This Office Letter No. SDCCB/GAD/3051/2017-18 dtd 07.10.2017.

Sir,

With reference to the above cited subject, we are to submit the following few facts for your kind consideration and favourable orders.

That, Sri P. K. Mohanty has been posted by Managing Director, Odisha State Cooperative Bank Ltd., Bhubaneswar to act as Chief Executive Officer of the bank as per the stipulation laid down in the HR Policy subject to fulfillment of 'fit & proper criteria' prescribed by RBI/NABARD.

That, the present CEO of our Bank Sri Mohanty is a deputed employee from the Odisha State Cooperative Bank Ltd., Bhubaneswar is going to retire on attending the superannuation on dtd 31.01.2019.

That, vide our letter No. SDCCB/GAD/3051/2017-18 dtd 07.10.2017 we had requested you to consider to appoint the CEO of the Bank from the open market or to allow us for the same to avoid a very further unpleasant situation as happened earlier i.e. before posting of Sri P. K. Mohanty. Taking into consideration of the happenings, the Managing Committee of the Bank held on dtd 31.08.2017 vide Resolution No. 4 and dtd 03.08.2018 vide Resolution No. 17(ii) resolved to appoint own CEO of the Bank from the open market (Extract of the Resolutions enclosed).

That, the situation of the Bank before posting of Sri P. K. Mohanty as CEO was beyond the ethics of our tolerance and given one lesson / experience that mere attending qualification does not satisfy the criteria of 'fit and proper' as prescribed which compelled us to request your good office for posting of our own CEO of the Bank that is still pending for your kind consideration. The basic requirement of the CEO should be comprising of both knowledge and experience to handle the day to day situation and to act as a bridge between the Management and Employees to achieve the maximum output with minimum resources in the cooperative sector.

Cco'd. P72

The Sundargarh District Central Cooperative Bank Ltd.

Danani Market, Sundargarh - 750 001

-136- 85

Bhabani Prasad Majhi
President



Date: _____

18



112/11-

That, as per Clause No. 6 D (i) of the HR Policy-2011 the Managing Committee of the Bank shall be the Appointing Authority of the CEO of CCBs, subject to fulfillment of fit and proper criteria prescribed by RBI/NABARD.

That though the Managing Committee of the Bank is empowered to appoint the CEO of its own taking into consideration as per the parameter of the HR-policy-2011, we are in opinion to find out a suitable candidate by you, to act as the CEO of our Bank from the open market or we may be allowed to find out the same from the open market observing the guidelines.

Under the above circumstances, we are to request you to kindly intervene in the matter personally and pass suitable orders as a special case on priority basis, keeping in view of the present situation of the bank so as to enable us to carry out our business of Banking in a smooth and judicious manner.

With regards

Yours sincerely,

PRESIDENT

TRUE COPY ATTESTED

ADVOCATE

The Sundargarh District Central Cooperative Bank Ltd.

134, 135, Sundargarh 751 001

ANNEXURE

2:49 PM

www.sambadepaper.com/De

2



NAME	REGISTRATION NO.	DATE OF BIRTH	DATE OF DEATH	DATE OF ENTRY
...
...
...

Sundargarh District Central Cooperative Bank Ltd, SUNDARGARH

No. SDCCB/GAD/3918 Date: 14.12.2018

INVITATION TO EXPRESSION OF INTEREST FOR CEO, SDCCB

Sundargarh District Central Cooperative Bank Ltd. is a public limited company registered under the Companies Act, 1956. The bank is seeking to fill the post of Chief Executive Officer (CEO) on a full-time basis. The successful candidate should be a graduate with a minimum of 10 years of experience in the field of banking and finance.

- (a) Minimum of 10 years of experience in the field of banking and finance.
- (b) Graduate with a minimum of 10 years of experience in the field of banking and finance.
- (c) The candidate should be a graduate with a minimum of 10 years of experience in the field of banking and finance.
- (d) The candidate should be a graduate with a minimum of 10 years of experience in the field of banking and finance.
- (e) The candidate should be a graduate with a minimum of 10 years of experience in the field of banking and finance.

The appointment of the CEO shall be for a period of three years, subject to the satisfaction of the performance and may be extended for a further period of three years. The CEO shall be responsible for the overall management of the bank and shall report to the Board of Directors.

SALARY: The salary of the CEO shall be fixed by the Board of Directors. The salary shall be payable in arrears.

The CEO shall be appointed by the Board of Directors. The Board of Directors shall have the authority to appoint and dismiss the CEO.

Applications for the post of CEO should be submitted to the President, Sundargarh District Central Cooperative Bank Ltd., P.O. Sundargarh, Sundargarh, Odisha, India.

By the order of the President, MC-SDCCB.

TRUE COPY ATTESTED



TRUE COPY ATTESTED

ADVOCATE

138

ANNEXURE

ଆନୁଷ୍ଠାନିକ ବନ୍ଧ ଡାକରା : ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା କଡ଼ାକଡ଼ି

ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା କଡ଼ାକଡ଼ି କରିବା ପାଇଁ ଆନୁଷ୍ଠାନିକ ବନ୍ଧ ଡାକରା । ଏହି ଡାକରାରେ ଉଲ୍ଲେଖ କରାଯାଇଛି ଯେ ଉପରୋକ୍ତ ଶର୍ତ୍ତାବଳୀରେ ଉପସ୍ଥାପନ କରାଯାଇଥିବା ଡାକରାକୁ ଗ୍ରହଣ କରିବାକୁ ଉପସ୍ଥାପନ କରାଯାଇଛି ।

OFFICE OF THE PRINCIPAL
BRIMABHOL COLLEGE, RAIRAKHOL
DIST. SAMBALPUR
URL: <http://www.brimabholcollege.org> E-MAIL: brimabholcollege@gmail.com

OFFICE OF THE
NOTIFIED AREA COUNCIL
DIHARAMBARI
Dist. Balasore
E-MAIL: nacdi@balasore.gov.in
Ph. 0674-250001

Govt of Odisha Procurement Notice for online tender
No. 15/2018-19
Date: 15.11.2018

Name of the Work	Estimate No.
1. Construction Work	1. Construction Work
2. Electrical Work	2. Electrical Work
3. Sanitary Work	3. Sanitary Work
4. Painting Work	4. Painting Work
5. Other Work	5. Other Work

QUOTATION CALL NOTICE
The Government of Odisha, through the Odisha Public Procurement Corporation (OPPC), is inviting tenders for the supply of various items. The tender documents are available for download from the OPPC website. The closing date for the tender is 15.11.2018.

1ST CORROSION NOTICE
The Government of Odisha, through the Odisha Public Procurement Corporation (OPPC), is inviting tenders for the supply of various items. The tender documents are available for download from the OPPC website. The closing date for the tender is 15.11.2018.

Sundargarh District Central
Cooperative Bank Ltd., Sundargarh
Head Office: District Office, Sundargarh
Branch Office: District Office, Sundargarh

NOTIFICATION FOR EXPRESSION OF INTEREST FOR CEO, SOCCB
The Sundargarh District Central Cooperative Bank Ltd. is seeking applications for the post of Chief Executive Officer (CEO) of the Sundargarh District Central Cooperative Bank Ltd. The interested persons should submit their applications to the District Office, Sundargarh, by 15.11.2018.

ZILLA SWASTHYA SAMITHI, ANGUL
NOTICE
The Zilla Swasthya Samithi, Angul, is inviting tenders for the supply of various items. The tender documents are available for download from the Zilla Swasthya Samithi website. The closing date for the tender is 15.11.2018.

DISTRICT RURAL DEVELOPMENT AG
BALANGIR
The District Rural Development Agency, Balangir, is inviting tenders for the supply of various items. The tender documents are available for download from the District Rural Development Agency website. The closing date for the tender is 15.11.2018.

GOVERNMENT OF ODISHA
OFFICE OF THE SUPERINTENDING ENGINEER
CUM ELECTRICAL INSPECTOR
The Government of Odisha, through the Office of the Superintending Engineer, is inviting tenders for the supply of various items. The tender documents are available for download from the Office of the Superintending Engineer website. The closing date for the tender is 15.11.2018.

OFFICE OF THE EXECUTIVE ENGINEER
R.N.S. DIVISION, BILASIPUR
The Office of the Executive Engineer, R.N.S. Division, Bilaspur, is inviting tenders for the supply of various items. The tender documents are available for download from the Office of the Executive Engineer website. The closing date for the tender is 15.11.2018.

ଓଡ଼ିଶା ରାଜ୍ୟ ସ୍ୱଚ୍ଛତା ସମିତି
The Odisha State Swachhata Samiti is inviting tenders for the supply of various items. The tender documents are available for download from the Odisha State Swachhata Samiti website. The closing date for the tender is 15.11.2018.

ଓଡ଼ିଶା ସ୍ୱଚ୍ଛତା ସମିତି
The Odisha Swachhata Samiti is inviting tenders for the supply of various items. The tender documents are available for download from the Odisha Swachhata Samiti website. The closing date for the tender is 15.11.2018.

GOVERNMENT OF ODISHA
OFFICE OF THE SUPERINTENDING ENGINEER
CUM ELECTRICAL INSPECTOR
The Government of Odisha, through the Office of the Superintending Engineer, is inviting tenders for the supply of various items. The tender documents are available for download from the Office of the Superintending Engineer website. The closing date for the tender is 15.11.2018.

OFFICE OF THE EXECUTIVE ENGINEER
R.N.S. DIVISION, BILASIPUR
The Office of the Executive Engineer, R.N.S. Division, Bilaspur, is inviting tenders for the supply of various items. The tender documents are available for download from the Office of the Executive Engineer website. The closing date for the tender is 15.11.2018.

State Health Assurance Society, Odisha
Department of Health & Family Welfare, Govt. of Odisha
Bhubaneswar-751012, District: Khordha (Odisha)
Phone No. 0674-2560351; E-mail ID: shasodisha@gmail.com

Invitation for Engagement of Third Party
The State Health Assurance Society, Odisha, is inviting tenders for the engagement of third party. The tender documents are available for download from the State Health Assurance Society website. The closing date for the tender is 15.11.2018.

ଆନୁଷ୍ଠାନିକ ବନ୍ଧ ଡାକରା : ସୁରକ୍ଷା ବ୍ୟବସ୍ଥା କଡ଼ାକଡ଼ି
The Government of Odisha, through the Odisha Public Procurement Corporation (OPPC), is inviting tenders for the supply of various items. The tender documents are available for download from the OPPC website. The closing date for the tender is 15.11.2018.

ADVOCATE

139

ANNEXURE

EXTRACT COPY OF THE PROCEEDINGS OF THE COMMITTEE OF MANAGEMENT
OF THE SUNDARGARH DISTRICT CENTRAL CO-OPERATIVE BANK LTD.,
SUNDARGARH HELD ON 28.12.2018 AT 11.00 AM IN THE PRESIDENT CHAMBER
OF THE BANK

26

AGENDA

RESOLUTION

XXXXXX

XXXXXXXX

XXXXXXXXXXXX



Agenda No. 25

Any other with permission of the chairs
vii) To consider to make necessary
arrangement for conducting of interview
for posting of CEO of the Bank.

The President of the Bank is authorized to consult different
concern department for conducting the interview of CEO
before the retirement of present CEO. One screening is to
be called for the process. The President suggested that he
would consult the Collector & District Magistrate / SDM,
NABARD / DRCS, Sundargarh / RCS (O) / CA / legal advisor
for the interview process and as per the advice invite some
experts for holding the interview.

The president of the Bank is authorized to do the needful.

XXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

Sd/-
Chief Executive Officer

True copy attested

Sd/-
PRESIDENT

[Signature]
Chief Executive Officer

AID

TRUE COPY ATTESTED

ADVOCATE

140
Dhanant Prasad Majhi
President



ANNEXURE--

Date: 23/01/2019

29

No. SDCCB/GAD/ 6452 /2018-19 Date: 23/01/2019

To
The Registrar Cooperative Societies,
Odisha, Bhubaneswar
The Chief General Manager,
NABARD, Regional Office,
Odisha, Bhubaneswar
The Managing Director,
OSCB, Bhubaneswar



Sub: Request to participate for selection of our own CEO of the Bank.

Ref: Our Advt. No. SDCCB/GAD/ 3916 dtd 19.11.2018 in the newspaper
the SAMBAD and DHARITRI.

Sir,


With reference to the above cited subject, I am to bring to your kind notice that the Bank had invited applications under "Expression of Interest" for the post of our own CEO through an advertisement dtd 19.11.2018 in the newspaper the SAMBAD & DHARITRI. Accordingly, received some of the applications from interested candidates for the purpose. Now, proposed to conduct an interview on dtd 30.01.2019 (WEDNESDAY) at 10.30 AM in the Office Chamber of the undersigned for selection of our own CEO of the Bank.

Therefore, you are requested to make it convenient to attend the interview on the date, time and venue or depute your representative to guide us to arrive in a conclusion.

A line of confirmation in this regard may kindly be furnished to us at an earliest.

With regards,

Yours faithfully,


(Dhanant Pr. Majhi)
PRESIDENT

TRUE COPY ATTESTED

ADVOCATE

AP/11
The Sundargarh District Central Co-operative Bank Ltd.



Phone: (06622) 275122, 275123, 275124
Fax: (06622) - 275122
E-mail: sngcebank@gmail.com

The Sundargarh District Central Co-operative Bank Ltd.,

SUNDARGARH - 770 001.

Regd. No. 90/SG / Dt. 1.6.1955

No. SDCCB/SAD- 6530

2018-19 Date: 28/01/2019

CONFIDENTIAL

To
The Collector & District Magistrate
SUNDARGARH

Sub: Selection Team for the post of Town OEO of the Bank.

Sir,

In addition to the guideline of Screening Committee as per the HR Policy. As decided a Selection Committee comprising of the following members for conducting the interview of the Chief Executive Officer (CEO) of the Bank on dtd 30.01.2019 at 10.30 AM in the Office Chamber of the President of the Bank have already been formed.

01. Collector, Sundargarh-cum- Additional Registrar Cooperative Societies or his representative
02. President, SDCCB Bank Ltd., Sundargarh
03. Deputy Registrar Cooperative Societies, Sundargarh
04. DDM, NABARD, Sundargarh
05. Deputy Director Agriculture, Sundargarh
06. Sri N. Sengupta, Ex-DRCS & Advocate
07. Lead District Manager, Sundargarh
08. Chief Manager, SBI, Main Branch Sundargarh
09. Sri Nandalal Agrawal, QA, Sambalpur
10. Sri Surendra Nalk, Reld., Joint Director Agriculture
11. Sri Ashok Ku. Dash, Advocate, Legal Advisor

Special Inviter
Chairman

Co-Chairman

- Member
Member
Member
Member
Member
Member
Member
Member

All the above said members have already been requested to attend on the date, time and venue and to guide us to arrive at a suitable conclusion. This is for favour of your kind information and necessary action.

Yours faithfully,

PRESIDENT

A/12

The above Resolution has been made as per M.C. Resolution dated 30/1/2019.

TRUE COPY ATTESTED

ADVOCATE

142 - **ANNEXURE - E**



Pin: (06622) - 272022, 2750301, 2750224
Fax: (06622) - 275122
E-mail: sundarbank@gmail.com

The Sundargarh District Central Co-operative Bank Ltd.,
SUNDARGARH - 770 001
Regd. No. 90/SG/Dt.1.6.1955

No. SDCCB/CAD/ 5719 /2018-19

Date: 31/01/19

To
The Deputy Registrar
Cooperative Societies,
Sundargarh Division, Sundargarh.



Sub: Request to attend at 10.30 AM in the Conference Hall of the Bank for finalizing the process of appointment of CEO of the Bank.

Sir,

As per the discussion & decision of MC, you are requested to attend at 10.30 AM in the conference hall of the Bank for finalizing the process of appointment of CEO of the Bank. Your presence is essential. So kindly make it convenient to attend the meeting.

01/02/2019

Yours faithfully,

President

SDCC Bank Ltd., Sundargarh

Memo No. 6720 (S) Date: 31/01/19
Copy communicated to:

1. DDA, Sundargarh
2. DDM, NABARD
3. LDNI, Lead Bank, Sundargarh
4. Sri Ashok Dash, Legal Advisor of the Bank
5. N. Agarwal, C.A.

To make it convenient to attend the same in the scheduled date, time & place.

TRUE COPY ATTESTED

ADVOCATE

143

ANNEXURE

Extract copy of the Proceedings of the meeting of the Committee of the Management of the Sundargarh District Central Cooperative Bank Ltd., Sundargarh held on dtd 01.02.2019 at 3.30 PM in the President Chamber of the Bank.

AGENDA

XXXXXXXXXXXX

Agenda No. 02

To consider for appointment of new CEO of the Bank.



RESOLUTION

XXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

The President stated the Members of the Committee of Management as per the guidelines of HR Policy to make the interview process in a transparent and fair manner, one Selection Committee was formed comprising of experts from different related department like Senior Bank Officers like Chief Manager, SBI, Lead District Manager, (DM) / one Chartered Accountant / DDA, Sundargarh and Joint Director Agriculture (Retd.) / Legal Advisor (Advocate / one retired DRCS - cum- Legal advisor) in addition to the DRCS, Sundargarh and President SDCC Bank- cum- Chairman of the Committee. Accordingly, following the procedure today at 10.30 AM in the Conference Hall of the Bank the prescribed format (duly signed by the Member of the Selection Committee for the CEO) were put up before the following members:

01. Sri B. P. Majhi, President
02. Sri S. P. Mohapatra, DDM, NABARD, Sundargarh
03. Sri G. Swain, Chief Manager, SBI, Sundargarh
04. Sri N. Agrawal, Chartered Accountant, Sambalpur
05. Sri A. K. Dash, Advocate & Legal Advisor
06. DRCS / Representative Sri Bhabani Naik, & Sri A. K. Bag, SARGS

The members present verified all the 09 nos. of resolved format duly signed and after their satisfaction CA N. Agrawal was requested to calculate the marks obtained by the candidates and put up as per rank. Accordingly, the merit list was prepared as follows in the presence of the above said members.

Sri Suresh Chandra Das remains in No. 1, Sri P. K. Mohanty in No. 2, Sri B. B. Hota, in No. 3 and Sri Priyadarshi Mishra, in No. 4. Further, as per the decision of Selection Committee Sri Suresh Chandra Das holding No. 1 position was communicated through mail / over phone / mobile wherein he was requested to confirm his willingness for joining. Accordingly Mr. Das was communicated and confirmed to join tomorrow i.e. on dtd 01.02.2019 over phone and mail. The action taken by the Committee with regard to appointment of CEO of the Bank was unanimously accepted and confirmed.

Further, the Committee of Management authorized the President of the Bank to do the needful for accepting the joining of the new CEO.

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

Sd/-

PRESIDENT

**SUNDARGARH DCC BANK LTD.,
SUNDARGARH**

True copy attested

TRUE COPY ATTESTED

Manager (GAD)

SDCC Bank Ltd., SUNDARGARH

ADVOCATE

Annexure-42

Ph: (06622)-272022-272023
Fax: (06622)-272122
E-mail: sundargarb@rediffmail.com

ସୁନ୍ଦରଗଡ଼ ଜିଲ୍ଲା କେନ୍ଦ୍ର ସମବାୟ ବ୍ୟାଙ୍କ ଲିଡ, ସୁନ୍ଦରଗଡ଼
The Sundargarh District Central Co-operative Bank Ltd.,
SUNDARGARH-770 001
Regd. No. 90/SG/Dt.1.6.1955

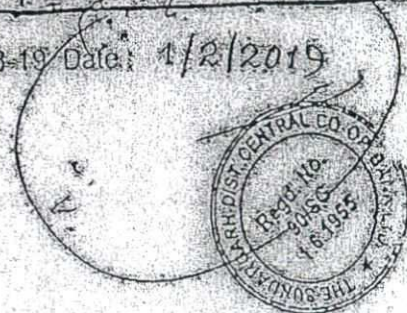
43

No. SDCCB/GAD/ 6731

2018-19 Date: 1/2/2019

To

Sr. Suresh C Das,
G. Sanasli Residency,
Lane 37C, Shalab Nagar,
Unit-B, Bhubaneswar-751 003
Mob- 9337373791
Email- sureshdas08@gmail.com
dassuresh.1@rediffmail.com



Sub: Appointment letter for Chief Executive Officer (CEO) of the SDCC Bank Ltd., Sundargarh.

Dear Sir,

Further to our letter of interview dated 30 January 2019 we compliment you on your excellent performance and thereby pleased to offer you the position of Chief Executive Officer (CEO) of the Sundargarh District Central Cooperative Bank Ltd., Sundargarh on the following terms and conditions discussed and agreed upon as under:

1. This appointment is effective from 01.02.2019 or the date of your joining whichever is earlier.
2. As you know, you are to function within the ambit of B.R. Act, 1949 & OCS Act, 1962 in and as amended / incorporated from time to time or / and all other Acts as applicable to Bank.
3. As the leader of the Short Term Credit Structure in cooperative in the District, you are to function liaising with District Administration and other Line Departments and all affiliated LAMPSC / Coop. Societies that you are pretty aware also.
4. As envisaged, you are not only familiar to the history, geography of the District but have enough knowledge on the structure, governance and present scenario of the Banking as well as the strength and weakness of the organization for which it is expected that you would lead from the front right from the word go.
5. You shall not only have to develop and implement operational policies to guide the Bank within the parameters set by RBI / NABARD, adopted by the Board but look into the skill development of the workforce too.
6. You shall be accountable to the Board of Management for all activities of the Bank.
7. You shall support the Managing Committee in carrying out their governance responsibilities.
8. You shall provide counsel to members of the Board in identifying and addressing issues relating to the mission/vision and strategic plan of the Bank.

145



Phn : (06622) - 272022, 275050, 275052
Fax : (06622) - 275122
Email: sundargarhbank@gmail.com

42

ସୁନ୍ଦରଗଡ଼ ଜିଲ୍ଲା କେନ୍ଦ୍ର ସମବାୟ ବ୍ୟାଙ୍କ ଲିମିଟେଡ୍, ପୁରୀ
The Sundargarh District Central Co-operative Bank Ltd.,
SUNDARGARH - 770 001
Regd. No. 90/SG/Dt. 1.6.1955



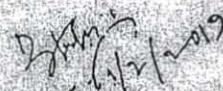
11211-

9. After establishing your priorities, you will need to understand the expectations of the different constituents viz., District Administration, Regulators, Union as well as the members' societies and other stake holders. As you know the role of CEO brings an element of celebrity as well as power, with all attendant benefits, temptations and dangers which are to be taken care of.
10. You shall receive holidays like C.L, E.L, and M.L. as per the Staff Service Rules applicable to the Bank.
11. Your salary / compensation in details is enclosed in annexure.
12. The initial period of three months from the date of your joining shall be treated as probation period.
13. On completion of your probation period you shall be considered for a minimum period of 3 years.
14. The Bank may go for extension of your service period basing upon your performance and profitability of the Bank even before completion of minimum term of 3 years.
15. During the period of service with the Bank, you shall not indulge and / or take part in any activity of formation of council and or association or become a member being part of the Management that is detrimental in the interest of the Bank in any way. Such an action shall be deemed as infringement to service conditions of the Bank and amount to causing damage to its interest and shall call for inflicting disciplinary action against you as it may deem fit and appropriate.
16. In the event that you decide to leave the Bank, you will be required to give at least one month notice to the Bank or pay one month salary to the Bank. Similarly, the Bank reserves the right to terminate the appointment in similar way without assigning any reason thereof.

We look forward to a long and fruitful association with you.

Thanking you,

Yours sincerely,


PRESIDENT

TRUE COPY ATTESTED

ADVOCATE

146
ANNEXURE

Ph: (06622) - 272022, 272088, 272099
Fax: (06622) - 272122
E-mail: sundargarbdc@rediffmail.com

ସୁନ୍ଦରଗଡ଼ ଜିଲ୍ଲା କେନ୍ଦ୍ର ସମବାୟ ବ୍ୟାଙ୍କ ଲିଡି, ସୁନ୍ଦରଗଡ଼
The Sundargarh District Central Co-operative Bank Ltd.,
SUNDARGARH - 770 001
Regd. No. 90/SG / Dt. 1.6.1955

(44)

No. SDCCB/GAD/ 6442(23)/2018-19 Date: 01/02/19

From

Sri Suresh C Das,
Chief Executive Officer
Sundargarh DCC Bank Ltd.,
Sundargarh



To

The Commissioner-cum-Secretary to Govt. of Odisha, Cooperation Department, Bhubaneswar
The Registrar Cooperative Societies, Odisha, Bhubaneswar
The Regional Director, RBI, Odisha, Bhubaneswar
The Chief General Manager, NABARD, Odisha Regional Office, Bhubaneswar
The Accountant General, Odisha, Bhubaneswar
The Auditor General Cooperative Societies, Odisha, Bhubaneswar
The Collector & District Magistrate, Sundargarh
The Managing Director, Odisha State Cooperative Bank Ltd., Bhubaneswar
The Managing Director, OSCMF, Bhubaneswar
The Managing Director, OSCEF, Bhubaneswar
The Managing Director, OSHCC, Bhubaneswar / Principal ICM, Bhubaneswar
The Secretary, OSC Union, Bhubaneswar
The Deputy Registrar Cooperative Societies, Sundargarh
The DDM, NABARD, Sundargarh
The Asst. Registrar CS, Sundargarh / Panposh / Bonalgarh
The Asst. Auditor General CS, Sundargarh
The Deputy Director Agriculture, Sundargarh
The DAO, Sundargarh / Lepthipada / Panposh / Bonal
All the BDOs, Sundargarh District / All Secretaries, CC Banks in the State,
All DLO, Sundargarh District
All Branch Managers SDCC Bank Ltd., Sundargarh
All the Managing Directors of LAMPCS / All RCMS / All CARD Banks / All Secretaries WCC State,
The Secretary, Urban Cooperative Bank Ltd., Rourkela
The Secretary, SMLCCS, Purunapani

Subj: Assumption of charges

Madam / Sir,

In pursuance to the Office letter No. SDCCB/ GAD/ 6731/ 2018-19 dtd 01.02.2019 of the President of the Sundargarh District Central Cooperative Bank Ltd., Sundargarh, I assumed charges of the Office of the Sundargarh District Central Cooperative Bank Ltd., on dtd 01.02.2019 (AN).

All confidential and demi-official correspondence meant for the Chief Executive Officer of Sundargarh District Central Cooperative Bank Ltd., Sundargarh may please be addressed to me in my name & address.

Yours faithfully,

(Suresh C Das)
Chief Executive Officer

TRUE COPY ATTESTED

ADVOCATE



147
Extract copy of the Proceedings of the meeting of the Committee of the Management of the Sundargarh District Central Cooperative Bank Ltd., Sundargarh held on dtd 01.02.2019 at 3.30 PM in the President Chamber of the Bank.

45

XXXXXXXXXXXX
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Agenda No. 02

To consider appointment of CEO selected by the Selection Committee formed by the Appointment Committee and Managing Committee.

Resolution

On careful perusal of the selection list prepared by the Selection Committee formed by the Appointment Committee and Managing Committee on the basis of the interview held on 30.01.2019 for the post of CEO it is resolved to appoint Sri. Suresh C. Das as CEO of the bank who is complying 'Fit and Proper Criteria' prescribed by RBI for the post of CEOs of SIDB and DCCBs since he was placed in Sl. No. 1 of the merit list. President is authorized to issue Appointment Order accordingly and move Registrar Cooperative Societies for according necessary approval for the same u/s 28 (3-b) (1) of DCCS Act 1962.

XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX



Sd/-
PRESIDENT
SUNDARGARH DCC BANK LTD.,
SUNDARGARH

True copy attested

[Signature]

[Signature]
Manager (GAD)
SDCC Bank Ltd.,
SUNDARGARH
Manager

TRUE COPY ATTESTED

ADVOCATE

148-

ANNEXURE--IV

Bhabani Prasad Majhi
President



Date: 02/12/2018

47

No. SDCCB/GAD/ 6772 /2018-19

To
The Registrar
Cooperative Societies,
Odisha, Bhubaneswar.



Sub: Approval of Appointment of Sri Suresh C Das as Chief Executive Officer of Sundargarh DCCB.

Sir,

In the above matter, you may kindly refer to this Office letter No. GAO/2622 /2017-18 and 04.09.2017, No. 3951 /2017-18 dtd 07.10.2017, No. 3492 dtd 26.10.2018 and No. 3914 dtd 19.11.2018.

2. The HR Policy for the Central Cooperative Banks issued vide Order No. 15251 dtd 27.07.2011 vide its clause No. 6D(i) pronounces that - "Managing Committee of the Bank shall be the Appointment Authority of the CEO of CCBs subject to fulfilment of 'Fit and Proper Criteria' prescribed by RBI / NABARD".
3. But as per the practice, OSCB used to post their officers complying the above criteria to work as CEO of the CCBs. Of late, you may be agreeable with us that simply complying the "Fit and Proper Criteria" could not hold good in absence of experience, expertise and exposure in various field. With the retirement of some couple of officers, there is a dearth of experienced competent officer in OSCB at present. This has not only hampered Bank's internal affairs in the Bank's internal management, different District / State Level officers including NABARD but has also brought sorry state of affairs in the Bank's internal management.
4. Perhaps this has become a nationwide picture for which RBI has relaxed the age criteria specified earlier in case of recruitment of CEO and extended age to 62 years with upper age limit for superannuation at 70 years vide Circular No. 13 /DD-01 2518 dtd 17.01.2018 of NABARD (Copy enclosed).
5. In our various correspondence cited above as well as in different meetings we have approached you to take up recruitment of CEO from the open market or allow the Bank to go for the same.
6. It is afraid that despite so much of our communication, we did not get a reply on the above. And since the last CEO of the Bank was going to retire from his service due to superannuation on 31 January 2019, the Bank had no other go than to go for open advertisement in two leading Odia dailies and requested you for conducting the interview or to deputise your representative of the same vide our letter No. GAO/0452/2018-19 dtd 19.11.2018.

149 - 9M
Shaban Prasad Masht

President



Date: 15/02/2019



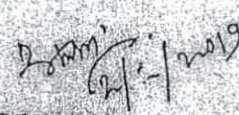
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7. In this background, it may be pertinent to mention here that I was associated with the Bank as President from February 1996 to till date excepting the periods from July, 2001 to December, 2007 and September 2011 to May 2015 when different Govt. Officers including Collector were in-charge. There occurred series of fraudulent transactions of more than RS. 10.00 crores in the Bank continuously from 2003-2004 to April, 2012 due to poor / mal internal check and control. Though this has happened much prior to assuming the Bank's charge in my second term and even continued after my leaving over the affairs I am put to criticism at times. On the other hand Govt. Officers remained in-charge of the Management of the Bank were awarded promotions and even some of them have become IAS. Even the Chief Executive who actually brought the things to lime light at the instance of us was made transferred by the miscreants involved in the fraud. The case is under investigation by as many as nine Vigilance officers of different districts. The Officer one who took interest and extended all cooperation to the Vigilance Officers was also disturbed in between. Therefore, it has also been necessitated for posting of an experienced and capable officer for a continued term in the Bank who can put an end to the matter over and above his usual job.
8. In the meanwhile as per the programme, the bank conducted the interview on 30.01.2019 by a Selection Committee constituted of 11 members from various field (letter enclosed). Sri Suresh C Das (AGM, OSCB, Retd) complying "Fit and Proper Criteria" with his multifarious experience including CEO of OCBs was selected being the No-1 among 13 applicants. Accordingly Sri Das, complying "Fit and Proper criteria" prescribed by RBI for CEOs, SICBs and DCCBs has been appointed as Chief Executive Officer of Sunda Garh District Central Cooperative Bank Ltd. vide Resolution No. 2 of the Managing Committee of the Bank in its meeting held on dtd 01.02.2019 after due diligence. Copy of the extract of the said resolution along with the Bio-data of Sri Das is enclosed herewith for favour of your kind perusal.

I would therefore request you to kindly accord necessary approval for the same u/s 28(3-b)(1) of CCS Act, 1962. Keeping in view of the present scenario and above mentioned facts immediate action is highly required for the betterment of the Bank as well as for achieving the targets fixed in various important Govt. programmes like KALIA etc.

With regards,

Yours faithfully


PRESIDENT

TRUE COPY ATTESTED

ADVOCATE

151-976
ANNEXURE

Bhabani Prasad Majhi
President



Date 18-2-2019

(49)

No. SDCCB/GAD/ 7363 /2018-19

To
The Registrar
Co-operative Societies
Odisha, Bhubaneswar



Subj: Appointment of Sri Suresh C Das as Chief Executive Officer of Sundargarh DCCB.

Ref: Our Letter No. SDCCB/GAD/6772/2018-19 Dtd 02.02.2019.

Sir,

With reference to the letter on the captioned subject, I am to state that though 15 days have already been passed, to the appointment of our own CEO i.e. on dtd 01.02.2019, we have not been communicated any development from your side till date i.e. 18.02.2019.

Hence, finding no other way we are compelled to allow Sri Suresh C Das as our own CEO taking deemed to be approved of the same by your good office.

It may be mentioned here that, though since last 2 years we have been in continuous correspondence in this regard, no actions were taken by the concerned department - RCS(O) / NABARD / RBI / Govt. Again right from the very beginning of the process of conducting an interview for appointment of our own CEO, we were communicating to all the above mentioned department time to time.

Keeping in view of all the above facts it stands to be approved as per law.

This is for favour of your kind information and necessary action.

Yours faithfully,


PRESIDENT

420
TRUE COPY ATTESTED

ADVOCATE

ANNEXURE--

**BEFORE THE REGISTRAR OF COOPERATIVE
SOCIETIES, ODISHA, BHUBANESWAR.**

Order No. XXVI-2/2020Bank-I 978 Dated. 10.1.2020.

In the matter of compliance of order dt.20.12.2019 of Hon'ble High Court, Orissa passed in W.P. (C) No.5641/2019-Committee of Management of Sundargarh Dist. Central Cooperative Bank Ltd. vrs State and Others.

Order dated.

That the above noted writ petition was filed in the matter filling up of the post of Chief Executive Officer in Sundargarh District Central Cooperative Bank Ltd. consequent upon appointment given to Sri Suresh Ch. Das (Retd) PGM of Odisha State Cooperative Bank Ltd. by the Bank and refusal of RCS(O) for according approval in respect of such action of the Bank vide letter no.4172 dt. 23.02.2019 annexure-1 of the writ petition.

That the Hon'ble High Court while disposing the above said writ petition has been pleased to set aside the letter no.4172 dt.23.02.2019 of RCS(O) under annexure-I finding wrong application of provision under OCS Act 1962 in deciding the matter and also set aside the communication made by Managing Director, Odisha State Cooperative Bank under annexure-2. However the Hon'ble High Court further directed the undersigned as OP No.2 to relook the matter and pass order as appropriate within three weeks from the date of communication of this order.

That the matter relooked with reference to the relevant records and found that the action of the Committee of Management of Sundargarh Dist. Central Cooperative Bank Ltd. in appointing Sri Suresh Ch. Das a retired employee of OSCB Ltd. over the age of 60 years in the post of Chief Executive Officer is illegal, arbitrary and contravenes the circular instruction of RCS(O) issued in exercise of section 33-A of OCS Act 1962 vide circular no.21098 dt.01.10.2010 read with circular no.11866 dt.27.09.2003 and circular no.19825 dt.31.10.2014. These circular instructions issued under section 33-A of OCS Act 1962 are binding on the Cooperative Societies.

In view of the above appointment of Sri Suresh Ch. Das as CEO of Sundargarh DCCB is not approved under section 28-3.b(1) of OCS Act 1962.

(Sri Bibhu Bhushan Pattanaik)

Registrar,

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OFFICE OF THE REGISTRAR OF COOPERATIVE SOCIETIES,
ODISHA, BHUBANESWAR.

No. XXVI-2/2030 Bank-1

Dated.

Memo No. 979 dt. 10.1.2020

Copy to the President, Sundargarh Dist. Central Cooperative Bank
Ltd., Sundargarh for information and necessary action.

[Signature]
Registrar,
Cooperative Societies, Odisha.

Memo No. 980 dt. 10.1.2020

Copy to Managing Director, Orissa State Cooperative Bank, Bhubaneswar for
information and necessary action.

[Signature]
Registrar,
Cooperative Societies, Odisha.

Memo No. 981 dt. 10.1.2020

Copy submitted to Commissioner-Cum-Secretary to Government, Cooperation
Department, Bhubaneswar for information and necessary action.

[Signature]
Registrar,
Cooperative Societies, Odisha.

Memo No. 982 dt. 10.1.2020

Copy forwarded to the ALO, O/O the RCS(O), Bhubaneswar for information.

[Signature]
Registrar,
Cooperative Societies, Odisha.

TRUE COPY ATTESTED

ADVOCATE

Annexure-3

154

AMMENDED WRIT PETITION

IN THE HIGH COURT OF ORISSA: CUTTACK
(ORIGINAL JURISDICTION CASE)

W.P (C) NO. 32134 OF 2020

CODE NO. 281700

IN THE MATTER OF:

An application under Article 226 and 227 of
the Constitution of India

AND

IN THE MATTER OF:

An application under the provisions of
Odisha Cooperative Societies Act and Rules
made there under.

AND

IN THE MATTER OF:

Sri Bhabani Prasad Majhi, aged about 54
years, Son of Jogeswar Majhi, At-Bhawani
Bhawan Area, At/Po/PS/ Dist- Sundargarh,
Pin- 770001.

... PETITIONER

VERSUS

1. State of Odisha, represented through its
Commissioner-cum-Secretary to Govt.,
Cooperation Department, Secretariate
Building, Bhubaneswar, Dist- Khurdha.
2. Registrar of Cooperative Societies, Odisha,
At- Heads of the Departments Building,
Bhubaneswar, Dist-Khurdha.

Received on 15/04/2020
by Mr. ...
for Mr. ...

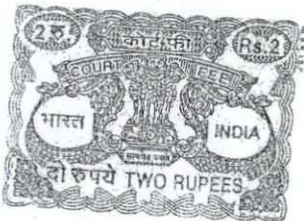


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3. Collector, Sundargarh – cum - Administrator of Sundargarh District Central Cooperative Bank, At/PO/Dist- Sundargarh, Odisha.
4. State Co-operative Election Commission, Odisha. At- Plot No. 1800(P), OSAM Building, 1st Floor, Baramunda, PO- Khandagiri, Bhubaneswar.

... OPPOSITE PARTIES



2

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IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No.32134 of 2020

In the matter of an application under Articles 226 & 227 of the Constitution of India.

Bhabani Prasad Majhi Petitioner

-Versus-

State of Odisha & others Opp. Parties

For Petitioner M/s. P.K. Rath, A. Behera,
S.K. Behera, P. Nayak,
S. Das & S. Rath

For Opp. Party Nos. 1 to 3 Mr. S.K. Samal,
Addl. Govt. Advocate

For Opp. Party No. 4 Mr. H.M. Dhal, Advocate

PRESENT:

THE HONOURABLE MR. JUSTICE BISWAJIT MOHANTY

Date of Hearing: 08.10.2021

Date of Judgment: 01.11.2021

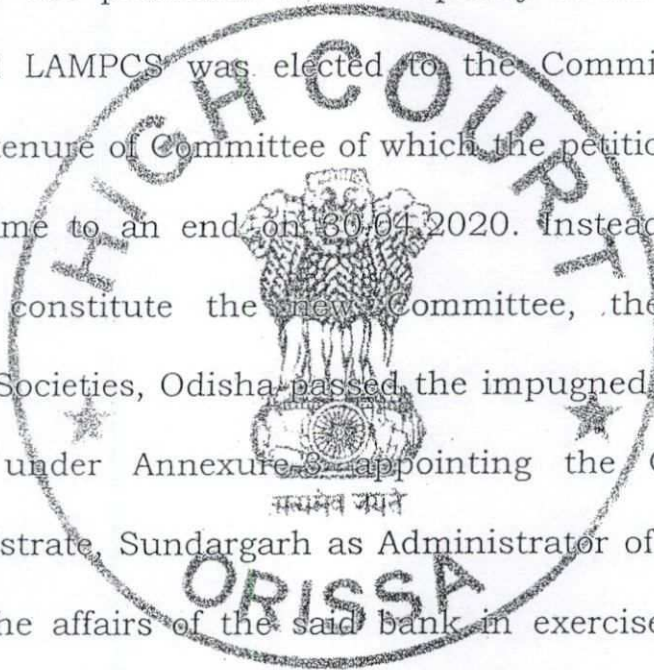
B. Mohanty, J. This writ petition has been filed by the petitioner with prayer to quash order No.9253 dated 01.05.2020 under Annexure-3 issued by the Registrar, Cooperative Societies, Odisha (opposite party No.2) appointing opposite party No.3 to manage the affairs of Sundargarh District Central Co-operative



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Bank Ltd. for short, "the Bank" and with a further prayer to direct opposite party Nos.1 to 4 to complete the process of election in respect of Committee of "the Bank" and Primary Agricultural Co-operative Societies affiliated to it in the district of Sundargarh within a stipulate time.

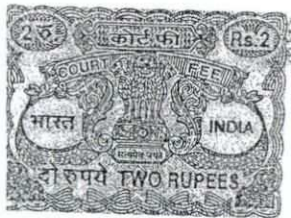
2. The case of the petitioner is that, he is an Ex-President of "the Bank" and a member of Large-sized Adivasi Multipurpose Co-operative Societies (LAMPCS) at Karamadihi in the district of Sundargarh. The petitioner in the capacity of member of the above noted LAMPCS was elected to the Committee of "the Bank". The tenure of Committee of which the petitioner was the President came to an end on 30.04.2020. Instead of holding election to constitute the new Committee, the Registrar, Cooperative Societies, Odisha passed the impugned order dated 01.05.2020 under Annexure-3 appointing the Collector & District Magistrate, Sundargarh as Administrator of "the Bank" to manage the affairs of the said bank in exercise of powers under Sub-Section (1) of Section 32 of Odisha Cooperative Societies Act, 1962, for short, "the Act". It is the case of the petitioner that in the background of the language used in Section 32 of "the Act", the Collector of the district cannot remain in charge of the management. His further case is that



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since the impugned order under Annexure-3 is legally unsustainable, the authorities should immediately hold elections to the Committee. Accordingly, the present writ petition has been filed with the above noted prayers.

3. The opposite party Nos.1 & 2 have filed their counter affidavit on 08.01.2021 taking stand that the impugned order has been passed properly taking into account the Explanation appended to Sub-Section-1 of Section 32 of "the Act" and accordingly, the management consequent upon supersession stood vested with the Registrar who in turn has appointed the Collector of the district as Administrator in consonance with the provisions of "the Act" and the same cannot be faulted. The case of opposite party No.1 in its affidavit dated 09.08.2021 is that, vide notification dated 01.08.2017 under Annexure-B/1, the Government of Odisha in Cooperation Department in exercise of the powers conferred by Sub-Section (1) of Section 3 of "the Act" read with Rule-5 of the Odisha Cooperative Societies Rules, 1965, for short "the Rules" have appointed the Collectors of all the revenue district of the State as Additional Registrars of Co-operative Societies to assist the Registrar of Co-operative Societies, Odisha and as per Section 2(i) of "the Act", the Registrar has been defined to mean the person appointed to



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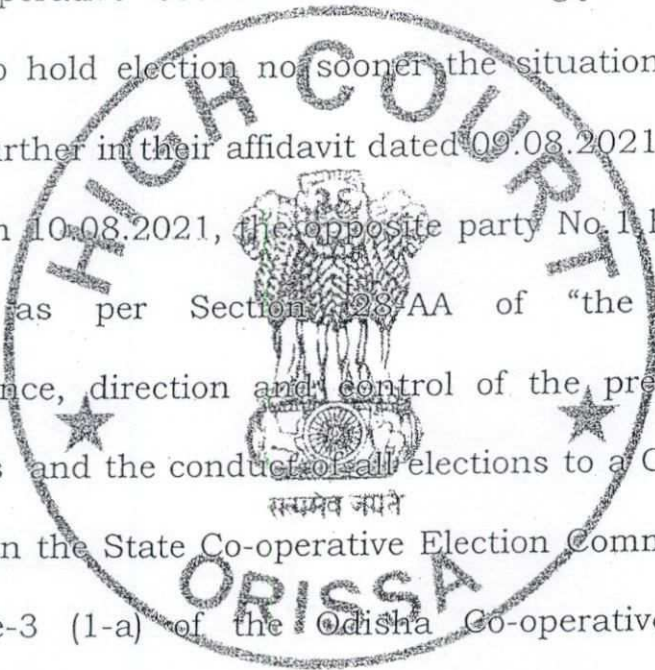
perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar. Further, it is the case of the State that all the Additional Registrars have been conferred with powers of Registrar under Sections 6, 7, 8, 10(2), 12, 14, 14-A, 16(2-a) 17, 28, 30, 30A, 32, 33, 35(3), 59(1), 63, 64, 65, 66, 68, 70, 72, 73, 75, 76, 77, 90, 102 to 105, 106 (1)(b), 108, 114, 116(3), 120, 123-A(2), 128(3) of "the Act" by the State Government in the Co-operation Department in exercise of powers under Sub-Section(2) of Section 3 of "the Act" vide Order No.II-Legal-26/98-19992 dated 21.09.1999. Accordingly, for all practical purposes as the Collector has been appointed as Additional Registrar to assist the Registrar of Co-operative Societies and since the Additional Registrar exercises several powers of Registrar, Collector can clearly be treated to be a Registrar as per Section 2(i) of "the Act". Thus no wrong has been committed by appointing the Collector as Administrator under Annexure-3 to manage the affairs of "the Bank" as he is functioning as a Registrar.

With regard to the prayer of the petitioner for conducting election by quashing the impugned order under



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Annexure-3, it is the case of opposite party Nos.1 & 2 that due to spread of Covid-19 Pandemic, it has not been possible to conduct elections. Though lockdown has been lifted in the mean time and though there is decline in trend of infection however, the fear of Covid-19 still persists. This stand was taken by opposite party No.1 in their counter affidavit dated 08.01.2021. However, therein, it was made clear that the State Government is committed to formation of democratically elected Committees of the Co-operative Societies and accordingly, the State is committed to hold election no sooner the situation returns to normalcy. Further in their affidavit dated 09.08.2021 filed before this Court on 10.08.2021, the opposite party No.1 has made it clear that as per Section 28-AA of "the Act", the superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to a Co-operative Society vest in the State Co-operative Election Commission and as per Rule-3 (1-a) of the Odisha Co-operative Societies (Elections to the Committees) Rules, 1992, for short "1992 Rules" the State Co-operative Election Commission has to recommend the date to the Government for issuance of notification calling upon the Co-operative Societies to elect members of the committee of the society and on receipt of such

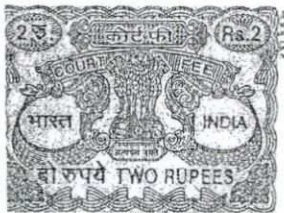


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recommendation, the Government is only to notify the same in the Odisha Gazette and on 24.04.2020, the State Co-operative Election Commission (opposite party No.4) has intimated the Commissioner-cum-Secretary, Co-operation Department that due to pandemic situation in the State, the Commissioner is not in a position to suggest the tentative date for holding of election. Further in the affidavit dated 07.09.2021 filed by the opposite party No.1, it reiterated that opposite party No.4 has to recommend the date to the Government for issuance of notification calling upon the Co-operative Societies to elect members and the Government is only to issue notification indicating the said date for election and Government has no power to suggest any date or to suggest for holding of election under the provisions of "the Act and the Rules framed there under.

4. The stand of opposite party No.4 as per the counter affidavit dated 07.04.2021 is that the tenure of the Committee of "the Bank" came to an end on 30.04.2020. By that time, the entire State was under lockdown due to spread of Covid-19 Pandemic for which the Commission vide letter dated 01.07.2020 under Annexure-A/4 addressed to the opposite party No.1 sought for its views in the matter of holding of



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election and the response of the State Government is still awaited. It is their further case that, in the meantime, the opposite party No.4 has written to the Registrar, Co-operative Societies on 02.11.2020 under Annexure-B/4 requiring him to supply the requisite consolidated information in the enclosed prescribed format for assessment for the upcoming co-operative election. That apart vide letter dated 04.01.2021 under Annexure-C/4 series, the opposite party No.4 has written to all the Divisional DRCSSs requesting them to instruct the Chief Executive of the Societies under their control to take immediate steps for preparation of list of members of the Societies. Further on 25.02.2021 under Annexure-D/4 the opposite party No.4 had written to all the DRCSSs for supply of information on deployment of election officers during cooperative election 2015-16 for assessment of man power for the forthcoming election in the State.

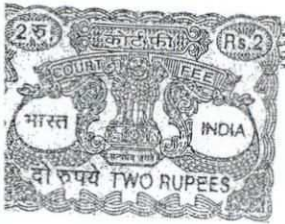
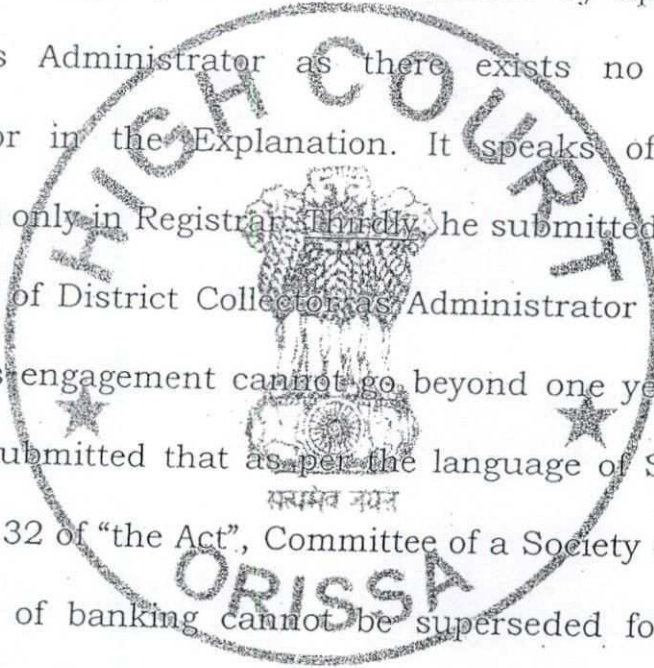
5. Heard Mr. P.K. Rath, learned counsel for the petitioner, Mr. S.K. Samal, learned Additional Government Advocate and Mr. H.M. Dhal, learned counsel appearing for opposite party No.4.

6. Mr. Rath, learned counsel for the petitioner submitted that the impugned order under Annexure-3 appointing the



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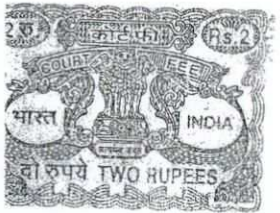
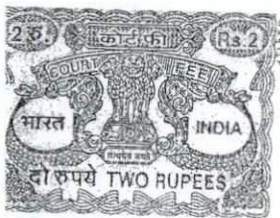
Collector, Sundargarh as Administrator is bad in law because the pre-requisites for exercising power under Sub-Section (1) of Section 32 of "the Act" dealing with supersession of Committee did not exist in the present case. According to him, the four circumstances given at Clauses (i) (ii) (iii) & (iv) under Sub-Section 1 to Section 32 of "the Act" were non-existent in the present case. Secondly, even if help is taken of the Explanation to Sub-Section (1) of Section 32 to justify the impugned order, then also an illegality has been committed by appointing the Collector as Administrator as there exists no concept of Administrator in the Explanation. It speaks of vesting of Management only in Registrar. Thirdly, he submitted that even if appointment of District Collector as Administrator is accepted, then also his engagement cannot go beyond one year. In this context, he submitted that as per the language of Sub-Section (1) of Section 32 of "the Act", Committee of a Society carrying on the business of banking cannot be superseded for a period exceeding one year. Accordingly, he submitted that since one year period expired on 30.04.2021, therefore, the authorities are duty bound to hold election immediately. In this context, he also submitted that the direction in the impugned order under Annexure-3 that the Collector will act as an Administrator till



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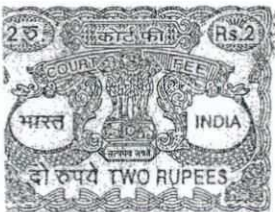
constitution of new Committee or until further order is bad in law as this is not permitted under Sub-Section (1) of Section 32 of "the Act".

With regard to his second prayer i.e. for a direction to hold election, he submitted that as per Section 28(1-a) of "the Act", the tenure of the Committee is five years and as per Clause (b) of Sub-Section (1-b) of Section 28 of "the Act", an election to constitute a Committee shall be completed before expiration of a period of one year from the date of its supersession in case of society carrying on banking business. Since the present society is carrying on banking business, therefore, in case of action taken under Sub-Section (1) of Section 32 of "the Act", election is bound to be held before expiry of period of one year as per Clause (b) of Sub-Section (1-b) of Section 28 of "the Act". Here, though the period of one year expired on 30.04.2021, however, till date no election has been held for constituting a Committee. He further submitted that though vide Annexure-6 to the rejoinder, opposite party No.4 directed for preparatory arrangements for election to the Committee of Co-operative Societies in the State for which the process was to begin from October, 2019 however, nothing was done. Relying on Sub-Rule (1-a) of Rule-3 of the "1992 Rules", he submitted that in such





circumstance when the maximum time limit of supersession is over, the opposite party No.4 has gone wrong in not suggesting the date of election to the Government and accordingly submitted that a direction be issued to the opposite party No.4 to suggest the date to the Government for holding of election immediately. He also highlighted that in the meantime, many assembly elections have been held in the country and recently by-election has been held in Pipli Constituency to elect an M.L.A. for Odisha Legislative Assembly. Therefore, the authorities should be directed to hold election following Covid protocols, when epidemic has shown a declining trend. Lastly, Mr. Rath fairly submitted that since during pendency of this petition, major portion of Part IXB of the Constitution of India has been struck down as ultra vires by the Supreme Court, the pleadings relating to same in the writ petition and rejoinder be ignored. He also did not press the pleadings vis-à-vis Section 28(1-b) (ii) of "the Act". He further submitted that in view of the changed circumstances, he is no more relying on the decision of the Supreme Court as rendered in **Rajkot District Co-operative Bank Limited Vrs. State of Gujrat** and others reported in 2015 (13) SCC 401 and the decision of this Court dated 21.12.2011 in the case of **Ranjita Kahali Vs. State of Orissa** in



[Signature]

this context, he submitted that the pe
d anywhere in the writ petition as to w
n violated. In this context he relied on th
me Court rendered in the case of **State**
Gopal Rungta, reported in AIR 1952 S
★ ★
Noorkhan Pathan Vrs. State of Mahar
सत्यमेव जयते
ted in (2013) 4 S.C.C. 465. Accordingly,
ORISSA
petition should be dismissed. On the



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as Additional Registrar of Co-operative Societies to assist the Registrar of Co-operative Societies and since the word "Registrar" as per its definition under Section 2(i) of "the Act" includes any persons who has been appointed to assist the Registrar, therefore, it should be taken that though appointed as an Administrator, the Collector, Sundargarh is in fact functioning as the Registrar and thus there has been no violation of the Explanation. Accordingly, he submitted that the writ application is without any merit and should be dismissed.

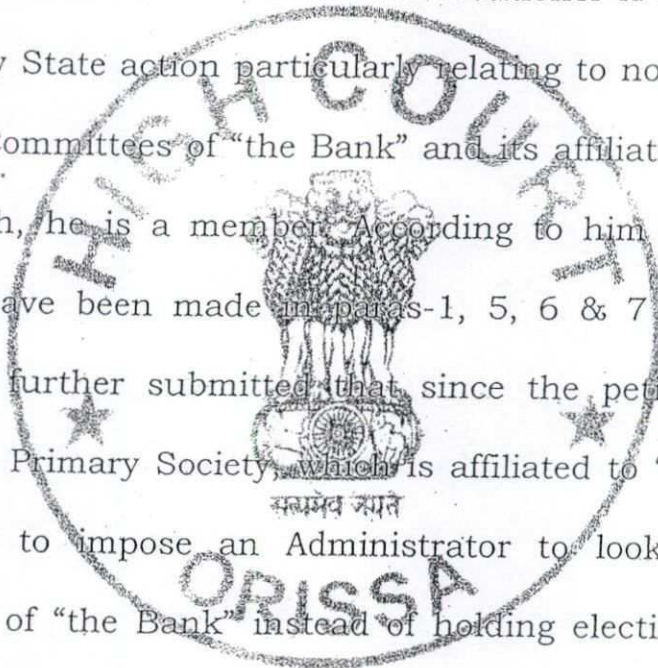
8. Mr. H.M. Dhal, learned counsel appearing for opposite party No.4 confined his submission to the second prayer of the petitioner for a direction to the authorities to hold election. He submitted that as per Section 28-A of "the Act", if the election is to be held, it has to be held for all the Co-operative Societies functioning in the State and it is to be held simultaneously for connected Primary Societies, Central Societies & Apex Society. It cannot be held for one Society like "the Bank" and its affiliated societies and secondly, he submitted that for holding election, the State Government has to make available officers and staff to the Election Commission (opposite party No.4) for discharging its functions.



168 - 155 -

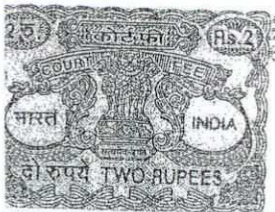
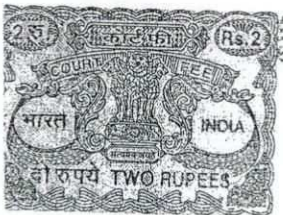
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9. In reply to submissions made by Mr. Samal & Mr. Dhal, Mr. Rath submitted that the petitioner is a member of Karamadihi LAMPCS, which is affiliated to "the Bank". In the capacity as a member of LAMPCS, he was elected to the Committee of "the Bank". Later on, he was elected as President of "the Bank". During his tenure, he has performed and worked for the larger interest of the poor farmers of the district and for such work; he has been awarded successively at National Level as indicated under Anenxure-2 series. Petitioner is aggrieved by the arbitrary State action particularly relating to non-holding of election of Committees of "the Bank" and its affiliated societies, one of which, he is a member. According to him appropriate averments have been made in paras-1, 5, 6 & 7 of the writ petition. He further submitted that since the petitioner is a member of a Primary Society, which is affiliated to "the Bank", any attempt to impose an Administrator to look after the management of "the Bank" instead of holding election to elect democratic Committees affects the petitioner's right to have an elected Committee within the time as prescribed under law and his right to elect such committees. Thus he has every right to challenge such action as he cannot be described as a stranger having no interest in the functioning of "the Bank" and its



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affiliated societies. He reiterated that the petitioner cannot be described as stranger vis-à-vis the issues involving blatant violation of Sub-Section (1) of Section 32 of "the Act" which speaks of supersession of Committee not exceeding one year of a Society carrying on business of banking and Clause (b) of Sub-Section (1-b) of Section 28 of "the Act" mandating completion of election to Committee before expiry of one year period from the date of supersession in case of such society carrying on business of banking. Here though one year period expired on 30.04.2021, since no election has been conducted, he as a member of Primary Society i.e. Karamadihi LAMPCS has every right to assail the same as his right to elect Committees has been affected by not holding elections and by continuing the illegal arrangement under Annexure-3 beyond the maximum period of supersession. In this context, he relied on a decision of the Allahabad High Court in the case of **Committee of Management, District Co-operative Bank Limited and another Vrs. State of U.P. & others** reported in (2005) SCC Online All 1554. With regard to the two decisions of the Supreme Court cited by Mr. Samal, he submitted that both the decisions are factually distinguishable and have no application to the case at hand. He reiterated that the petitioner cannot be



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described as total stranger to the issues involved in the present case. With regard to other submission of Mr. Samal defending Annexure-3, while reiterating his earlier submissions, he again submitted that the arrangement under Annexure-3 cannot be continue beyond maximum period of one year.

With regard to submissions of Mr. Dhal, he submitted that language of Section 28-A of "the Act" nowhere requires that elections should be held simultaneously for all societies viz. Primary, Central and Apex or not at all. With regard to the second submission of Mr. Dhal on availability of officer of State, he submitted that State has nowhere taken a plea that it cannot spare its officials to opposite party No.4 for discharge of its function. He reiterated that direction be issued to the authorities to hold election immediately.

10. Before entering into the merits of this case, this Court wishes to take up the issue of locus standi of the petitioner to maintain the present writ petition as raised by Mr. Samal, learned Additional Government Advocate. As indicated above he submitted that there is nothing to show that the petitioner has been personally affected and there exists no explanation in the writ petition as to what right of the petitioner has been affected and in this context, he has relied on two decisions of the

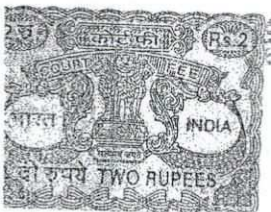
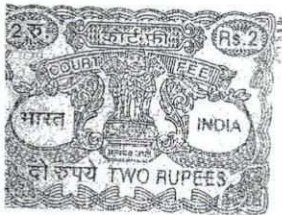


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Supreme Court viz. Madan Gopal Rungta (Supra) and Ayaaubkhan Noorkhan Patha (Supra).

In this context, it may be noted here that it is not disputed that the petitioner is a member of a Primary Society i.e. Large-sized Adivasi Multipurpose Co-operative Societies (LAMPCS) at Karamadihi. It is also not disputed that the said society is affiliated to "the Bank" and the petitioner was elected as President to the Committee of "the Bank". Since the petitioner happens to be a member of the LAMPCS affiliated to "the Bank", it cannot be said that the petitioner has no interest in the matter if "the Bank" as alleged is allowed to be managed by a person who is not authorized under law to be in-charge of "the Bank" or if such a person is allowed to continue beyond the maximum period of supersession as fixed under law expires or if the election is not held in due time as required under the provisions of "the Act", thereby affecting the petitioner's right to elect members of Committees of Societies and right to have democratically elected Committee.

In this context, it may be noted here that as per Section 27 of "the Act" final authority in a Co-operative Society vests in general body of members. As per Sub-Section (1) of Section 28, management of a Co-operative Society vests in a

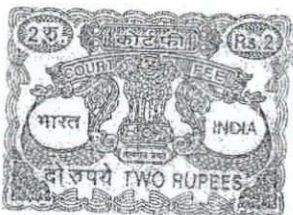


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Committee as constituted in accordance with the provisions of "the Act" & Rules made there under and Bye-Laws. This Committee exercises a number of important functions and performs a number of duties as delineated in Sub-Section (1) of Section 28. Sub-Section (1-aa) of Section 28 makes it clear that every committee unless superseded shall have a tenure of five years. Clause (b) of Sub-Section (1-b) of Section 28 lays down that an election to constitute a committee shall be completed before expiry of its term or before expiry of a period of one year from the date of supersession in case of society carrying on the business of banking. Relevant provisions of Section 28-A deals with election of members, President and Vice-President of the Committee. The said Section is quoted hereunder:

"28-A. Election of members of Committee - (1) (i) *The President of the Committee of every Society shall be indirectly elected in the manner prescribed, by and from among the members of the Committee, and*

(ii) *Other members of the Committee of a Primary Society shall be elected in such manner by and from among the General Body of members of the Society qualified for the purpose organized into*



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such different constituencies as may be prescribed.

(ii-a) Other members of the Committee of a ^(emphasis supplied) Central Society and an Apex Society shall be ^(emphasis supplied) elected in such manner by and from among the qualified members of the Electoral College formed in such manner organized into such different constituencies as may be prescribed.

(iii) The Vice-President of the Committee shall be elected by and from among the elected members of the Committee in the prescribed manner.

Provided that where the President of the Committee of such a Society elected under this section is not a woman, the office of the Vice-President of the Committee shall be reserved for woman.

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XXX"

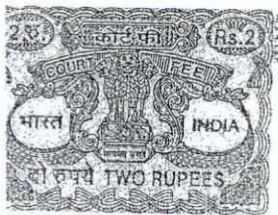
Sub-Section (1) of Section 32 of "the Act" makes it clear that
Committee of a Co-operative Society carrying on business of
banking can be superseded for a maximum period of one year.

(Emphasis supplied)



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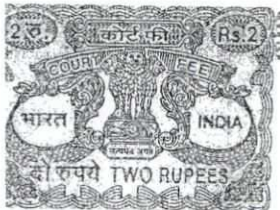
All the above discussions make it clear that an elected Committee plays an important role in a Co-operative Society and that maximum period of supersession of Committee of a society carrying on banking business cannot exceed more than one year and before such maximum period; election is bound to be held. Here, admittedly the maximum period of supersession of one year as provided under law has expired on 30.04.2021. In such background, continuing with the arrangement under Annexure-3 without holding election clearly violates statutory provisions and affects the democratic functioning of "the Bank" and its affiliated societies. Since the petitioner is a member of an affiliated society, it cannot be said that in no way he has been affected. Nobody can dispute that the petitioner has a vital interest in proper running of LAMPCS as well as "the Bank". He cannot be described as a stranger to the issues involved. Further his right to vote/elect and right to have a democratically elected Committees have been affected. In **Madan Gopal Rungta** case (Supra) the issues were different. There the Supreme Court laid down that Article 226 cannot be used for the purpose of giving interim relief as the only and final relief and an appeal to Supreme Court against such an order is maintainable. No doubt in the said case, the Supreme Court has made it clear that



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concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which the contravention is alleged, the specific circumstances of the case, the nature and extent of complaint's interest and the nature and the extent of prejudice or injury suffered by the complainant. There also Supreme Court quoted with approval its own decision rendered in **Ghulam Qadir Vrs. Special Tribunal** reported in (2002)1 SCC 33, wherein it has been made clear that *"The orthodox rule of interpretation regarding the locus standi of a person to reach the court has undergone a sea-change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dis-lodging the claim of a litigant merely on hyper-technical grounds. XXX XXX XXX In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi."* Here as indicated earlier as a member of LAMPCS, the petitioner cannot be described as stranger to the issues involved. In fact his right to have a democratically elected



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Committee after expiry of maximum period of supersession and his right to elect such a Committee has been affected.

Moreover the Allahabad High Court in a Division Bench has clearly laid down in **Committee of Management, District Co-operative bank Ltd.** case (Supra) that outgoing Committee of its office bearer, or its member or members of general body of Co-operative Society are interested in the welfare of the Co-operative Society. They are aggrieved persons if there is any arbitrary or unreasonable exercise of power affecting the Co-operative Society. Therefore, it cannot be said that they don't have the standing to file the writ petitions, wherein the appointment of private persons as Administrators or in the Committees were challenged. Here as indicated earlier, the petitioner has enough interest to maintain the present writ petition for proper management of the Bank" as per law.

Keeping in mind the above discussions, this Court has no hesitation in rejecting the contention of Mr. Samal, learned Additional Government Advocate with regard to locus standi of the petitioner to maintain this writ petition. It may be noted here that in their counter affidavit filed by opposite party Nos.1 & 2 this point of locus has not been raised. Rather at para-9 of the counter affidavit, the State has admitted that it is committed for



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formation of democratically elected Committee of the Co-operative Societies and is also committed to hold election sooner the situation returns normalcy. In such background, this Court holds that the petitioner has locus standi to maintain this writ petition.

11. Now let us deal with various contentions raised by Mr. Rath, learned counsel for the petitioner on various points and the counter contentions.

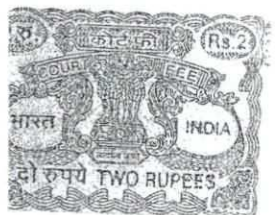
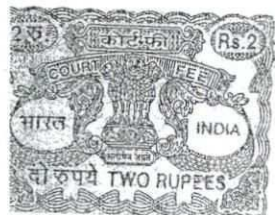
Mr. Rath's first contention was that the impugned order under Sub-Section (1) of Section 32 of the Act in appointing District Collector as Administrator is illegal as the four circumstances given thereunder at Clauses (i) to (iv) to warrant such action were non-existent in the present case. In this regard, Mr. Samal's submission was that the impugned order has been passed as per Explanation to Sub-Section (1) of Section 32 of "the Act" as no election could be held to elect a new Committee after expiry of the term of the Old committee. In such background, contention of Mr. Rath cannot be accepted. A perusal of impugned order under Annexure-3 would show that the said order has been passed in view of the expiry of the term of Committee of "the Bank". Obviously, the said order was passed in tune with the Explanation appended to Sub-Section



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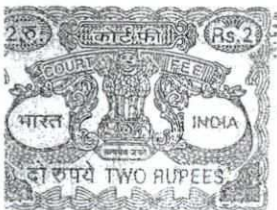
(1) of Section 32 of "the Act" as election could not be conducted to elect fresh Committee. Therefore first contention of Mr. Rath fails.

Mr. Rath's second contention was that even if help is taken of the Explanation attached to Sub-Section (1) of Section 32 of "the Act" to justify the impugned order, then also an illegality has been committed by appointing Collector as Administrator as there exists no concept of Administrator in the Explanation. Explanation only speaks of vesting of management in Registrar Co-operative Societies, Odisha and none else. This contention of Mr. Rath cannot be accepted for the following reasons. Section 2(i) of "the Act" makes it clear that Registrar includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar. As per Annexure-B/1, Collectors of revenue district of the State have been appointed as Additional Registrars of Co-operative Societies to assist Registrar of Co-operative Societies, Odisha. Further vide Order No.II/Legal-26/98-19992/Co-op dated 21.09.1999 issued by the Government of Odisha in Co-operation Department, the State Government in exercise of powers conferred under Sub-Section (2) of Section 3 of "the Act" have conferred on Additional Registrar Co-operative Societies, the



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powers of the Registrar under Sections 6, 7, 8, 10(2), 12, 14, 14-A, 16(2-a) 17, 28, 30, 30A, 32, 33, 35(3), 59(1), 63 to 66, 68, 70, 72, 73, 75 to 77, 90, 102 to 105, 106 (1)(b), 108, 114, 116(3), 120, 123-A(2), 128(3) of "the Act". After issuance of the above order dated 21.09.1999; vide Office Order No.XLV-1/2012-12219/legal-4 dated 20.07.2012, the opposite party No.2 in exercise of powers conferred upon him under Sub-Section (2) of Section 3 of "the Act" has made it clear that the Additional Registrar can exercise his power for whole State of Odisha. A cumulative reading of all these notifications makes it clear that Collectors have been appointed as Additional Registrars of Co-operative Society to assist the Registrar of Co-operative Societies, Odisha and by virtue of order dated 21.09.1999 indicated above; the Additional Registrars have been conferred with jurisdictions to the exercise many powers of the opposite party No.2. Thus in the background of definition of Registrar given at Section 2(i) of "the Act", it can be safely said that the definition "Registrar" certainly includes Collectors of revenue district of Odisha. Therefore, vide impugned order Annexure-3 since the Collector has been appointed as Administrator to manage the affairs of "the Bank", it can be safely said that in a way Registrar, Co-operative Societies, Odisha is looking after the



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management of "the Bank". Therefore, the second contention of Mr. Rath also fails.

Third contention of Mr. Rath vis-à-vis the impugned order was that even if appointment of District Collector as Administrator is accepted then also he cannot continue beyond one year as the maximum period of supersession as per Sub-Section (1) of Section 32 of "the Act" under which the impugned order has been passed has already expired on 30.04.2021. According to him, as the Society was doing banking business, the maximum period of supersession is one year as per law. Therefore, the impugned order dated 01.05.2020 cannot continue beyond 30.04.2021, when one year period came to an end. In the opinion of this Court, this contention of the petitioner has got sufficient force. It is not disputed that the society involved in this case carries on business of banking. A perusal of impugned order under Annexure-3 shows that the same has been passed in exercise of power conferred under Sub-Section (1) of Section 32 of "the Act" which deals with supersession of committee. The same Sub-Section makes it clear that Committee of a society carrying on business of banking can be superseded for a maximum period of one year. Further Clause (b) of Sub-Section (1-b) of Section 28 of "the Act" makes

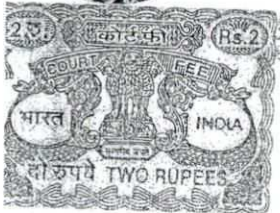
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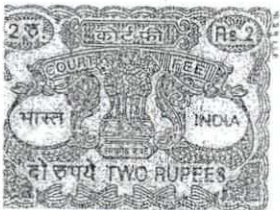
it clear that in case of supersession of a Committee of Society carrying on business of banking, an election to constitute a Committee shall be completed before expiry of a period of one year from the date of its supersession. In such background since one year period vis-à-vis the impugned order dated 01.05.2020 under Annexure-3 has expired long back and since the society in question carries on banking business, the order under Annexure-3 passed under Sub-Section (1) of Section 32 of "the Act", dealing with supersession of the Committee cannot be allowed to continue beyond 30.04.2021 as the same has become legally vulnerable. Accordingly, the same is quashed.

Natural corollary of quashing of Annexure-3 would have been to direct the authorities to hold election to Committee of Societies affiliated to "the Bank", whose terms have already expired & thereafter for "the Bank" itself. But before that let us apply our mind to the contentions raised by Mr. Dhal, learned counsel representing opposite party No.4. Relying on Section 28-A of "the Act", Mr. Dhal has contended that if election is directed to be held, it has to be held for all the Co-operative Societies of the State and it is to be held simultaneously for connected Primary, Central and Apex Societies. A reading of Section 28-A does not support such a contention as it nowhere says that



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elections of all the Co-operative Societies operating in the State or election of the connected Primary, Central and Apex Society should be held simultaneously. Further Clause-(ii) of Sub-Section (1) of Section 28-A clearly permits election of members of the Committee of a Primary Society in such manner by and from ^(emphasis supplied) among the General Body of members of the society qualified for the purpose organized into such different constituencies as may be prescribed. Similarly clause-ii(a) of Section 28-A permits election of members of the committee of a Central Society and ^(emphasis supplied) an Apex Society in such manner by and from among the ^(emphasis supplied) qualified members of the Electoral College formed in such manner organized into such different constituencies as may be prescribed. "1992 Rules" lay down the procedure for election to the Committees of Societies. Sub-Rule (1) of Rule 3 of "1992 Rules" permits election of Members, President & Vice-President of the Committee of a Society to be held in the manner specified ^(emphasis supplied) thereafter. Rule (1-a) of Rule 3 of "1992 rules" permits the State Government to issue one or more Gazette Notifications publishing the date or date as recommended by the State Co-operative Election Commission calling upon the Co-operative Societies to elect members of the Committee of Society as per the provision of "the Act" and Rules made thereunder. Rule 4A



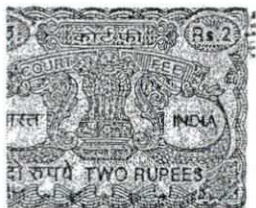
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of "1992 rules" also permits an Electoral College to elect members of a Central or Apex Society. An analysis of the above ^(emphasis supplied) provisions would show that different provisions of Section 28-A as well as Rules (1) & (1-a) of Rule 3 of "1992 Rules" & Rule 4A of the above Rules permit election of Committee of a Society - be ^(emphasis supplied) it Primary, Central or Apex. Therefore, the contention of Mr. Dhal that if election is to be held, it should be held for all the Societies functioning in the State cannot be accepted. Further his submissions that if election is to be held it should be held simultaneously for connected Primary, Central & Apex Societies also can be not accepted as election of Committees of an Apex Society and Central Society are dependent upon election of Committees of Central Societies and Primary Affiliated Societies respectively forming respective Electoral Colleges. Further, Sub-Rule (1) of Rule 3 of "1992 Rules" also permits State Co-operative Election Commission to recommend date or date and on the basis of such recommendation State Government may publish such date or date in one or more Gazette Notifications. With Regard to phrase "date or date" used in Rule (1-a) of Rule 3 of "1992 Rules", it has to be interpreted to mean "date or dates" in the background of preceding phrase "one or more notifications" used therein. Any other interpretation of the said



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phrase would lead to absurdity as otherwise the later word "date" in the phrase "date or date" would become meaningless. Such a consequence has to be avoided. It is well settled that where language of a statute in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words or even the structure of the sentence. (See *Tirath Singh Vs. Bachittar Singh and others*, AIR 1955 S.C. 830) Considering all these things, it is reiterated that there exists no such requirement of holding simultaneous election to all cooperative societies of State or the connected Primary, Central and Apex Societies. In fact the use of phrases "one or more notifications" Rule 3 of 1992 Rules" as referred above negatives the contention of Mr. Dhal, learned counsel for opposite party No.4 -Commission that election at all level to all Co-operative Societies should be held simultaneously. Had it been so, then the requirement of more than one notification and provision for recommending of more than one date would not have been there.



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12. Mr. Dhal has also contended relying on Sub-Section (6) of Section 28-AA of "the Act" that the State Government should make available its officer and staff so that the State Co-operative Election Commission (opposite party No.4) can discharge its functions. But there exists no material on record to show that the State Government is reluctant to render such assistance. Rather in the counter affidavit dated 08.01.2021, it has made clear that the State Government is committed for formation of democratically elected Committee of the Co-operative Societies and it is committed to hold election no sooner the situation returns to normalcy. Further in its affidavit dated 10.08.2021 and 07.09.2021, the State has made it clear that as per Rule 3(1-a) of the "1992 Rules", the opposite party No.4 has to recommend the date to Government for issuance of notification calling upon the Co-operative Societies to elect the members of the Committee of the Society and Government is to only issue notification indicating the date. No argument has been made to the effect that Corona Pandemic still holds out a problem now for holding election to the Committees of "the Bank" and its affiliated societies.

13. Considering all these things, particularly when normalcy to a large extent has been restored and By-election





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has been held in the State in the recent past and keeping in mind the statutory requirements as discussed above, this Court directs the authorities to go ahead with electing Committees of "the Bank" as well as its affiliated societies where the terms of Committees have already expired. For the said purpose, the opposite party No.4 is directed to make the necessary recommendation as per provisions of Rule 3(1-a) of "1992 Rules" within a period of four weeks from the date of receipt of certified copy of this order and should complete the process of election to the above noted societies in accordance with law within a reasonable period. Opposite parties 1, 2 & 3 are directed to extend full cooperation to opposite party No.4.

Accordingly, writ petition is allowed. No cost.

Sd- B. Mohanty. J.



Orissa High Court, Cuttack
The 1st November, 2021 /Prasant

by
C. Prasant
3.11.21

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Government of Odisha
Planning and Convergence DepartmentNo.PC-PRGII-MISC-0033-2021-12062^(5**)/P., Bhubaneswar, Dated 18/10/2021

From

Smt. Manasi Satpathy,
Additional Director.

To

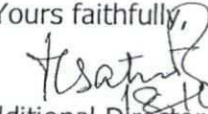
✓ Shri Bhabani Prasad Majhi,
At-Bhawani Bhawan Area,
PO/DIST-Sundargarh, Odisha, PIN-770001.
The Principal Secretary to Govt.,
Cooperation Department.
The Registrar,
Cooperative Societies, Odisha, Bhubaneswar.
The Managing Director,
Odisha State Cooperative Bank, Bhubaneswar.
The Collector & District Magistrate, Sundargarh-cum-
Administrator, Sundargarh DCCB Ltd.,
Dist-Sundargarh.

Sub:- Order dated 16th October, 2021 passed by Development Commissioner-cum-
Additional Chief Secretary and Conciliator in WP (C) No.32889 of 2020 filed by
Bhabani Prasad Majhi Vrs. State of Odisha and others.

Sir,

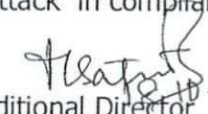
I am to directed to forward herewith the order dated 16th October, 2021 passed by
Development Commissioner-cum-Additional Chief Secretary as Conciliator in WP (C)
No.32889 of 2020 for favour of information and necessary action.

Yours faithfully,


Additional Director

Memo No. 12063/P., Dated 18/10/2021

Copy along with copy of order dated 16th October, 2021 passed by DC-cum-ACS and
Conciliator forwarded to the Superintendent, High Court of Orissa, Cuttack in compliance to
order No. 26 dated 17.08.2021 of Hon'ble High Court.


Additional Director

Memo No. 12064/P., Dated 18/10/2021

Copy along with copy of order dated 16th October, 2021 passed by DC-cum-ACS and
Conciliator forwarded to the Advocate General, Orissa, Cuttack in compliance to letter No.
29206 dated 29.07.2021 of Advocate General to Cooperation Department.


Additional Director

PTO

Memo No. 12065/P., Dated 18/10/2021

Copy along with copy of order dated 16th October, 2021 passed by DC cum ACS and Conciliator forwarded to OSD to Chief Secretary for kind information of Chief Secretary with reference to letter No.I-CR-WP (C)-04/2021-6295 dated 09.08.2021 of Cooperation Department (copy enclosed).


18-10-2021
Additional Director



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Before Sri Pradeep Kumar Jena, IAS,
Development Commissioner-cum-Additional Chief Secretary
and Conciliator in W.P.(C) No.32889 of 2020.

In the matter of:

Sri Bhabani Prasad Majhi Petitioner.

-Versus-

1. State of Odisha, represented through Commissioner-cum-Secretary to Government, Co-operation Department.
2. Registrar of Cooperative Societies, Odisha
3. Odisha State Cooperative Bank represented through its Managing Director.
4. The Collector & District Magistrate, Sundargarh-cum-Administrator, Sundargarh District Central Cooperative Bank Ltd.

..... Opposite Parties.

ORDER
Dated 16.10.2021

DECISION OF THE CONCILIATION PROCEEDING

Writ Petition (Civil) No. 32889/2020 was filed by Sri Bhabani Prasad Majhi with a prayer to direct Odisha State Cooperative Bank to sanction NABARD refinance amount in favour of Sundargarh District Central Cooperative Bank either through its present C.E.O. or 2nd line officer within a stipulated period.



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In the said Writ petition pursuant to order dt.27.07.2021 an affidavit was filed on behalf of the State to the effect that the Chief Secretary, Odisha has appointed me to conciliate in the above matter, which was communicated to me vide letter dt.6.295 dt.9.8.2021 issued by Special Secretary to Government in Cooperation Department.

The Hon'ble High Court vide order dt.17.08.2021 was pleased to dispose of the Writ petition requesting me to make all efforts to complete the conciliation proceeding as expeditiously as possible as per law.

In compliance with the above direction of the Hon'ble High Court of Orissa, conciliation proceeding was conducted amongst all the parties concerned through virtual mode on 24.08.2021 and they were heard on their respective stand. All the parties were allowed to file written submission.

Sri Bhabani Prasad Majhi, the petitioner in W.P.(C) No.32889 of 2020 submitted to allow refinance in the signature of Sri S.C. Das, present CEO taking the order of Hon'ble High Court in W.P.(C) No.10806/2020 dt.03.06.2020 into consideration at least against the finance in Rabi 2020-21 giving effect to 31st March 2021 so that the Bank can pay the defaulted amount along with interest with a prayer to waive penal interest on the same. He further requested to open the borrowing channel for the year 2021-22 for the interest of over one lakh tribal farmers, 50,000 SHG members and equal number of JLG members.

The Principal Secretary, Co-operation Department submitted that the DCCB, Sundargarh will be eligible to get refinance only when the Chief Executive Officer as duly approved Under Section-28 (3-b)(1) of Orissa Co-operative Societies Act, 1992 is posted to the Bank. It was further submitted that before getting any refinance the Bank will have

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to clear all outstanding dues of Orissa State Co-operative Bank Ltd.

The Registrar, Co-operative Societies, Odisha submitted that the matter relating to non-approval of Sri S. C. Das as C.E.O. of Sundargarh DCCB has been challenged before the Hon'ble High Court of Orissa which is sub-judice and Sri Das is continuing in Sundargarh DCC Bank by virtue of interim order of Hon'ble High Court. However, it is submitted that there appears to be no such provision that second line officer of the Bank can operate the accounts and sign the documents.

The Odisha State Co-operative Bank Ltd. (OSCB), Bhubaneswar through its Managing Director contended that the Sundargarh DCC Bank will be eligible to get refinance in accordance with law when a Chief Executive Officer as duly approved Under Section 28 (3-b)(1) of The Orissa Co-operative Societies Act, 1962 by RCS, Odisha is posted in the Bank. It was further submitted that before getting any refinance Sundargarh DCC Bank will have to clear all outstanding dues of Orissa State Co-operative Bank Ltd.

From the materials available on record, it appears that Sri Suresh Chandra Das has been appointed as C.E.O. by the Committee of Management of the Sundargarh District Central Cooperative Bank Ltd., Sundargarh, (herein after called as DCCB, Sundargarh) on 1.2.2019 and post facto approval of such appointment was sought for from the Registrar of Co-operative Societies (RCS) and Odisha State Cooperative Bank (OSCB).

The Registrar of Co-operative Societies vide letter dt.23.2.2019 addressed to the President of DCCB, Sundargarh declined to approve the proposal for appointment of Sri Suresh Chandra Das on the following grounds: -

[Signature]

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a) Advertisement for the post of C.E.O. was floated without approval of Department of Cooperation in contravention of the prescribed provision in the HR policy of the DCCB, Sundargarh for 2011.

b) The appointee was a retired Secretary of Balasore-Bhadrak Central Co-operative Bank Ltd.

The OSCB intimated the DCCB, Sundargarh that the Appointment Committee of OSCB in its meeting held on 16.02.2019 did not approve the appointment of Sri Suresh Chandra Das as the Secretary of DCCB, Sundargarh. Further they communicated that till preparation of a panel of names after review of the 'Fit and Proper Criteria', the second-in-command of the concerned CCB is to be kept as In-charge Secretary of the DCCB.

However, on 16.3.2019, the Committee of Management of DCCB, Sundargarh decided unanimously to assign all authority/ power to Sri S.C. Das including signing, executing, discharging, all such documents, undertakings, receipts, demand promissory notes, bill of exchange etc. before higher financing agency like OSCB / NABARD/ RBI/ SIDBI/ NHB and other institutions and also authorized to take all financial decisions including borrowing and investment as per approved guideline.

The Management Committee of DCCB, Sundargarh filed a Writ Petition bearing No. 5641 of 2019 and Sri Suresh Chandra Das filed W.P. (C) No. 8131/2019 before the Hon'ble High Court of Orissa challenging the order of RCS dated 23.2.2019 declining to approve the proposal for appointment of Sri Suresh Chandra Das as C.E.O. of DCCB, Sundargarh.

The Hon'ble High Court vide order dated 20.12.2019, while disposing of both the above Writ Petitions,

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directed RCS to re-visit the issue and further directed order, as appropriate, be passed within three weeks from the date of communication of the order.

On 10.1.2020, RCS issued fresh order after revisiting the issue and declined to accord approval for the appointment of Sri Suresh Chandra Das as CEO of DCCB, Sundargarh.

Sri Suresh Chandra Das has filed Writ Petition bearing No.10806 of 2020 against the said order dated 10.01.2020 issued by RCS, Odisha. The Hon'ble High Court has been pleased to pass an interim order with a direction to maintain status quo as on date of order in respect of the functioning of the C.E.O. of DCCB, Sundargarh by the parties. The said W.P is still pending.

Though the respective parties have urged regarding the competency of the present C.E.O. of DCCB, Sundargarh to receive NABARD Fund with reference to the various provisions of The Odisha Co-operative Societies Act, 1962, the issue of appointment of CEO being subjudice before the Hon'ble High Court of Orissa and interim order having been passed by the Hon'ble High Court, I am not inclined to enter into the arena relating to continuance of Sri Suresh Chandra Das as C.E.O., particularly when I have only been requested to conciliate amongst the parties regarding the issue of entitlement of DCCB, Sundargarh for the refinance fund.

On 8.9.2020, DCCB, Sundargarh forwarded the specimen signature of authorized signatory Sri Bijay Krushna Mohapatra, A.G.M. of DCCB, Sundargarh, who has been authorized by the administrator on dt. 17.07.2020 to sign all important documents.



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OSCB declined to recognize the delegation of authority to Bijay Krushna Mohapatra, A.G.M. of DCCB, Sundargarh on the ground that Resolution dt. 17.07.2020 is not in conformity with the provision of Section- 28(3-b) (2) (b) & (d) OCS Act which provide that subject to overall control of the committee, the C.E.O. shall operate the accounts of the society and sign the documents for and on behalf of the society.

As per provision of the OCS Act, 1962 under Section 28 (3-b) (2) (b) & (d), it is only the Chief Executive of the Bank who is competent to sign documents for and on behalf of the Bank.

The In-charge C.E.O. in his capacity as Chief Executive can carry out the function of signing documents for and on behalf of DCCB, Sundargarh. But, the Resolution of the Administrator of DCCB, Sundargarh dated 17.07.2020 envisaged authorizing Sri B.K Mohapatra, A.G.M. to prefer borrowing from OSCB/NABARD which requires signing of documents for and on behalf of DCCB, Sundargarh. Since, B.K. Mohapatra was not the C.E.O. or In-charge C.E.O. of DCCB, Sundargarh, the Resolution was not in conformity with the provisions of the OCS Act and is not acceptable.

It is very much pertinent to note that OSCB has submitted copies of the notices which shows that the position of default in payment of loan dues by the DCCB, Sundargarh as on 31.07.2021 is Rs.263,17,43,760/- only.

It is very much pertinent to take note of the Circular No. 226 dated 24.07.2019 issued by NABARD to all State Co-operative Banks making provision of short Term (ST) refinance by NABARD to State Co-operative Banks for financing Seasonal Agricultural Operation (SAO). Clause -7.3 of the Circular provides that "in case a DCCB is in default to the StCB under ST (SAO) continuously for a period exceeding

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3 months, the StCB concerned will not be allowed to operate on the limit in respect of the DCCB concerned till the default is regularized".

The Circular No.278 (17) dtd.04.06.2019 of the OSCB issued by the Managing Director to the Secretaries of all Central Co-operative Banks, more particularly Clause-VII thereof, provides that as per NABARD stipulations, OSCB shall not provide concessional refinance to DCCBs if they commit default continuing for a period of 3 months.

Further, the guide line issued by NABARD for the year 2020-21 vide Circular No.218 dt.10/11 August 2020, particularly Clause-7.6 thereof, specifically reiterates that "in case a DCCB is in default to the StCB under ST (SAO) continuously for a period exceeding 3 months, the StCB concerned will not be allowed to operate on the limit in respect of the DCCB concerned till the default is regularized".

In consonance with the aforesaid stipulations provided by NABARD, the M.D, OSCB vide letter No.214 (17)/2020-21 dt.22.04.2020, particularly Clause-VII thereof, communicated to the Secretaries of all Central Co-operative Banks that as per NABARD stipulations, OSCB shall not provide concessional refinance to DCCBs if they commit default continuing for a period of 3 months. The OSCB further stipulated that DCCBs should, therefore, be advised to remit the recoveries without resorting to re-lending at their level falling which, OSCB shall not provide any refinance for breach of this basic financial discipline.

The huge capital liability including the internal administrative stalemate of the DCCB, Sundargarh definitely poses a question mark on its financial and managerial soundness. In view of the fact that the default in repayment of loan position of the DCCB, Sundargarh is more than Rs.263

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crore, and in view of the Policy of NABARD and OSCB for financing Seasonal Agricultural Operations, it would not be proper to sanction NABARD refinance amount to DCCB, Sundargarh.

Hence, in my considered view, DCCB, Sundargarh will not be entitled for any refinance facility from NABARD till the clearance of defaulted loan amount in question.


(P. K. Jena) 16.10.2021

DC-cum-ACS & Conciliator

TRUE COPY ATTESTED

ADVOCATE



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THE ODISHA STATE CO-OPERATIVE BANK LTD.

Page No. 1

NOTE SHEET

UOI No. 1022

date 03/06/2028

Sub: Affairs of Sundargarh District Central Cooperative Bank.

This is regarding the affairs of Sundargarh DCCB as conveyed in OSCB Letter No. 895 dated 27.05.2021 and the telephonic discussion of the Principal Secretary to Government, Cooperation Department dated 28.05.2021 advising the Managing Director, OSCB to consult with the RCS (O) and to suggest measures to resolve the stalemate created in drawal of refinance from OSCB and restore refinance facility to the Bank/ PACS in the interest of farmers of Sundargarh District.

The matter was discussed with the RCS, Odisha on 31.05.2021 in details with reference to different Writ Petitions/ Contempt case pending in the Hon'ble High Court, Odisha and interim orders passed thereunder. The status of court cases and interim orders passed thereunder is enclosed herewith for kind reference.

1. After detailed discussion with RCS, the option of providing refinance/ direct finance to the PACS/ LAMPCS for lending crop loans was not found feasible for the present on the following grounds;
 - i) PACS will not be eligible for refinance from OSCB as they have no funds of their own to disburse crop loans and seek refinance against the same.
 - ii) OSCB can not provide direct finance to PACS for onlending as the bye-laws of the Bank do not provide for the same.
 - iii) In order to provide finance direct to PACS for onlending of crop loans at their level, relevant laws, rules, bye-laws, circular instructions and guidelines (KCC) now in operation need to be revisited/ amended which may take a considerable time to materialise.
 - iv) In addition, practical issues like adequate field formation (Branches) and HR (man power) for purveying such refinance/ finance to PACS and the required checks & balances (checking, supervision & monitoring) need to be put in place before going for such an arrangement which may at best be a long term one.
 - v) Technical issues like the CBS etc needs also to be taken care of suitably.
2. The other option of the State Government issuing a directive in exercise of powers conferred under section 123-A of the OCS Act, 1962 to the effect that an Authorised Officer of the Bank will operate accounts of Sundargarh DCCB and sign documents for and on behalf of the Bank in respect of loans to be borrowed/ avail refinance from OSCB may have very limited scope in view of the express provisions of the Act under section 28 (3-b) (2) (b) & (d) providing specifically for the Chief Executive of a Society to render such functions. Amendment of the provisions of Section 28 (3-b) to facilitate the aforesaid functions by an Authorised Officer of the Bank may require major policy decision at Government level and take considerable time to materialise. This option does not look implementable within a reasonable time frame.



NOTE SHEET

3. A further option comes to fore on review of the activities of the present Chief Executive Officer-appointee of the Sundargarh DCCB.

The Sundargarh DCCB availed refinance of Rs 610.50 crore in the year 2019-20 against ground level crop loan disbursement of Rs 878.95 crore which was due for recovery during 2020-21. During the year 2020-21, the Bank effected recovery of crop loans to the tune of Rs 983.22 crore but remitted an amount of Rs 373.06 crore only towards repayment of principal loan dues of Rs 359.00 crore alongwith interest dues of Rs 14.06 crore out of the total refinance loan of Rs 610.50 crore availed during 2019-20. Thereby, the Bank retained the balance recovered loan of Rs. 610.16 (Rs 983.22 cr - Rs 373.06 cr) at their level and defaulted in payment of loan dues of OSCB availed during 2019-20 as per details given below;

(As on 31.05.2021)

a) Principal loan dues	Rs. 251.50 cr.
b) Interest dues	Rs. 1.89 cr.
c) Penal Interest dues	Rs. 0.84 cr.

Consequently, the Bank/ CEO-appointee has committed the following financial irregularities/ improprieties/ indiscipline resulting in default of loans to OSCB, causing loss to the Bank and blocking the receivable dues of OSCB by misutilisation of recoveries from crop loans.

- As per the principle of onlending finance and the policy of reimbursement/ refinance of loans from OSCB against crop loan disbursed at ground level, the DCCB is required to pass on/ remit the recoveries in respect of crop loans without resorting to reloaning or otherwise utilisation at their level. This constitutes the basic financial discipline as communicated in the Policy guidelines of OSCB vide Letter No. 1278 dated 04.06.2019 for the year 2019-20 & Letter No. 214 dated 22.04.2020 for 2020-21. The Sundargarh DCCB has committed the breach in the above financial discipline by retaining the recoveries without remitting the same to liquidate the loans availed under the refinance facility extended by OSCB.
- The DCCB has retained the recoveries of crop loans and misutilised the amount meant to be remitted to OSCB to the extent of Rs. 251.50 crore and interest accrued thereon. Consequently, the receivable loan dues of OSCB has also been blocked which has led to NPA at OSCB level.
- Due to misutilisation of the recovered dues, the Bank is liable to pay penal interest dues of Rs 0.84 crore as on 31.05.2021 which may increase further if the default continues to exist.
- Due to default in payment of loan dues, the Bank has lost the eligibility to borrow from OSCB further even after resolution of the present impasse of appointment of CEO of the Bank.



THE ODISHA STATE CO-OPERATIVE BANK LTD.

NOTE SHEET

The present CEO-appointee of the Bank is squarely responsible for the aforesaid lapses as per the provisions of law and is responsible for:-

- Rs. 4.51 cr.
- a) Committing financial indiscipline
 - b) Misutilisation of funds
 - c) Causing loss to the Bank to the extent of Rs. 4.51 crore as on 31.05.2021 which may possibly go further.
 - d) Rendering the Bank ineligible for further finance from OSCB due to default committed.
 - e) Committing blockage of remittance to higher financing agency i.e. OSCB

On the above score alone, the present CEO-appointee is liable to be proceeded against. In order to arrest further aggravation of the financial position and consequential loss to the Bank, the following course of action is suggested.

- a) The Management of DCCB may be directed to initiate disciplinary action against the present CEO-appointee and place him under suspension immediately to prevent perpetration of further financial improprieties and incidence of loss to the Bank.
- b) For the purpose, Government in Cooperation Department/ RCS, Odisha and Sundargarh DCCB may obtain the leave of High Court in W. P. (c) No 10806 of 2020 as the Hon'ble High Court have directed, as an interim measure, to maintain status quo as on to-day i.e. 03.06.2020 in respect of functioning of the CEO of DCCB Ltd, Sundargarh till the next date.
- c) On suspension of the present CEO-appointee, the next in command in the staff hierarchy of the Bank may be allowed to work as CEO-in-Charge.
- d) The Bank may be allowed refinance under the signature of the CEO-in-Charge, on liquidation of default committed by the Bank. For the purpose, the OSCB may be allowed to advance a bridge loan to the SDCC Bank to clear the default and the bridge loan so advanced shall be recovered within a definite time frame from out of recoveries of crop loans.

In view of the facts narrated above, further action on the matter may be considered at the level of Government to resolve the imbroglio at the earliest.

02.06.2021
Managing Director
OSCB

Principal Secretary to Govt.,
Co-operation Department

1. We must obtain leave of High Court immediately.

2. Special audit of the bank must be done immediately.

Principal Secretary to Govt.
Co-operation Department



CONFIDENTIAL

Tel. Nos.: (0674) 2510528
FAX No.: (0674) 2510214
E-mail : oscbmd@gmail.com

The Odisha State Cooperative Bank Ltd.

Pandit Jawaharlal Nehru Marg,
Bhubaneswar - 751 001

Ref. No: 1158 (3) / OSCB/ HRDD/ / 2021-22

Date: 09/06/2021

G. Satpathy, IAS
Managing Director

To

- The Registrar of Cooperative Societies, Odisha, Bhubaneswar
- The Auditor General, Cooperative Societies, Odisha, Bhubaneswar
- The Collector, Sundargarh - cum - Administrator, Sundargarh DCCB

Sub: Affairs of Sundargarh District Central Co-operative Bank.

Sir,

In order to resolve the stalemate in drawal of refinance from OSCB by Sundargarh DCCB arising out of the impasse created due to appointment of the present CEO-appointee of the DCCB, Sri S. C. Das and subsequent non-approval of the appointment by RCS, Odisha as required under Section 28 (3-b) (1) of the OCS Act, 1962 and to restore refinance facility to the Bank/ PACS of Sundargarh district, the Principal Secretary to Government Co-operation has been pleased to invite suggestions in the matter from M.D., OSCB & RCS, Odisha and pass requisite orders indicating action to be taken at different level. I am directed to communicate a copy of the UOI No 1022 dated 03.06.2021 of OSCB suggesting measures to be taken to resolve the imbroglio in the affairs of Sundargarh DCCB and orders passed thereon by the Principal Secretary is enclosed herewith for your kind reference.

As can be seen, orders of the Principal Secretary envisage initiation of action at your level as under;

- i) Leave of Hon'ble High Court needs to be obtained immediately by Government in Co-operation Department/ RCS, Odisha and the Management of Sundargarh DCCB i.e. the Collector, Sundargarh-cum-Administrator of the Bank to initiate disciplinary action against the present CEO-appointee of the Bank for the financial indiscipline.

AGCS
Principal Secy
at 3/6
Carried out
14/06/2021

Original
Filed
17/06/21

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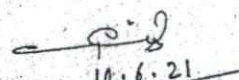
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misutilisation of fund, causing loss to the Bank to the extent Rs. 4.51 crore as on 31.05.2021 towards payment of penal interest and other financial irregularities mentioned in the UOI note and place him under suspension to prevent perpetration of further financial improprieties and incidence of loss to the Bank.

- ii) Special Audit of the Bank may be conducted immediately on the financial improprieties and loss caused to the Bank.

This is for information and appropriate necessary action at your level.

Yours faithfully,

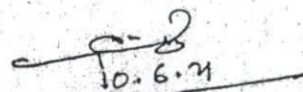

10.6.21

Managing Director

Memo No: 1159

Date: 09/06/2021

Copy submitted to the Principal Secretary to Government, Cooperation Department, Odisha Bhubaneswar for favour of kind information and necessary action with reference to our telephonic discussion held to-day.


10.6.21

Managing Director

HALF MARGIN MEMO/OBJECTION MEMO ISSUED U/R 58-A(1) OF OCE RULE 1965 AS REQUIRED VIDE CIRCULAR NO.11553 DT.02.11.2001 AND CIRCULAR NO.3180 DT.16.05.2002 AND NO.3022 DT.17.05.2004 OF THE AGCS(O), BHUBANESWAR IN THE MATTER OF SPECIAL AUDIT OF SUNDARGARH DIST.CENTRAL COOPERATIVE BANK LTD FOR THE PERIOD 01.04.2018 TO 31.05.2021 BY SRI DURGA PRASAD DASH, SAAGCS & SRI SUDHIR KUMAR PANIGRAHI, SAAGCS OFFICE OF THE ASST.AGCS, SUNDARGARH, WHICH IS TO BE RETURNED IN ORIGINAL WITHIN 7(SEVEN) DAYS FROM THE DATE OF RECEIPT OF THE MEMO.

203-**ANNEXURE**

S.No	DEFECTS/IRREGULARITIES	SPACE FOR COMPLAINE
	<p>On examination of relevant records/file, OCS Act & Rule, Bye-laws, H.R. Policy of the Bank and information submitted by the bank, the Special audit noticed the following irregularities against the procedure adopted by the bank on appointment of Sri Suresh Ch. Das, as CEO of SDCCB Sundargarh from date of Advertisement to till completion of appointment.</p> <ol style="list-style-type: none"> 1. Decision of the Committee of Management vide resolution No.04 dt 31.08.2017 for posting of a CEO in the Bank from the open market and accordingly Advertisement made in the News papers in the captioned 'INVITATION FOR EXPRESSION OF INTEREST FOR CEO SDCCB' despite of note of dissent of the DRCS Sundargarh and DDM NABARD in the said meeting and non compliance of 'fit and proper' criteria as per the guidelines of H.R. Policy, NABARD guidelines as well as OCS Act U/s 33(A) is found to be irregular and illegal. 2. As per Circular No.13/IDD-01/2018 of the NABARD the RBI has relaxed the age limit for eligibility entry level for CEO to 62 years and directed the state Govt. to revise their State Service Rule & Regulation accordingly. But, in case of Odisha, the State Govt. has not revised the same as well as the HR Policy of the Bank. As per State Service Rule & Regulation the age limit for retirement from service is 60 years which means that a person cannot be eligible above 60 years for appointment of the CEO of the Bank. The age of Sri S.C. Das as per his application is above 60 years and his candidature for the said post is found to be ineligible, which is found to be illegal. 3. As per the Fit and Proper Criteria prescribed by NABARD for posting of CEO, he must be an existing employee of the bank or he must be deputed from the Govt. or any other organization with necessary NOC from his parent department employer. But in case of Sri Suresh Ch. Das he is neither existing staff of the Bank nor he has been deputed from any other Agencies/ Govt. department. So it violates the guideline No 2.3 & 4 of NABARD RPCD, CO. RCBD 13/13.01.03/2011-12 of Fit and proper criteria for appointment of CEO in the SDCCB which is found to be irregular and illegal. 	<p>Received a Copy. In stead of 7 days two months should be allowed.</p> <p>Shrabant Prasad Dash 10/11/2021</p> <p>Received 10-11-2021</p>

4. Further in the meeting of the Committee of Management resolution No.04 dt 31.08.2017, the DRCS Sundargarh and DDM NABARD suggested to consult the RCS (O) before taking any decision on the issue of appointment of CEO. But COM of the Bank has not carried out their suggestion and appoint Sri S.C.Das as CEO of the Bank in their own suit will. further the RCS (O) vide his letter No 4172 dt 23.02.2019 has also disapproved the appointment of Sri Suresh Ch. Das as CEO of the SDCC Bank. The Special audit found that appointment of Sri Suresh Ch Das as CEO of the Bank is irregular and illegal and objected the financial benefit given to Sri Das by way of Salary and other allowances to the tune of Rs 50,41,200.00 for the period from 001.02.2019 to 31.05.2021 and it shall be recovered from the members of the Committee of Management of the SDCC Bank who have accepted and confirmed the appointment of Sri S.C.Das as CEO of the Bank in the meeting of the Committee of management dt 01.02.2019.

The members of the Committee of Management (Stated below) who have accepted and confirmed the appointment of Sri S.C.Das as CEO of the Bank in the meeting of the Committee of management dt 01.02.2019, are requested to give their para wise compliance of above said irregularities that why the Special Audit will not fix up responsibilities against them otherwise the matter will be decided on its own merit.

Name of the members of the Committee of Management.

1. Sri Bhapani Prasad Majhi 2. Smt. Sasmita Joshi 3. Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel 5. Sri Kishor Majhi 6. Sri Narayan Devsa
7. Smt. Anju Toppc. 8. Smt. Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11. Sri Pancha Barla 12. Sri Machhindra Kalet
13. Smt. Kamini Mohapatra

SIGNATURE OF THE AUDITOR

SIGNATURE OF THE OFFICER SUBMITTING COMPLAINEE.

Memo No. _____

/Dt. _____

Copy in Individual to the members of the Committee of Management of the SDCC Bank (Name mentioned as above) through the CEO of SDCC Bank Sundargarh for information & necessary action. They are requested to comply the defects in the space provided for and return the Memo in original to the undersigned within 7 days of receipt of this memo failing which audit conclusions shall be drawn on its own merit

SIGNATURE OF THE AUDITOR

SIGNATURE OF THE AUDITOR

Memo No. _____ /Dt. _____

Copy to the Chief Executive Officer of SDCC BANK Sundargarh for information & necessary action with Fourteen nos of extra copies with a request to serve thirteen nos of memo to the members of the Committee of Management of the SDCC Bank (Name mentioned as above) and one copy for their acknowledgement and return the acknowledgement copy to the undersigned.

Signature of the Auditor

Signature of the Auditor

Memo No. _____ /Dt. _____

Copy submitted to the Collector cum-MIC Sundargarh Dist. Central Cooperative Bank Ltd for kind information & necessary action.

Signature of the Auditor

Signature of the Auditor

Memo No. _____ /Dt. _____

Copy submitted to the Asst. AGCS, Sundargarh audit circle/AGCS (O), BBSR for kind information & necessary action.

Signature of the Auditor

Signature of the Auditor

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HALF MARGIN MEMO/OBJECTION MEMO ISSUED U/R 58-A(1) OF OCE RULE 1965 AS REQUIRED VIDE CIRCULAR NO.11553 DT.02.11.2001 AND CIRCULAR NO.3180 DT.16.05.2002 AND NO.3022 DT.17.05.2004 OF THE AGCS(O), BHUBANESWAR IN THE MATTER OF SPECIAL AUDIT OF SUNDARGARH DIST CENTRAL COOPERATIVE BANK LTD FOR THE PERIOD 01.04.2018 TO 31.05.2021 BY SRI DURGA PRASAD DASH, SAAGCS & SRI SUDHIR KUMAR PANIGRAHI, SAAGCS OFFICE OF THE ASST.AGCS, SUNDARGARH, WHICH IS TO BE RETURNED IN ORIGINAL WITHIN 7(SEVEN) DAYS FROM THE DATE OF RECEIPT OF THE MEMO.

S.No	DEFECTS/IRREGULARITIES	SPACE FOR COMPLAINEE
	<p>During the course of special audit, on examination of records of construction of New Building of H.O. the following irregularities are noticed</p> <p>1. The RCS(O) has approved of Rs.1.57 Crores Vide Letter No.10461 dt.28.05.2018 for construction of New Building of H.O. subject to observation of four numbers of guidelines out of which the following three numbers of guidelines are not followed by the Bank.</p> <p>(a) As per the guide lines of the RCS (O), the Bank should make expenditure for the construction of Building out of its "Building fund" of the Bank. But, the Spl. audit found that the bank has not followed the direction of the RCS(O) and not utilized its building fund in this aspect which is found to be irregular.</p> <p>(b) RCS (O) has restricted the Bank not to divert business fund for the project. But, Special audit found that the Bank has not followed the direction of the RCS (O) and used the business fund for construction of building which is found to be illegal.</p> <p>(c) The RCS (O) has stipulated to execute the project as per procedure prescribed in OPWD code, but the bank has not followed the direction of the RCS (O) and made the construction of the Building through the Block Development office Sadar, Sundargarh. The purpose of the RCS (O) for transparency in the construction of the building by following OPWD code found to be violated and irregular. The Committee of Management (name stated below) shall have to explain what circumstances/ situation compelled them to handover the works to the BDO Sadar Sundargarh instead of construction of the said building by following OPWD code as directed by the RCS (O).</p>	<p>Received a copy. In stead of 7 days two months should be allowed.</p> <p>Durgaprasad Dash 10/11/2021</p> <p>Received 10-11-21</p>

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the administrative approval of 1.57 crores for construction of building of SDCC Bank the Bank has incurred the total expenditure of Rs.1,22,77,000.00 as per the M.B. duly produced for the purpose.

2. Apart of the above said expenditure for construction of building of SDCC Bank Sundargarh the Bank has made expenditure of another Rs. 1.05 cores in the above said building for interior works un-authorizedly without having necessary administrative approval from the RCS (0) which is financial loss to the Bank and misutilization of funds. Further incurring such expenditures exceeding the authorities and limitation is treated as illegal.

The Committee of management(name stated below) is to comply why the audit will not fix up responsibility against them for above said irregularities.

Name of the members of the Committee of Management.

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3. Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel 5. Sri Kishor Majhi 6. Sri Narayan Devsa
7. Smt. Anju Toppe 8. Smt. Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11. Sri Pancha Barla 12. Sri Machhindra Kalel
13. Smt. Kamini Mohapatra 14. Pradyumna Ku. Tripathy 15. Smt. Basanti Samanta 16. Sri Suresh Ch. Das CEO -cum ex officio member.

SIGNATURE OF THE AUDITOR SIGNATURE OF THE AUDITOR

SIGNATURE OF THE OFFICER SUBMITTING COMPLAINE.

Memo No. /Dt.

Copy in individual to the members of the Committee of Management of the SDCC Bank (Name mentioned as above) through the CEO of SDCC Bank Sundargarh for information & necessary action. They are requested to comply the defects in the space provided for and return the Memo in original to the undersigned within 7 days of receipt of this memo failing which audit conclusions shall be drawn on its own merit

SIGNATURE OF THE AUDITOR

SIGNATURE OF THE AUDITOR

Memo No. _____ /Dt. _____

- 32 - 389 - 153 - 208

Copy to the Chief Executive Officer of SDCC BANK Sundargarh for information & necessary action with Sixteen nos of extra copies with a request to serve fifteen nos of memo to the members of the Committee of Management of the SDCC Bank (Name mentioned as above) and one copy for their acknowledgement and return the acknowledgement copy to the undersigned.



[Signature]
SIGNATURE OF THE AUDITOR

[Signature]
SIGNATURE OF THE AUDITOR

Memo No. _____ /Dt. _____

Copy submitted to the Collector cum-MIC Sundargarh Dist. Central Cooperative Bank Ltd for kind information & necessary action.

[Signature]
SIGNATURE OF THE AUDITOR

[Signature]
SIGNATURE OF THE AUDITOR

Memo No. _____ /Dt. _____

Copy submitted to the Asst AGCS, Sundargarh audit circle/AGCS (O), BBSR for kind information & necessary action.

[Signature]
SIGNATURE OF THE AUDITOR

[Signature]
SIGNATURE OF THE AUDITOR

- 83 - 202 - 154 - 209 -

CIRCULAR NO.3180 DT.16.05.2002 AND NO.3022 DT.17.05.2004 OF THE AGCS(O), BHUBANESWAR IN THE MATTER OF SPECIAL AUDIT OF SUNDARGARH DIST.GENERAL COOPERATIVE BANK LTD FOR THE PERIOD 01.04.2018 TO 31.05.2021 BY SRI DURGA PRASAD DASH,SAAGCS & SRI SUDHIR KUMAR PANIGRAHI,SAAGCS OFFICE OF THE ASST.AGCS, SUNDARGARH,WHICH IS TO BE RETURNED IN ORIGINAL WITHIN 7(SEVEN) DAYS FROM THE DATE OF RECEIPT OF THE MEMO.

S.No	DEFECTS/IRREGULARITIES	SPACE FOR COMPLAINEE
	<p>During the course of Spl.audit, on examining the list of Out Sourcing Staffs engaged by the bank from the security agency, the following defects/irregularity noticed as detail below.</p> <p>(a) There are 54 No's of out sourcing Staffs found engaged in the bank through security agency during the Spl.audit period i.e 01.04.2018 to 31.05.2021.Out of above staffs, 27 No's of out Sourcing staff are not according to the H.R.policy 2011 of the Bank prescribes by the RCS (O).The detail list of 27 No's of such staffs with total expenditure to the tune of Rs.1,25,58,412.00 for the period from 01.04.2018 to 31.05.2021 enclosed with this memo which is found to be irregular and illegal as the post of computer operator, attendant, FLC councillor and driver engaged on Bank on wheel are not approved in H.R policy of the Bank. So, you are requested to explain why the amount of Rs.1,25,58,412.00 will not be treated as illegal, unauthorized and financial loss to the Bank and liability will not be fixed upon you as you have allowed such post provided by the Golden Security Service and renewed the service of Golden Security Service for another three years vide resolution No. 09 of the Committee Meeting dated 09.03.2018. The Committee of management(name stated below) are to comply why the audit will not fix up responsibility against them for above said irregularities.</p> <p>(N.B:-As the post Driver is mentioned in the HR Policy here the audit object 2(Two) persons who are engaged for purpose of Bank on Wheel, but this programme is found not operating during the period of Spl.audit.)</p>	<p>Received a Copy. In stead of 7 days two months should be allowed.</p> <p style="text-align: right;">Shubam Prasad Nayak 10/11/2021</p> <p>Received 10-11-2021</p>

the bank the following defects/irregularity noticed as detail below.

There are 3 No's of retired Staffs found re-engaged in the Bank after their retirement without obtaining the administrative approval from the competent authority and which is also not according to the H.R. policy 2011 of the Bank approved by the RCS(O). The Bank has made expenditure to the tune of Rs.27,34,500.00 during period of the Special audit for such re-engagement of staffs which is found to be unauthorized and illegal. The detail list of said staff are stated below with total expenditure made against them.

1. Sri C.M. Singh, Manager :- Rs.15000.00 PM X 38 = 570000.00
2. Sri A.K. Panda, AGM :- Rs.50500.00 PM X 29 = 1464500.00
3. Sri A.K. Rout, Manager :- Rs.25000.00 X 28 = 700000.00
Rs.2734500.00

The Committee of management (name stated below) are to comply why the amount of Rs.27,34,500.00 so paid will not be treated as illegal, unauthorized and financial loss to the Bank and why the audit will not fix up responsibility against you for above said irregularities.

Name of the members of the Committee of Management.

1. Sri Bhabani Prasad Majhi 2. Smt. Sasmita Joshi 3. Sri. Pradeep Ku. Naik
4. Sri Alok Prakash Patel 5. Sri Kishor Majhi 6. Sri Narayan Devsa
7. Smt. Anju Toppe 8. Smt. Goreti Kiro 9. Sri Parsuram Sahu
10. Sri Pradeep Singh 11. Sri Pancha Barla 12. Sri Machhindra Kalet
13. Smt. Kamini Mohapatra 14. Pradyumna Ku. Tripathy 15. Smt. Basanti Samanta 16. Sri P.K. Mohanty CEO - cum ex officio member.

SIGNATURE OF THE AUDITOR

SIGNATURE OF THE AUDITOR

SIGNATURE OF THE OFFICER SUBMITTING COMPLAINE.

Memo No. _____

/Dt. 28/9/21

- 85 20 - 158 - 211

Copy in individual to the members of the Committee of Management of the SDCC Bank (Name mentioned as above) through the CEO of SDCC Bank Sundargarh for information & necessary action. They are requested to comply the defects in the space provided for and return the Memo in original to the undersigned within 7 days of receipt of this memo failing which audit conclusions shall be drawn on its own merit


 SIGNATURE OF THE AUDITOR


 SIGNATURE OF THE AUDITOR

Memo No. _____

/Dt. 28/9/21

Copy to the Chief Executive Officer of SDCC BANK Sundargarh for information & necessary action with Seventeen nos of extra copies with a request to serve sixteen nos of memo to the members & Ex- Officio members of the Committee of Management of the SDCC Bank (Name mentioned as above) and one copy for their acknowledgement and return the acknowledgement copy to the undersigned.


 SIGNATURE OF THE AUDITOR


 SIGNATURE OF THE AUDITOR

Memo No. _____

/Dt. 28/9/21

Copy submitted to the Collector cum-MIC Sundargarh Dist. Central Cooperative Bank Ltd for kind information & necessary action.


 SIGNATURE OF THE AUDITOR


 SIGNATURE OF THE AUDITOR

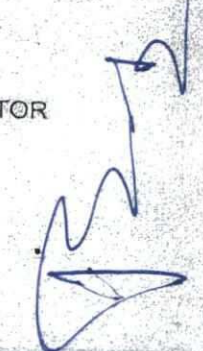
Memo No. _____

/Dt. 28/9/21

Copy submitted to the Asst AGCS, Sundargarh audit circle/AGCS (O), BBSR for kind information & necessary action.


 SIGNATURE OF THE AUDITOR


 SIGNATURE OF THE AUDITOR



- 212 -



OFFICE OF THE REGISTRAR OF COOPERATIVE SOCIETIES, ODISHA:
BHUBANESWAR

Order No. XLV-III- 03/2020 /

9253

Legal-4 / Dated: 1-5-20

In view of the expiry of term of the Committee of Management of the Sundargarh District Central Cooperative Bank Ltd., I, Sri Bibhuti Bhusan Pattnaik, I.A.S., Registrar of Cooperative Societies, Odisha, in exercise of powers U/s. 32 (1) of Odisha Cooperative Societies Act, 1962 (Odisha Act-2 of 1963), do hereby appoint the **Collector and District Magistrate, Sundargarh** as **Administrator** of the **Sundargarh District Central Cooperative Bank Ltd.** to manage the affairs of the said Bank in terms of the provisions of Odisha Cooperative Societies Act, 1962 and the Rules framed thereunder, till constitution of new Committee of Management in accordance with the provisions of the Act and Rules or until further orders whichever is earlier.

This order shall come into force with immediate effect.

Orders previously issued, if any, in this context, shall stand superseded.

Memo No.

9254

Date:

1-5-20

Registrar,
Cooperative Societies, Odisha

Copy forwarded to the Director, Printing, Stationery & Publication, Odisha, Cuttack-10 for favour of publication of the order in the next issue of the Odisha Gazette and supply ten copies of the same to this office early.

The order is statutory.

Memo No.

9255

Date:

1-5-20

Registrar,
Cooperative Societies, Odisha

Copy forwarded to the Collector and District Magistrate, Sundargarh for information and necessary action.

Memo No.

9256

Date:

1-5-20

Registrar,
Cooperative Societies, Odisha

Copy forwarded to the Chief Executive Officer, Sundargarh District Central Cooperative Bank Ltd., Sundargarh for information and necessary action.

Registrar,
Cooperative Societies, Odisha

Contd..../2

- 213 -

Memo No.

9257

Date:

-2-

1-5-20

Copy forwarded to Additional Registrar of Cooperative Societies, Odisha / all Joint Registrar of Cooperative Societies / Deputy Registrar of Cooperative Societies / Asst. Registrar of Cooperative Societies, Office of the RCS, Odisha for information and necessary action.

Registrar

Cooperative Societies, Odisha

Memo No.

9258

Date:

1-5-20

Copy forwarded to the Divisional Deputy Registrar of Cooperative Societies, Sundargarh Division, Sundargarh / all the Circle Assistant Registrar of Cooperative Societies under Sundargarh Division/ Asst. Auditor General of Cooperative Societies, Sundargarh Audit Circle for information and necessary action.

Registrar

Cooperative Societies, Odisha

Memo No.

9259

Date:

1-5-20

Copy forwarded to Auditor General, Cooperative Societies, Odisha, Bhubaneswar/ Secretary, Cooperative Tribunal, Odisha, Bhubaneswar/ Secretary, State Cooperative Election Commission, Odisha, Bhubaneswar for information and necessary action.

Registrar

Cooperative Societies, Odisha

Memo No.

9260

Date:

1-5-20

Copy forwarded to the Managing Director, Odisha State Cooperative Bank Ltd., Bhubaneswar for information and necessary action.

Registrar

Cooperative Societies, Odisha

Memo No.

9261

Date:

1-5-20

Copy forwarded to Additional Secretary to Government, Cooperation Department for information and necessary action.

Registrar

Cooperative Societies, Odisha

Memo No.

9262

Date:

1-5-20

Copy forwarded to Credit / Marketing / Consumer Section / Inspection Cell / Legal-4 (B) Seat for information.

Registrar

Cooperative Societies, Odisha

Copy to Guard File/ 10 Spare Copies.





**FORM OF VAKALATNAMA
IN THE HIGH COURT OF ORISSA, CUTTACK**

In the Court of

2310

No. _____ Of 2024

Bhabani Prasad Majhi

Appellant/Petitioner/Plaintiff

34780

VERSUS

State & others

Respondent/Opp. Party/Defendant

Know all men by these presents that by this Vakalatnama

I/We *Bhabani Prasad Majhi, aged about 57 years
s/o - Jagannath Majhi, AT - Bhawanani Bhawan Area,
AT - Sai Bihari, P.O. - Dist. - Sundargarh.*

Appellant/Respondent/Petitioner/Opposite Party the aforesaid Revision/Appeal case do hereby appoint and retain **SAIBRATA RATH, A. BEHERA, S.K. BEHERA, P. K. BASANTIA** Advocate(s) to appear for me/us in the above case and conduct and prosecute (or defend) the same and all proceedings that may taken in respect of any application connected with the same, or any decree or order, passed therein including all applications for return of documents or receipt of any money that may be payable to me/us in the said case and also in applications for to review, appeals under Orissa High Court Order and in application for leave to appeal to Supreme Court. I/We authorize my/our Advocate(s) to admit any compromise lawfully in the said case.

Dated *13/8* 2024
Received from the executants (s)
Satisfied and accepted as I hold
No brief for the other side.



Advocate

ENROLLMENT NO - (O) 971/2019
M OB-9938899318

SBR
Advocate

SAIBRATA RATH
ENROLLMENT NO - (O) 971/2019
M OB-9938899318

Advocate

ADHIRAJ BEHERA
ENROLLMENT NO - (O) 616/2008
M OB-9438032731

Advocate

SURAJIT KUMAR BEHERA
ENROLLMENT NO - (O) 466/2013
M OB-9938354770

Advocate

PRADEEP NAYAK
ENROLLMENT NO - (O) 575/2016
M OB-9711291222

Advocate

SHRADHA DAS
ENROLLMENT NO - (O) 959/2018
M OB-7978134166

Advocate

SUSANKET MOHARATRA
ENROLLMENT NO - (O) 1410/2021
Mob-7008304839

Advocate

PRADIP KUMAR BASANTIA
ENROLLMENT NO - (O) 115/2022
Mob-8895013871

Bhabani Prasad Majhi
SIGNATURE OF EXECUTANT(S)



IN THE HIGH COURT OF ORISSA: CUTTACK

I.A. NO. 6114 OF 2024

(Arising out of W.A No. 2310 of 2024)

D-WA/35491/24

IN THE MATTER OF:

An application for stay judgement
dtd.16.07.2024 passed in W.P (C)
No.6981/2022, under Annexure-1 of
the Appeal Memo and the recovery
under Surcharge Proceedings under
Annexure-3 Series of Writ Petition.

AND

IN THE MATTER OF:

Bhawani P Majhi ... **APPELLANT**

-Versus -

State of Odisha & Ors... **RESPONDENTS**

To

The Chief Justice of the Orissa High Court and His
Lordships Companion Justices of the said Hon'ble
Court.

The humble petition of the
Appellants, named above.

MOST RESPECTFULLY SHEWETH:-

1. That the Appellant is filling this Writ Appeal
challenging the judgement dtd. 16.07.2024


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

*ADHIBHARAN
0-6/6-2008*

passed in W.P (C) No.6981/2022 passed by the Hon'ble Single Judge Bench of this Hon'ble Court without considering the merits of the case.

2. That the Appellant has a strong prima facie case and has every chance of success in this Writ Application. The averments made in the Writ Application be read and treated as part of this Interim Application for clarity and brevity.
3. That the Surcharge Proceedings initiated under Annexure-3 Series of the Writ Petition by the Opposite Parties/Respondents is a consequence of the Special Audit Report under Annexure-2 of the Writ Petition which has been conducted without jurisdiction and was under challenge in the Writ Petition.
4. That the learned Single Bench had vide Order No.3 dtd.21.07.2022 directed stay of recovery, with regard to the audit objection and such stay was operating till the disposal of the Writ Petition.
5. That in the interest of the justice unless the judgement dtd.16.07.2024 passed in W.P (C) No.6981/2022 under Annexure-1 of the Appeal Memo and the recovery with respect to the Surcharge Proceedings under Annexure-3 Series of Writ Petition is stayed, the Appellant would suffer irreparable loss.




PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

- 3 -

PRAYER

The Appellants, therefore, pray that your Lordships would be graciously pleased to allow this Interim Application and direct the stay of judgement dtd.16.07.2024 passed in W.P (C) No.6981/2022 under Annexure-1 of the Appeal Memo and further stay the recovery with respect to Surcharge Proceedings under Annexure-3 Series of Writ Petition during pendency of the Writ Appeal.

And for which act of kindness, the Appellant as in duty bound shall ever pray.

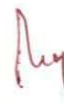
By the Appellants through

Cuttack

Dated: 14.08.2024.



ADVOCATE
SHRADHA DAS
En.No.-O/959/2018
Mob- 7978134166



PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd.No-ON-04/1995

4



AFFIDAVIT

**IN THE HON'BLE HIGH COURT OF ORISSA:
CUTTACK**

W.A NO. 2310 OF 2024

IN THE MATTER OF:

Bhabani Prasad Majhi ... **APPELLANT**

-Versus -

State of Odisha & Ors... **RESPONDENTS**

I, Sri Bhabani Prasad Majhi, aged about 57 years, S/o- Sri Jogeswar Majhi, At- Bhawani Bhawan Area, At- Sai Bihar, PO/PS/Dist- Sundargarh, Odisha, Pin- 770001., Occupation- Businessmandoo hereby solemnly affirm and state as follows;

1. That I am the Appellant in the aforesaid Writ Appeal and Petitioner of the Interim Application and well conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the cause of action out of which this Writ Petition was before this Hon'ble Court in W.P (C) No.20413/2022 disposed of on 16.07.2024 and a series of other cases which is certified in the Appeal Memo.


ADHIN Bhabani
08/08/2024

Pradipta Kumar Mohanty
PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd No-ON-04/1995

- 5 -
3. The contents of this Writ Appeal /Interim Application be read as part and parcel of the present affidavit and are not repeated for the sake of brevity.
 4. I say that the Annexures filed along with the Writ Appeal/Interim Application are true and copies of their respective original.
 5. That the facts stated in the abovementioned Writ Appeal/Interim Application are true and correct to the best of my knowledge and information derived from records. The legal submissions made being as per the advice of Counsel, which I believe to be true. The prayer clause which I believe to be true as per the legal advice received. And I also declare as follows;

DECLARATION.

I, Sri Bhabani Prasad Majhi, aged about 57 years, S/o- Sri Jogeswar Majhi, At- Bhawani Bhawan Area, At- Sai Bihar, PO/PS/Dist- Sundargarh, Odisha, Pin- 770001, do hereby solemnly affirm that the facts stated in Paragraph 1 to 50 of the Writ Appeal are true to my own knowledge and fact and true to the best of my information, and based on records maintained by


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
No-04/1995

the Opposite Parties/Respondents and for the petitioner/appellant.

I believe the information to be true as they are based on records maintain by the Appellants/Respondents as indicated in the annexures attached to this Writ Appeal.

Solemnly declare at Cuttack the above affidavit and declaration and said certify my name and signature on the 14th day of August, 2024.



Identified by

Trilochan Bag
Advocate 1st Clerk
14/8/24

Bhabani Prasad Majhi

DEPONENT

Solemnly affirmed before me by Sri Bhabani Prasad Majhi, aged about 57 years, S/o- Sri Jogeswar Majhi, above named deponent who is identified before me by. Sri Trilochan Bag, Advocate Clerk, whom I personally know.

This 14th day of August 2024.

Cuttack,

Date: 14.08.2024

Notary Public, Cuttack.

14/08/2024

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd No-ON-04/1995

Advocate for Appellant



IN THE HIGH COURT OF ORISSA, CUTTACK

WA NO . 2310 OF 20**24**

Appellant/Petitioner

-VERSUS-

Respondent/Opp. party

MEMO OF UNDERTAKING

That the petitioner undertakes to produce English Translation copy of the oriya Annexure/s as and when this Hon'ble court required.

By the Petitioner through

CUTTACK

DATE : / / 20


Advocate

P
SCANNEDWA-2310/24
OFFICE OF THE ADVOCATE GENERAL, ODISHA

SLNO: 448082 Date: 16-Aug-24 TIME: 11:15

CASETYPE: DWA No: 35491 YEAR: 2024

PETITIONER / APPELLANT: BHAWANI PR. MAJHI

RESPONDENT / OPP PARTY: STATE

☒ PETITION & MEMO☒ IA☐ COUNTER☐ ADDL☐ REJOINDER☐ CONSOLIDATED

MISC. COPY

SET:
ADDL. STANDING
COUNSEL

CRR-2011 10014 of 10014



DRCD
List this matter
on 02/12/2024
D.O.
14/11/24
H.C. cross

Fresh Admission
C.J. Court

IN THE HIGH COURT OF ORISSA, CUTTACK
MENTION MEMO

1. NO. OF THE CASE : W.A No. 2310 / 2024

2. NAME OF THE PARTIES :

Bhawani Majhi

..... PETITIONER

VERSUS

State of Odisha & ors

..... OPP. PARTY / PARTIES

3. PARTY SEEKING POSITION :

PETITIONER / OPP. PARTIES /
RESPONDENT / INTERVENOR

4. NAME OF THE ADVOCATE :

(PARTY SEEKING POSITION)

SAIBRATA RATH

5. NAME OF THE ADVOCATE :

(APPEARING FOR OPP. PARTIES)

6. MENTION FOR :

ADMISSION / ORDER / STAY /
HEARING / FINAL DISPOSAL

7. REASON FOR THE MENTION :

The urgency is that the OPs are proceeding with the surcharge proceeding. The Id. Single Bench has made out a 3rd case which is against the materials available on record.

8. DATE ON WHICH POSTING IS SOUGHT : Anyday next week

9. WHETHER ANY CAVATE HAS BEEN FILED OR NOT : No

10. INDICATE WHETHER THE MATTER IS IN
THE LIST BEFORE ANY OTHER BENCH : NO

Sent to List Section today

CUTTACK

DATE : 14/11/24

S. Sribudhi
29.11.24

SIGNATURE OF THE ADVOCATE