IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

Reserved on: 18.11.2026
Pronounced on:27.11.2026

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

WP(C) No. 2162/2024
c/w
WP(C) No. 499/2025

NISAR AHMAD WANI & ANR

...PETITIONER(S)

Through: - Mr. Faisal Qadri, Sr. Advocate with
Mr. Numaan, Advocate.

Vs.

UT OF J&K AND OTHERS

...RESPONDENT(S)

Through: - Mr. Faheem Shah, GA.

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

JUDGMENT

1) By this common judgment, the afore-titled two writ petitions between the same parties and involving similar issues are proposed to be disposed of.

2) Vide WP(C) No.2162/2024, the petitioners have challenged order No. 16-RCS/SS of 2024 dated 09.09.2024, whereby respondent No.3 has, in exercise of his powers under Section 29(4) of the J&K Cooperative Societies Act, constituted a Board of Administrators to manage the day-

to-day affairs of Urban Cooperative Bank Limited, Anantnag. Challenge has also been thrown to communication dated 11.09.2024 issued by respondent No.3, whereby an in-depth enquiry into the working of the aforesaid bank has been ordered.

3) Vide WP(C) No.499/2025, the petitioners have challenged order No.08-JK(RCS)-SS of 2025 dated 05.02.2025, whereby Board of Administrators of Urban Cooperative Bank Limited, Anantnag has been reconstituted. The petitioners have further challenged communication dated 04.03.2025, whereby in pursuance of impugned order dated 05.02.2025 (supra), Deputy Registrar Cooperative Societies, Anantnag, has assumed charge of General Manager/Chief Executive Officer of the Bank.

4) As per case of the petitioners, they are elected members of the Board of Directors of Urban Cooperative Bank Limited, Anantnag, (hereinafter "the bank":). It has been submitted that in anticipation of expiry of term of Board of Directors in June 2024, an Annual General Meeting in terms of Section 27 of the Cooperative Societies Act, (hereinafter the Act), and Bye-law 19 and 20 was called on 15.04.2024 for conducting elections for constitution of new Board of Directors. Publication of notice was made on

05.04.2024 and 09.04.2024 notifying the members and shareholders of the bank about the Annual General Meeting scheduled for 15.04.2024. Vide resolution No.10/AGM/ 2024-25, one Mr. Salman Nazir Wani was nominated as the Returning Officer and seven members including the petitioners were elected to the new Board of Directors. Vide notification No.13-18/UCB/Camp/Ang/2024-25 dated 18.04.2024, the newly elected members of Board of Directors of the bank stood notified with formal intimation to respondent No.3-Registrar.

5) Despite adhering to the statutory requirements relating to constitution of Board by way of fresh elections and prior intimation about the same to the Registrar, the impugned order came to be issued by respondent No.3-Registrar by invoking provisions contained in Section 29(4) of the Act, in consequence whereof a Board of Administrators has been appointed.

6) It seems that while first writ petition was pending before this Court, respondent No.3 issued another order dated 05.02.2025, whereby the Board of Administrators has been reconstituted by substituting some of the officers by another team of officers. Subsequently, General Manager/CEO of the bank has been relieved from his duties

and charge has been assumed by one of the members of the Board of Administrators in terms of impugned communication dated 04.03.2025.

7) The petitioners have challenged the impugned actions of the respondents by contending that the Registrar does not have authority under Cooperative Societies Act to direct appointment of Board of Administrators for a cooperative bank, as the subject is governed by the provisions contained in Banking Regulations Act of 1949, (hereinafter "the Act of 1949"). It has been contended that Reserve Bank of India has exclusive domain over appointment of Administrator and issuing directions for holding of fresh elections for constitution of a new Board of Directors of a cooperative bank which is regulated by the Act of 1949. It has been contended that once elections for constitution of new Board of Directors were properly held in accordance with the provisions of the Act and the rules framed thereunder and the bye-laws of the bank, the Registrar had no jurisdiction to appoint a Board of Administrators, as such, the impugned orders are without any jurisdiction. It has further been contended that the Registrar has no jurisdiction to direct initiation of enquiry into the banking affairs and functioning of the bank. It has been submitted that the Registrar, instead of directing the Board of

Administrators to initiate process for conducting elections for constitution of a new Board of Directors, has issued instructions for initiation of enquiry which is beyond his jurisdiction. It has been contended that the Registrar, by usurping the power and independence of the cooperative bank, has violated the object of the Cooperative Societies Act as well as the Banking Regulation Act.

8) The respondents, in their reply to the writ petitions, have submitted that neither the Registrar nor his subordinate offices were informed about the holding of election of the bank. It has been submitted that the petitioners, in order to deceive the stakeholders, shareholders/members and competent authorities under whose control election was supposed to be specified and to be conducted, published bogus notice without indicating or specifying the procedure required under the Act to be followed for holding elections to the bank. It has been contended that the petitioners did not follow the mandate of the Act and the rules framed thereunder while holding the election. It has been further contended that the election to the Board of Management of the bank for the last three consecutive terms has not been conducted as per the provisions of the Act and the rules framed thereunder.

9) According to the respondents, the authorities of the bank never made a requisition in this behalf before the competent authority and they continued illegal functioning of the Board of Management, which amounts to misconduct and clear violation of provisions of the Act and the rules. It has been contended that in order to ensure that affairs of the bank are managed/run strictly in accordance with the provisions of Act and the rules and to restore democratic process for electing the Board of Management, the Registrar, in exercise of his powers under Section 29(4) of the Act, constituted the Board of Administrators to manage day-to-day affairs of the bank.

10) It has further been contended that the provisions of the Act of 1949 are not applicable to the case of the bank. It has been submitted that Urban Cooperative Bank Limited, Anantnag, is neither an Apex Cooperative Bank nor a Central Cooperative Bank, therefore, the same does not fulfill the prescribed qualification or criteria for being amenable to advice of the RBI. It has been contended that nomination of Board of Administrators and its continuation has been necessitated due to circumstances including absence of a legally valid Board and practical impediments in conducting elections.

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

12) The impugned order dated 09.09.2024, which is the basic order whereby the Board of Administrators has been constituted to manage the affairs of Urban Cooperative Bank Limited, Anantnag, has been issued by the Registrar in exercise of his powers under Section 29(4) of the J&K Cooperative Societies Act. The same reads as under:

> ***"29. Election and nomination of members of Committees:***
>
> *1. xxx xxx xxx*
>
> *2. xxx xxx xxx*
>
> *3. xxx xxx xxx*
>
> *(4) Where any Committee has ceased to hold office and no Committee has been constituted in accordance with the provisions of this Act and rules and bye-laws made thereunder, the Registrar, may, by an order in writing, appoint an Administrator for such period as may, from time to time, be specified in the order and the Administrator shall before the expiry of the period of his appointment, arrange for the constitution of a new Committee in accordance with the provisions of this Act and rules and bye-laws made thereunder:*
>
> *Provided that the Board of Management or the Administrator may be ap-pointed for a period not exceeding three months and, in circumstances beyond its control, six months and the elections shall be held within such period for the reconstitution of the Committee or the Board, as the case may be:*
>
> *Provided further that the Board of Management may be appointed by the Government for the Apex Level Institutions and the Administrator may be appointed by the Registrar for the Primary Agricultural Co-operative Societies and the Secondary Level Co-operative Societies."*

13) From a plain reading of the aforesaid provision, it is revealed that Registrar is vested with power to appoint a Board of Management or an Administrator in two situations: (1), where any committee has ceased to hold office, and (2), when no committee has been constituted in accordance with the provisions of the Act and rules and bye-laws made thereunder.

14) In the present case, although in the impugned order dated 09.09.2024 it is not specified as to in what circumstances the Board of Administrators has been appointed by the Registrar, but, in his reply, the Registrar has specified that the committee was not constituted in accordance with the provisions of the Act and rules and bye-laws framed thereunder, which has prompted him to appoint Board of Administrators in terms of impugned order dated 09.09.2024. Thus, if it is shown that the election of the committee, to which the petitioners were also elected, were not held in accordance with the provisions of the Act, rules and bye-laws framed thereunder, then it cannot be stated that respondent Registrar has exceeded his jurisdiction while issuing the impugned order.

15) In order to arrive at a conclusion as to whether or not election of the petitioners and other members of the

committee was conducted in accordance with the Act, rules and bye-laws framed thereunder, it would be apt to refer to the relevant provisions relating to election of members of the committee.

16) Section 29(1) of the Act provides that members of the committee of a cooperative society shall be elected in such manner as may be prescribed and no person shall be elected unless he is a shareholder of the society. Thus, the manner of election of members of a cooperative society is to be prescribed by the rules. Rule 16 of the J&K Cooperative Societies Rules, 2001, lays down the manner in which the election of the members of the committee/Board of any cooperative society is to be held. It reads as under:

> ***(16). Election of the members of Committee/Board-*** *(1) The election of the members of the Committee/Board of any cooperative society having jurisdiction within a district, shall be held on such date as may be specified by the Registrar and shall be conducted under the control of Assistant Commissioner (Revenue) within whose jurisdiction registered office of the cooperative society is situated, by such Returning Officer and other Officers as may be appointed by him/her in this behalf.*
>
> *(2) The election of members of a Committee/Board of any cooperative society having jurisdiction in two or more districts, shall be held in such dates, as my be specified by the Registrar and shall be conducted und the control of Dy. Commissioner of the District in which the registered office of the cooperative society is situated by such returning officer and other officers as may be appointed by him/her in this behalf.*
>
> *(3) The voting at elections held under sub-rules (1) & (2) shall be by secret ballot.*

(4) No elections shall be called in question except by an election petition presented in accordance with the provisions of the Act.

(5) Any dispute arising out of an election held under sub-rules (1) & (2) shall be referred for the decision to the Registrar who shall decide it himself.

(6) The reference of the dispute under sub-rule (5) may be made by any aggrieved party by submitting an election petition to the Registrar within 30 days from the date of declaration of the result of the election.

(7) The decision of the Registrar shall be final.

(8) The election of representatives of a society or a higher level society shall be made by the committee of the society by a majority vote in the manner prescribed. In case of the tie, the Chairman shall have the casting vote."

17) As per sub-rule (1) of the afore-quoted rule, the election has to be held on such date as may be specified by the Registrar and it has to be conducted under the control of Assistant Commissioner Revenue within whose jurisdiction registered office of the cooperative society is situated, and by such Returning Officer as may be appointed by the Assistant Commissioner Revenue in this behalf. If a cooperative society has jurisdiction in two or more districts, the elections have to be conducted under the control of Deputy Commissioner of the district in which the registered office of the cooperative society is situated, and the Returning Officer in such situation has to be appointed by the Deputy Commissioner.

18) It would also be apt to notice the provisions contained in Rule 18 of the Rules, which read as under:

18. (a) The Registrar shall specify and communicate to the Assistant Commissioner in the case of societies to which the provisions of sub-rule (1) of rule 16 apply or to the Deputy Commissioner in the case of societies mentioned in sub-rule (2) of rule 16, as the case may be, the date on which the election of the members of the committee/Board of the cooperative society is to held, at least two months in advance.

(b) The Assistant Commissioner or the Deputy Commissioner, as the case may be, shall, on receipt of information under clause (a) fix the time and place for holding the election on the date specified by the Registrar and also appoint the Returning Officer and other officers to assist the Returning Officer in conducting the elections.

(c) The Deputy Commissioner/Assistant Commissioner, Revenue, shall get ballot papers printed at the expense of the concerned Cooperative Society and cause them to be placed in the custody of the Returning Officer.

(d) On the requisition of the Deputy Commissioner/Assistant Commissioner, the Committee/Board or the Administrators in office, as the case may be, shall, after giving fifteen days clear notice to the members, call the General body meeting of the Cooperative Society or Societies on the date specified by the Registrar and at the time and place fixed by Deputy Commissioner/Assistant Commissioner.

(e) The notice of the General meeting shall be sent to the members by any of the following modes, namely :—

- *(i) by post under certificate of posting ;*
- *(ii) by circulation among members ;*
- *(iii) notice of the General meeting and the list of shareholders eligible to vote shall also be affixed on the notice board of the society or the branches of the society, if any.*

(f) The Deputy Commissioner/Assistant Commissioner shall by order specify:—

- *(i) the number of vacancies to be filled up by election;*
- *(ii) the area of the constituency, if any, from which the members are to be elected;*
- *(iii) the date on which, the place at which and the hours between the polling will take place ; and*
- *(iv) the date, time and place at which the nomination papers will be received, the last date of filling of nomination papers,*

the date and time place of scrutiny of nomination papers and last date of withdrawal of candidature.

(ff) The committee or the Administrators in office shall furnish to the returning officer who are ineligible for being re-elected or re-appointed as officers of the society under sub-rule (1) (c) of rule 25 at least ten days before the date fixed for election.

(fff) On receipt of the information under sub-rule (ff) if the Returning Officer finds that the number of ineligible officers exceeds half the total number of officers of the society, he shall determine by lots, in the presence of the officers of the society or their authorised representatives, at least one week before the date fixed for election that who amongst the ineligible officers should be debarred from seeking re-election and re-appointment so that the total number of ineligible officers does not exceed half the total number of officers of the society.

(ffff) For drawing lots as provided in sub-rule (fff) a closed container with an opening through which only an arm can pass shall be used home and address of each ineligible officer shall be written by the Returning Officer, in presence of the officers of the society, or their authorized representative, on separate piece of paper of the same size and colour. These shall be folded into equal size in a manner that the name written on it does not remain visible and shall be dropped in the container one by one by the Returning Officer. The container then shall be shaken in a way the chits in it get intermingled. Thereafter, the Returning Officer shall draw out such number of chits one after another, from the container which makes their number equal to half the total number of officers of society. Names of the officers so drawn out shall be written on a sheet of paper by the Returning Officer and they shall be declared ineligible for seeking re-election or re-appointment as officers of the society. The Returning Officer will send the list of ineligible candidates to the society on the same day.

(g) The nomination of the candidates for election shall be made in Form 'A', the Returning Officer shall decide the objections, if any, which may be made at the time of any nomination after making such summary enquiry as he thinks necessary and announce the name or names of the eligible candidate or candidate so nominated on the same day. In the case of rejection of nomination paper, the Returning Officer shall record the reasons.

(h) If for any area or constituency for which election is to be held, the number of candidates in respect of whom valid nominations have been made does not exceed the number of candidates to be elected for that area or

constituency, the candidates for whom valid nominations have been made shall be deemed to have elected for the area or constituency, as the case may be, and the Returning Officer shall make a declaration to that effect.

(i) If the number of candidates for the area or constituency exceeds the number of candidates to be elected the Returning Officer shall arrange for taking a poll.

(j) The ballot paper shall contain the names of the candidates and the seal of the society.

(k) The member shall make the mark on the ballot paper issued to him against the name or names of the candidate for whom he desires to vote and put the ballot paper in the ballot box.

(l) If, owing to blindness or other physical infirmity or illiteracy, a member is unable to mark the ballot paper, the Returning Officer shall ascertain from the candidate or candidates in whose favour he desires to vote and make the mark on his behalf on the ballot paper.

(m) As soon as all the members present have recorded their votes, the Returning Officer shall count the votes and announce the results of election with the number of votes secured by each.

(n) (1) A ballot paper shall be rejected :—

(i) if it bears any mark by which the member who voted can be identified ; or

(ii) if it does not bear the seal of the returning officer;

(iii) if the mark indicating the vote thereon is placed in such a manner as to make it doubtful to which candidate the vote has been cast.

(2) The authority competent to reject a ballot paper shall be Returning Officer.

(o) The proceedings of the meeting with the results of election shall be recorded in the minute book of the society and attested by the Returning Officer.

(p) The Returning Officer shall take custody of the ballot papers and shall preserve them for three months from the date of the poll. The ballot papers and other records relating to the election shall be secured in a container which shall be affixed with a seal of the Returning Officer and of the candidates who desire to affix their seal.

The ballot papers shall be destroyed after the said period of three months, if no dispute relating to or in connection is these with referred to the Deputy Commissioner of the District."

19) Rule 18(a) of the Rules provides that the Registrar has to specify and communicate to the Assistant Commissioner /Deputy Commissioner the date on which the election of the members of the committee/Board has to held at least two moths in advance. Clause (b) of Rule 18 provides that Assistant Commissioner/Deputy Commissioner shall, on receipt of such information from the Registrar, fix the time and place for holding such election and also appoint Returning Officer and other officers to assist the Returning Officer in conducting the elections. Clauses (a) to (p) of Rule 18 provide the procedure that has to be adopted by Assisting Commissioner Revenue/Deputy Commissioner for conducting of elections and as per Clause (m), the counting of votes has to be undertaken by the Returning Officer, whereafter he has to announce the result of elections.

20) In the light of the aforesaid legal position as regards the manner in which the election is to be conducted for members of committee/Board of a Cooperative Society, let us now turn to the facts of the present case to ascertain whether these Rules have been followed while electing the petitioners and other persons as members of the committee/Board.

21) The petitioners have placed on record copy of the notice published in newspaper, whereby an Annual General Body Meeting has been notified to be held on 15.04.2024. They have also placed on record copy of minutes of the meeting held on 15.04.2024. Resolution No10/AGM/2024-25 relating to election of Board of Directors of the bank reads as under:

> **Resolution no:10/AGM/2024-25. Election/Re-organization of Board of Directors of the Bank.**
>
> The chairman of the general body informed the members/shareholders of the bank that the term of the present board expires on the 2nd week of June 2024 .Since the general body the competent forum under the co-operative Societies Act was in the session otherwise the general body has to elect its representative body to manage the affairs of the bank, so it was felt expedient and desirable to elect the members of the management to replace the incumbent management of completion of its term of the office from 12-06-2024. Meanwhile, it was felt that the ground situation was not also conducive to hold the elections in the manner prescribed due to Lok Sabah Parliamentary Elections. The chairman of general body requested members to elect their representatives afresh on the management of the bank. The proposal was floated by the chairman general body meeting and all the basic members endorsed the proposal. The chairman nominated Mr. Salman Nazir Wani the business tycoon and a well-known personality of the District the Returning Officer who grouped and categorized the basic members into (7) seven segments keeping in the proximity of their residence with the segment. The nomination was invited on the spot. Each member was proposed and seconded by two members of the same segment. The exercise culminated in the election of the fallowing (7) seven members who were declared elected un-contested and un-opposed.
>
> | Name of the constituency/Area | Name and address of the elected member to board. |
> |---|---|
> | 1. Laizbal Anantnag. | Nazir Ahmed Rangshoo S/o Gh. Ahmed R/o S. K. Colony Anantnag. |

2. Qazi Mohalla Anantnag	Mr. Farooq Ahmed Shah S/o Gh. Hassan shah R/o Hyder Colony Ashajipora Anantnag.
3. Batengoo Anantnag.	Gh. Nabi Wani S/o Mohd Akber R/o Salia Anantnag.
4. Khanabal Anantnag	Syed Abdul Rashid Hilal S/o Syed Badrudin R/o Khanabal Anantnag.
5. Sarnal Anantnag	Syed Manzoor Ahmed S/o Syed Gh. Mohd R/o Anchidora Anantnag.
6. New Chowk Anantnag	Manzoor Ahmad Sofal S/o Ghulam Mohd Sofal R/o Shirpora Anantnag.
7. Khawja Mir Ali Anantnag	Nisar Ahmed Wani S/o Mohd Ramzan Wani R/o Khawja Mir Ali Anantnag.

The above members/candidates were nominated as consensus candidates and un-opposed Therefore the Returning officer declared all the candidates successful and un-opposed as Directors of the Urban Co-operative Bank Ltd Anantnag for next three years w.e.f 12-06-2024.The elected Directors were congratulated by their supporters and Returning officer also congratulated newly elected Directors and asked them to elect the office bearers at the appropriate time.

22) A perusal of the aforesaid resolution reveals that Chairman has nominated Mr. Salman Wani as the Returning Officer and nominations were invited on spot, whereafter seven members were declared elected uncontested. The petitioners have further placed on record copy of communication dated 18.04.2024 issued by the Returning Officer notifying the list of elected members. From this, it is clear that while holding elections to the Board of Directors of the bank, the procedure prescribed under rules has been thrown to winds.

23) As already stated, Rule 16 mandates that election has to be notified by the Registrar and it has to be conducted under the control of Assistant Commissioner Revenue/ Deputy Commissioner. In the present case, the date of election has not been notified by the Registrar, nor the elections have been held under the supervision of Assistant Commissioner Revenue or Deputy Commissioner. The provisions of Rule 18 have also been flouted while holding the election, inasmuch as the Returning Officer has not been appointed by the Deputy Commissioner/Assistant Commissioner Revenue, nor the time and place for holding the election has been specified by the Deputy Commissioner/Assistant Commissioner Revenue. Thus, the election, on the basis of which the petitioners claim to have been elected as members of the Board, has not been conducted in accordance with the rules. Thus, it cannot be stated that the Committee of the bank was constituted in accordance with the provisions of the Act and the rules framed thereunder. The pre-condition for exercising power under Section 29(4) of the Act by the Registrar, as such, stands satisfied in the instant case.

24) Learned Senior Counsel appearing for the petitioners has contended that the reasons for exercising power under Section 29(4) of the Act by the Registrar are not specified in

the impugned order dated 09.09.2024, therefore, the same is vitiated. Reliance in this regard has been placed upon the judgment passed by the Supreme Court in **Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others,** (2010) 9 SCC 496, and the judgment delivered by High Court of Delhi in the case titled **Manpower Cooperative Group Housing Society vs. Office of Registrar of Cooperative Societies, GNCT of Delhi,** (WP(C) No. 6054/2015 decided on 24.06.2015). It has been contended that even an administrative order bereft of reasons is unsustainable in law.

25) In the above context, it may be noted that recording of reasons by a judicial or quasi-judicial authority is an absolute imperative and there can be no quarrel with the said legal proposition. The Supreme Court has gone to the extent of holding that reasons operate as a valid restraint on any possible arbitrary exercise of even an administrative power but the question arises whether in all cases, where an authority exercises an administrative power, it is necessary for such authority to supply reasons in the order itself.

26) The aforesaid issue came up for consideration before the Supreme Court in the case of **National Highways**

Authority of India and others vs. Madhukar Kumar and others, (2022) 14 SCC 661. While dealing with the aforesaid issue, the Supreme Court held that there is no general duty when an administrative decision is taken to give reasons. The relevant paras wherein the Supreme Court has discussed the issue are reproduced hereinbelow:

> ***66.*** *We notice the following discussion also in the same work:*
>
> ***"A General Duty to Give Reasons?***
>
> *The clear virtues of reason-giving give rise to an obvious question : why does English law not recognise a general duty on the part of decision-makers to give reasons? We noted at the outset of this chapter that the starting-point of English law is that no such duty exists, albeit that certain circumstances may trigger a requirement to give reasons. The concerns which underlie the reluctance of English law to embrace a general duty were summarised in the following terms by the justice-All Souls Committee in their report, Administrative Justice : Some Necessary Reforms (Oxford 1988) at 70-71:*
>
> *(a) Efficient administration requires free and uninhibited discussion among decision-makers, unimpeded by considerations of what can or cannot be made public subsequently.*
>
> *(b) A general requirement of reasons will impose an intolerable burden on the machinery of Government.*
>
> *(c) Delays in the handling of business will inevitably follow and additional expense will be caused. The public at large will suffer. The benefit will not match the cost.*
>
> *(d) The imposition of a general duty will have far-reaching implications for Central Government, local Government, and for many other*

bodies of a public or semi-public character. Many more decisions will be opened up to the possibility of legal challenge and a further step down the road of 'judicialisation' of affairs will be taken.

(e) The imposition of a general duty to give reasons will not necessarily mean that the true or complete reasons will be stated. Decision-makers will adapt to the new regime and acquire the art of stating sufficient by way of reasons to preclude successful challenge, but candour will not always be displayed."

67. *In Jurgen Schwarze's European Administrative Law, we notice the following position in regard to duty to give reasons. In regard to France, it is stated as follows:*

"... the duty to give reason for administrative act is regulated by the law of 1979, the statutory duty to give reasons applies to all unfavourable administrative decisions. The reasons must be in writing and must contain the essential matter concerning the factual and legal situation (Article 3)."

68. *In regard to the duty to give reasons in Italy, it is stated as follows:*

"Italian administrative law does not recognise a general duty to give reasons. In addition to the case in which the duty to give reasons is expressly laid down by statute, the courts have developed in a vast line of cases groups of decisions in which the duty of the administration to give reasons for its decisions results "from the nature of the matter". This applies in particular to negative or unfavourable administrative decisions, as well as to discretionary decisions. Insofar as there exists a duty to give reasons, the authority must set out in writing the considerations which led it to the adoption of the administrative act. It will suffice, however, if the grounds of the decision are available

simply in the documents which accompany the decision. Exceptionally a tacit statement of reasons is also permissible. The statement of reasons sets out the circumstances of fact and law which were decisive for the formation of the decision by the authority. The infringement of the duty to give reasons does not necessarily lead to the annulment of the decision by the administrative courts, but rather only where a different decision would have been taken on the facts. The position is different for discretionary decisions : here insufficient reasons will generally lead to the annulment of the administrative act, because the Judge may not put his discretion in the place of the discretion of the authority."

69. *We would hold that as noticed by the Bench of three Judges in Mahabir Jute Mills Ltd. [Mahabir Jute Mills Ltd. v. Shibban Lal Saxena, (1975) 2 SCC 818 : 1975 SCC (L&S) 460] , there is no general duty, when an administrative decision is taken, to give reasons. A statute may, however, explicitly provide that the executive authority must provide reasons and it must be recorded in writing. A case in point is the first proviso to Rule 8 of the Rules itself. The desirability of a general duty, in the case of administrative action to support decisions with reason, is open to question. One of the most important reason is, the burden it would put on the administration.*

70. *It is apposite, at this juncture, to notice that administrative decisions are made in a wide spectrum of situations and contexts. The executive power of the Union and States are provided in Articles 73 and 162 of the Constitution of India, respectively. Undoubtedly, in India, every State action must be fair, failing which, it will fall foul of the mandate of Article 14. It is, at this juncture, we may also notice that the duty to give reasons, would arise even in the case of administrative action, where legal rights are at stake and the*

administrative action adversely affects legal rights. There may be something in the nature or the context, under which, the administrative action is taken, which may necessitate the authority being forthcoming with rational reasons. There are other decisions, which essentially belong more to the realm of executive policy-making, which ordinarily may not require the furnishing of reasons.

71. *The advantages, undoubtedly, of introducing a reasons driven regime, are as follows. Persons, who may have a right or an interest, would know, what are the reasons which impelled the administrator to take a particular decision. Judicial review, in India, which encompasses the wide contours of public interest litigation as well, would receive immeasurable assistance, if the reasons for particular decisions, are articulated to the extent possible. The giving of reasons also has a disciplining effect on the administrator. This is for the reason that the reasons would capture the thought process, which culminated in the decision and it would help the administrator steer clear of the vices of illegality, irrationality and also disproportionality. Reasons could help establish application of mind. Conversely, the absence of reasons may unerringly point to non-application of mind. The duty to act fairly, may require reasons to be recorded but the said duty, though there is a general duty on all State players to act fairly, may have its underpinnings, ultimately in legal rights.*

72. *It is one thing to say that there should be reasons, which persuaded the administrator to take a particular decision and a different thing to find that the reasons must be incorporated in a decision. The question, relating to duty to communicate such a decision, would arise to be considered in different situations, having regard to the impact, which it, in law, produces. In fact, the second proviso to Rule 17 of the Rules, provides not only for there being reasons, but the reasons for refusal to permit barricades, must be communicated. If the law provides*

> *for a duty to record reasons in writing, undoubtedly, it must be followed and it would amount to the violation of the statute, if it were not followed. Even if, there is no duty to record reasons or support an order with reasons, there cannot be any doubt that, for every decision, there would be and there must be, a reason.*
>
> ***73.*** *The Constitution does not contemplate any public authority, exercising power with caprice or without any rationale. But here again, in the absence of the duty to record reasons, the Court is not to be clothed with power to strike down administrative action for the mere reason that no reasons are to be found recorded. In certain situations, the reason for a particular decision, may be gleaned from the pleadings of the authority, when the matter is tested in a court. From the materials, including the file notings, which are made available, the court may conclude that there were reasons and the action was not illegal or arbitrary. From admitted facts, the court may conclude that there was sufficient justification, and the mere absence of reasons, would not be sufficient to invalidate the action of the public authority. Thus, reasons may, in certain situations, have to be recorded in the order. In other contexts, it would suffice that the reasons are to be found in the files. The court may, when there is no duty to record reasons, support an administrative decision, with reference to the pleadings aided by materials.*

27) From a perusal of the afore-quoted observations of the Supreme Court, it is clear that the Court is not vested with jurisdiction to strike down an administrative action on the mere ground that no reasons are recorded in an administrative order. It has been held that reasons for a particular decision can also be discerned from the

pleadings of the authority when the matter is tested in a Court.

28) In the present case, admittedly, no reasons have been assigned by respondent No.3 while passing the impugned order. The only indication that is given in the impugned order is that the same has been passed by the Registrar in exercise of his powers under Section 29(4) of the Act. It is pertinent to mention here that the provisions of Section 29(4) of the Act do not mandate recording of reasons by the Registrar for exercising power under the said provision. The fact that the impugned order refers to Section 29(4) of the Act shows that Registrar has proceeded to appoint Board of Administrators either because previous committee has ceased to hold office or because no committee has been constituted in accordance with the provisions of the Act and the rules. In the reply filed by the respondent Registrar, he has clearly indicated that the constitution of the committee was contrary to the rules, inasmuch as the election was not held under the supervision of the Deputy Commissioner/ Assistant Commissioner Revenue, nor the election dates were notified by the Registrar. Thus, reply filed by the Registrar supplies the reasons for passing the impugned order, which satisfies the requirement of law as explained by Supreme Court in **NHAI vs. Madhukar Kumar** (supra).

The contention of learned Senior Counsel for the petitioners in this regard is, therefore, misconceived.

29) Once it is held that action of respondent No.3 in constituting the Board of Administrators in terms of Section 29(4) of the Act is valid, its reconstitution by virtue of impugned order dated 05.02.2025 is also valid.

30) That takes us to the validity of communication dated 11.09.2024 issued by respondent No.3-Registrar, whereby he has directed enquiry into the functioning of the bank. Section 67 of the Act vests power with the Registrar to hold an enquiry or to direct some person authorized by him by order in writing in this behalf to hold enquiry into constitution, working and financial condition of a cooperative society. This power can be exercised by the Registrar even on his own motion. Therefore, respondent No.3-Registrar is well within his powers to direct enquiry into the affairs of Urban Cooperative Bank Limited, Anantnag, by asking the Chairman of the Board of Administrators to go into this issue in terms of impugned communication dated 11.09.2024.

31) Another contention that has been raised by the petitioners is that in terms of the provisions of the Act of 1949, the exclusive domain for appointing an Administrator

and directing holding of fresh elections for constitution of a new Board of Directors is with the Reserve Bank of India. In this regard, the petitioners have made reference to Section 36AA, Section 46, Section 47A of the Act of 1949. However, during the course of arguments, learned Senior Counsel did not press this argument and even in his written submissions, the said argument has not been pressed into service. Even otherwise, the argument raised in the writ petition on the basis of the provisions contained in the Act of 1949 is wholly misconceived in the facts and circumstances of the case. In the present case, the Registrar has superseded the committee by appointing Board of Administrators in exercise of his powers under Section 29(4) of the Act as the committee constituted was not meeting the requirements of the rules. It is not a case where the Board of Directors of the cooperative bank has been superseded in the circumstances contemplated under the Act of 1949. The argument is, therefore, misconceived.

32) Lastly, it has been contended by learned Senior Counsel for the petitioners that the Board of Administrators appointed by the Registrar cannot hold the office in perpetuity, as the same would run contrary to the object of the Cooperative Societies Act, which is aimed at vesting autonomy with the members of a cooperative society in

decision making for the welfare of the society and that continuation of a nominated Board of Administrators in perpetuity goes against this objective.

33) There is no dispute with the proposition put forth by the learned Senior Counsel for the petitioners, but in the instant writ petitions, we are not dealing with the issue whether continuation of Board of Administrators at the helm of affairs is legally permissible but we are concerned with the legality of appointment of the Board of Administrators which, as already stated, appears to be perfectly in accordance with law. However, one thing is clear that the objective of exercising powers under Section 29(4) of the Act and appointment of Board of Administrators is to hold elections in accordance with the Act and the rules framed thereunder. The provision itself provides that such measure can be continued at the most upto six months and by virtue of Section 30A of the Act, it can continue upto two years. Therefore, it is bounden duty of the respondents to hold elections of Urban Cooperative Bank Ltd. Anantnag, within the stipulated period which, it seems, has already elapsed.

34) For what has been discussed hereinbefore, I do not find any merit in these petitions. The same are, accordingly,

dismissed. However, it is left open to the petitioners to approach this Court afresh in case the respondents have failed or would fail in holding the elections within the statutory period.

(Sanjay Dhar)
Judge

Srinagar,
27.11.2026
"Bhat Altaf" Secretary

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