HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 823/2025

Reserved On: 4th of July, 2026.
Pronounced On: 20th of July, 2026.
Uploaded On: 20th of July, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

Mohammad Shafi Reshi, Age: 62 Years
S/O Late Ab. Gani Reshi
R/O Nazuk Mohalla, Pushoo Market,
Anantnag.

… Petitioner(s)

Through: -
Mr Altaf Haqani, Senior Advocate with
M/s Shakir Haqani and Asif Ahmad Wani, Advocates.

V/s

1. **Union Territory of J&K,**
   Through Commissioner/ Secretary to Government,
   Cooperative Department,
   Civil Secretariat, J&K, Jammu/ Srinagar.
2. Registrar, Cooperative Societies, J&K, Srinagar.
3. Urban Cooperative Bank Limited, Anantnag, Kashmir, J&K, through its Chairman.
4. Board of Administrators, Urban Cooperative Bank Limited, Anantnag through its Administrator.
5. Dy. Registrar, Cooperative Societies, Anantnag.
6. Manager, J&K Bank Limited, Branch Akingam, Anantnag.
7. Reserve Bank of India, Urban Bank's Department through its Assistant General Manager, Jammu.

… Respondent(s)

Through: -
Mr Faheem Nisar Shah, Government Advocate for R-1 to 5;
Mr N. A. Dendru, Advocate for R-6; and
Mr Nitin Parihar, Advocate for R-7.

CORAM: HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE.

(JUDGMENT)

01. The Petitioner has approached this Court under Article 226 of the Constitution of India seeking quashing of the Orders dated 27 February 2025, 28 February 2025 and 05 March 2025 (Annexures-I, II and III), whereby the Petitioner has been relieved from the post of General Manager/ Chief Executive Officer (GM/ CEO) of the Urban Cooperative Bank, Anantnag ["UCB, Anantnag"] and his retirement benefits have been withheld.

BRIEF FACTS:

02. The Petitioner joined the services of the UCB, Anantnag in 1987 as an Accounts Clerk and rose to the position of GM/CEO, by virtue of Order dated 27 April 2015. Although, as per the relevant service rules, he attained the age of superannuation at 58 years on 31 March 2021, but the Board of Management of the UCB, Anantnag, by a unanimous resolution dated 21 January 2023, followed by a formal Order dated 22 February 2023, granted him an extension of service for three years from 01 April 2023 till 31 March 2026.

03. During the intervening period, Respondent No.2, in exercise of powers under Section 29 (4) of the Jammu and Kashmir Co-Operative Societies Act, 1989 ["Act of 1989"], appointed a Board of Administrators in supersession of Board of Management, vide Order dated 09 September 2024 to manage the day-to-day affairs of the UCB, Anantnag.

04. On the basis of a report of the Board of Administrators regarding illegal functioning of the erstwhile Board of Management, particularly the selection of the Board for three consecutive terms in violation of the Act of 1989 and the Jammu and Kashmir Co-Operative Societies Rules, 2001 ["Rules of 2001"], as amended vide SRO 236 dated 25 April 2013 and, the decision to grant extension to the Petitioner beyond

the prescribed age of superannuation of 58 years as stipulated in SRO 233 of 1988, Respondent No.2-Registrar, Cooperative Societies, vide Order dated 27 February 2025, advised the Chairman of the Board of Administrators to take immediate and appropriate action against the Petitioner. This was followed by the minutes of the Board of Administrators dated 28 February 2025 and a communication dated 05 March 2025, whereby the Petitioner was relieved with immediate effect and the charge of GM/CEO was handed over to Respondent No.5-Deputy Registrar, Cooperative Societies, Anantnag.

05. In nutshell, the grievance of the Petitioner is that he has been prematurely relieved before completion of his extended tenure of service.

SUBMISSIONS AND CHALLENGE:

06. The Petitioner contends that the impugned Orders were passed in violation of the principles of natural justice, as no opportunity of hearing was granted to him. He submits that the extension was granted by a valid Board of Management and acted upon; therefore, the impugned Orders could not have been passed mechanically on the directions of Respondent No.2 without independently considering his meritorious record and before the expiry of the extension period.

07. The Petitioner further relies upon para 5.4 of the Reserve Bank of India (RBI) Circular dated 25 June 2021 to argue that prior approval of Respondent No.7-RBI was mandatory before removal of CEO. Thus, the impugned Orders violated the statutory guidelines and instructions issued by the RBI.

08. The Petitioner also questions the competence of Respondent No.2-Registrar, Cooperative Societies, contending that under Section 29 (4) of the Act of 1989, the Registrar has no authority to remove the elected Board of Management. He submits that the power to appoint a Board of Administrators can be exercised only where the Committee has ceased to

hold office and no new committee has been constituted in accordance with the Act of 1989 and the Rules/ Bye-Laws made thereunder. Consequently, the Board of Administrators (Respondent No.4) had no authority to issue the impugned Orders, rendering them without jurisdiction.

09. The other limb of argument is that the elected Board of Management continues to exercise full control over the Management of the UCB, Anantnag, despite the ongoing litigation with the nominated Board of Administrators. Therefore, the impugned Orders are not issued in accordance with the procedure established by law.

10. *Per contra*, Respondents No. 1 to 5 have filed the Objections and resisted the Petition on the ground that the Petitioner retired on attaining the age of 58 years as per Rule 13 (1) of SRO 233 of 1988. Any extension granted by an unrecognized Board constituted in violation of SRO 236 of 2013 is invalid. Neither does the Petitioner have any right to continue beyond 58 years, nor does the illegally constituted Board have the power to grant such extension.

11. It is further submitted that extension beyond the prescribed retirement age can only be granted by the Government by making suitable amendments to the service rules. Since the Board of Management was not constituted in accordance with SRO 236 of 2013, it was *non-est* in the eyes of law and its actions were void.

12. Respondents also contend that the Registrar had validly exercised power under Section 29 (4) of Act of 1989 and constituted the Board of Administrators. The Deputy Registrar assumed charge on 04 March 2025 and all financial transactions are being overseen by him.

13. Learned Counsel for Respondents No. 1 to 5 raised a preliminary objection regarding maintainability of the Writ Petition, contending that the UCB, Anantnag is not a **"State"** under Article 12 of the Constitution of India and that the dispute is purely contractual/ service

related, governed by the Bye-Laws. In order to buttress his arguments, reliance is placed on the Judgment of this Court passed in WP (C) No. 2163/2019 titled **"Ghulam Rasool Dar v. J&K State Cooperative Bank Ltd. & Anr."**. In support of his argument that the age of the employees of the UCB, Anantnag in terms of SRO 233 of 1988 is 58 years and beyond that no extension is permissible, reliance is placed on Judgment of this Court passed in LPA No. 4/2023 titled **"Mohammad Yousuf Mir v. Union Territory of J&K and Ors., [JKJ ONLINE 90274]"**.

14. Respondent No.7-Reserve Bank of India, in its Objections, submitted that in exercise of powers under Section 53A and 56 of the Banking Regulation Act, 1949 ["Act of 1949"], a notification dated 23 March 2021 was issued exempting primary Cooperative Banks having deposits below Rs. 100 crores from the applicability of Section 35B (i) (b) and 56 of Act of 1949. Since the UCB, Anantnag has deposits of Rs. 58,42,80,746/-, no prior approval of the RBI was required for termination of the Managing Director or Whole Time Director (WTD).

<u>ANALYSIS:</u>

15. At the outset, it is necessary to address the preliminary objection regarding maintainability before touching upon the merits of the controversy.

16. It is canvassed at Bar that the issue of maintainability of Writ Petition against the Cooperative Society has already been decided by a Co-Ordinate Bench of this Court in Ghulam Rasool Dar (**supra**), wherein the Court held that the Cooperative Bank cannot be termed as **"State"** or **"an instrumentality of the State"** within the meaning of Article 12 of the Constitution. It was further held that the Rules governing the service conditions of the Petitioner have been adopted by the Cooperative Bank in terms of its Bye-Laws, which do not have force of law, as they are in the nature of a contract between the Society and its members, therefore, being a

contract of private nature, the same would not be subject to Writ jurisdiction.

17. It is in this factual backdrop and the law laid down by this Court in Ghulam Rasool Dar (**supra**) that the learned Counsel for the Respondents No. 1 to 5 has raised the plea of maintainability of the instant Writ Petition by drawing the analogy that the Petitioner has filed the Writ Petition under Article 226 of the Constitution of India against the UCB, Anantnag, therefore, the Writ is not maintainable against it as same is neither **"State"** nor **"an instrumentality of the State"**.

18. The contention of the learned Counsel for the Respondents is that the UCB, Anantnag is also a Society registered under the J&K Cooperative Societies Act, 1960 ["Act of 1960"], therefore, the law laid down by the Court in Ghulam Rasool Dar (**supra**) applies to this case on all fours.

19. In Ghulam Rasool Dar (**supra**), the Petitioner has challenged an Order treating his suspension period as leave after superannuation. The Writ Petition was dismissed on the ground of maintainability. The Court held that J&K State Cooperative Bank Limited is a Society registered under the J&K Cooperative Societies Act and is neither **"State"** nor **"an instrumentality of State"** under Article 12 of the Constitution. It was further held that while it may qualify as **"a person"** or **"an authority"** performing public functions of banking business and it may be amenable to the Writ jurisdiction of this Court under Article 226, a pure service dispute governed by the Bank's service rules adopted under its Bye-Laws falls under private law/ contract, which includes a service dispute between the Bank and its employees and is not amenable to the Writ jurisdiction of the Court.

20. The Court, in the said Judgment, applied the test summarized in "**Pradeep Kumar Biswas v. Indian Institute of Chemical Biology,**

(2002) 5 SCC 111" and came to the conclusion that the Cooperative Bank is an autonomous body upon which the Government has no pervasive or deep control, with regard to the running of its affairs.

21. At this stage, it is *sine qua non* to note how the law has over a long period evolved as to the maintainability of a Writ Petition under Article 226 of the Constitution of India. In this regard, the observations of the Hon'ble Supreme Court in **"Ajay Vijh v. Indian Banks Association and Ors., 2026 SCC Online SC 1295"** assume importance and reads thus:

> "12. Once upon a time, the maintainability of a petition under Article 32 and 226 of the Constitution depended primarily upon who the respondent was. The focus has gradually shifted from the formal character of the body against whom relief is sought to the nature of the function performed, the source of power exercised, and the effect of the impugned action on legally protected rights. Article 226 is not confined merely to statutory authorities or instrumentalities of the State falling within Article 12. The expression "any person or authority" occurring in Article 226 has consistently received a wider and more liberal interpretation."

22. For maintaining of a Writ Petition under Article 226 of the Constitution, the existence of a public law element and the effect of the impugned action on the rights of the affected person are the decisive factors. The expression **"any person or authority"** in Article 226 is not limited to statutory authorities or State instrumentalities, it extends to any person or body performing a public duty. The form or structure of the body is irrelevant, what matters is the nature of the duty imposed and whether it creates a positive obligation owed to the affected party, irrespective of the manner in which such duty is imposed.

23. In **"Binny Ltd. & Anr. v. V. Sadasivan & Ors."**, **(2005) 6 SCC 657"**, the Hon'ble Supreme Court held that a body is performing a "public function" when it seeks to achieve some collective benefit for the public or a section and is accepted by the public or section thereof as having

authority to do so. Bodies therefore exercise public functions when they intervene or participate in social or economic affairs in the public interest.

24. The object of the UCB, Anantnag is to accept deposits of money, to borrow or raise money, to lend or to advance money, therefore, it is carrying on the banking business of accepting public deposits, advancing loans and is also admittedly operating under RBI's regulatory oversight. These functions of the UCB, Anantnag constitute a public function involving public trust, financial inclusion and stability.

25. Assuming for a moment that the UCB, Anantnag is not a **"State"** or **"an instrumentality of State"** within the meaning of Article 12 of the Constitution, it still falls within the four-corners of **"any person or authority"** performing public duties and is thus, amenable to the Writ jurisdiction of the High Court under Article 226 of the Constitution of India.

26. The Judgment of this Court in Ghulam Rasool Dar (**supra**) was dealing with a case where the service conditions of the Petitioner were governed by the relevant Rules adopted by the Cooperative Bank in terms of Bye-Laws, which do not have the force of law as they are held to be a contract between a Society and its members.

27. The nature of banking business carried on by the UCB, Anantnag is that of a primary (Urban Cooperative Bank) licensed by the RBI to carry on banking business as defined under the Act of 1949, as applicable to Cooperative Societies.

28. Under Section 5 (b) of the Act of 1949, **"Banking"** is defined thus:

> "Banking" means accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;"

29. The UCB, Anantnag carries on this core activity along with permitted ancillary services. It is registered as a Cooperative Society under the Act of 1960, but its banking operations are regulated and supervised by the RBI and is subject to overall supervision and control of the Government under Section 32-A of the Act of 1989, as amended vide Act No. L of 2018 dated 16 December 2018.

30. The Banking business involves handling public deposits, depositor protection and financial system stability, credit support to the local economy, small borrowers and urban/ semi-urban population. This gives UCB, Anantnag a public function/ public duty element, distinct from purely private commercial transactions. This is relevant for legal analysis under Article 226 of the Constitution.

31. Once it is found that the UCB, Anantnag accepts deposits from the public, same creates a statutory duty towards the depositors for their protection, repayment on demand, etc. The business involves public money, depositor protection and financial system stability. RBI regulations impose public duties on the Bank. This supports amenability to writ jurisdiction under Article 226 as **"any person or authority"** performing public functions.

32. In view of the foregoing discussion, the preliminary objection raised by the learned Counsel for Respondents No. 1 to 5 regarding the maintainability of the Writ Petition is hereby overruled.

33. The Judgment of this Court in Ghulam Rasool Dar (**supra**) is clearly distinguishable on facts and does not come in the way of the present Petition. In Ghulam Rasool Dar (**supra**), the service conditions of the employees were governed purely by the Bye-Laws of the Cooperative Bank, which were held to be contractual in nature and devoid of statutory force, thereby rendering the service dispute non-justiciable in Writ Petition. In sharp contrast, in the present case, the service conditions of the

Petitioner, including retirement and extension, are governed by the statutory Rules of 1988 enacted vide SRO 233 of 1988. These Rules were framed by the Government in exercise of its rule making power under Section 124 of the J&K Cooperative Societies Act, 1960 and stand saved by Section 177 of the Act of 1989. They, therefore, possess the force of law. Enforcement of statutory service conditions involves a clear public/ statutory element and is amenable to judicial review under Article 226 of the Constitution of India against the Cooperative Bank, which though not a **"State"** or **"instrumentality of State"** under Article 12 of the Constitution, is nevertheless **"any authority or person"** performing public functions/ duties.

34. Having thus decided the preliminary objection, now coming to the merits of the case, particularly the legality of the impugned Orders whereby the Petitioner has been prematurely relieved before the expiry of extension period granted to him. Admittedly, the Petitioner was borne on the cadre strength of the J&K Cooperative Societies and thus his service conditions are governed under SRO 233 of 1988.

35. Rule 13 of SRO 233 of 1988 deals with retirement and resignation of the employees of Cooperative Societies. In this regard, Rule 13 (1), *inter alia*, provides that a person appointed to the service shall retire on attaining the age of 58 years. Therefore, the retirement age of the employees of the UCB, Anantnag is 58 years and any extension beyond that is permissible only by making necessary amendments to SRO 233 of 1988 by the Government.

36. This position stands affirmed by the Division Bench of this Court in **"Mohammad Yousuf Mir & Anr. v. Union Territory of J&K and Ors.**, **JKJ ONLINE 90274"**, wherein it has been held thus:

> "26. As a corollary to the above factual and legal position, we are of the opinion that the retirement age of the

> employees of the Cooperative Societies can be altered or enhanced only by making suitable amendments to the Statutory Rules (SRO 233 of 1988) governing the service conditions of the employees of the Cooperative Societies, and thus in the wake of this inbuilt inhibition, the work done beyond the age of 58 years particularly at the personal risk and responsibility do not entitle for the salary for such overstayal period."

37. Indisputably, the Petitioner has attained the age of superannuation at 58 years as per SRO 233 of 1988 on 31 March 2021, but the Board of Management of UCB, Anantnag had granted extension from time to time upto 31 March 2026. He was, however, relieved before completion of that extension period. There is nothing under SRO 233 of 1988 governing the service conditions of the Petitioner, including retirement age, that empowers the Board of Management to grant extension beyond 58 years.

38. It is equally noteworthy that although the Petitioner has questioned the authority of the Registrar, Cooperative Societies to supersede the Board of Management in exercise of power under Section 29 (4) of the Act of 1989 and in its place to appoint Board of Administrators who have taken the decision to relieve the Petitioner, however, the question as to whether the Board of Administrators has the competence or whether the Registrar, Cooperative Societies can, in exercise of power under Section 29 (4) of the Act of 1989, supersede the Board of Management by appointing the Board of Administrators is a dispute which falls within the realm of constitution and management of a Cooperative Society. Therefore, the same cannot be gone into in Writ jurisdiction in the presence of the express provision contained in Section 70 of the Act of 1989, which falls in Chapter IX dealing with the settlement of disputes and, in unequivocal terms, envisages that any dispute touching the constitution or management of a Cooperative Society shall be referred to the Registrar for decision and no Court shall have the jurisdiction to entertain any Suit or other proceeding in respect of such disputes.

39. Therefore, this Court, in exercise of its Writ jurisdiction, can only go into the legality of the impugned Orders, whereby the Petitioner has been relieved midway before completion of extension period, on the touchstone of SRO 233 of 1988 governing the service conditions, including the retirement age of the Petitioner.

40. In the present case, the Board of Management of the UCB, Anantnag, by resolution dated 21 January 2023 followed by Order dated 22 February 2023, purported to grant the Petitioner an extension of three years from 01 April 2023 till 31 March 2026. Such extension was beyond the competence of the Board of Management and is *non-est* in the eyes of law. Consequently, the Petitioner had no legal right to continue in service after 31 March 2021.

41. The impugned Orders, whereby the Petitioner was relieved with immediate effect, therefore, cannot be termed as premature or illegal. The relieving of the Petitioner is nothing but a recognition of the legal position that his continuance beyond the age of 58 years was without authority of law. No fault, either on facts or law, is found in the action of the Respondents in relieving the Petitioner.

RESULT:

42. For the foregoing reasons, the Petition is found to be bereft of merit. Accordingly, the same is **dismissed**, along with connected CM(s). Interim direction(s), if any, subsisting as on date, shall stand vacated.

(SHAHZAD AZEEM)
JUDGE

SRINAGAR
July 20th, 2026
"TAHIR"

i. Whether the Judgment is approved for reporting? **YES**.