IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF MARCH 2016

BEFORE:

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION Nos. 2026-2031 OF 2015 (CS-RES)

BETWEEN:

1. Karnataka State Chartered Accountants
Association, Bangalore,
No.7/8, 2nd Floor,
Shoukath Building,
SJP Road, Bangalore 560 002,
Represented by its President,
Sri. Raveendra S Kore.

2. Sri. Raveendra S Kore,
Son of Sangappa Kore,
Aged 36 years,
Residing at Flat No.203,
1st Floor, Maruthi Enclave,
Sy.No.205/94/2,
Balaji Layout, Mallathahalli,
Nagarabhavi,
Bangalore 560 056.

3. Smt. Tara Bevinje,
Daughter of B.S.Kakkillaya,
Aged 58 years,
Residing at Flat No.T 8 and 9,

Srivarthe Prasiddi Apartments,
Bikasipura Main Road,
Yelachenahalli,
Bangalore 560 062.

4. Sri. H.M.Basavaraja,
Son of H.M.Panchaksharaiah,
Aged 59 years,
Residing at No.1287/68,
4th Cross, Ashokanagar,
BSK I Stage,
Bangalore 560 050.

5. Sri. B.V.Maddanaswamy,
Son of B.M.Vrushabhendrappa,
Aged 60 years,
Residing at No.145, 10th Main,
B.C.C.Layout, Vijayanagar,
Bangalore 560 040.

6. Sri. Sathisha .R,
Son of Late Rajanna,
Aged 38 years,
Residing at No.277,
Hasitat House, Unit 201,
1st Floor, 1st Main,
Chamarajpet,
Bangalore 560 018.

…PETITIONERS

(By Shri M.V.Sheshachala, Senior Advocate for Shri Aravind V Chavan, Advocate)

AND:

1. The State of Karnataka,
   Department of Co-operation,
   VI Floor, M.S.Building,
   Bangalore 560 001.
   (represented by its Secretary).

2. The State of Karnataka,
   Department of Parliamentary Affairs,
   M.S.Building,
   Bangalore 560 001.
   Represented by its Secretary.

3. The Registrar of Co-operative Societies,
   No.1, Ali Asker Road,
   Vasanthnagar,
   Bangalore 560 052.

4. The Director of Co-operative Audit,
   Karnataka, No.17,
   Jayanivas, Shankarmutt Road,
   Basavanagudi,
   Bangalore 560 004.

5. Karnataka State Cost Accountants
   Association, Bangalore,
   Represented by its President,
   Mr. Vishwanath Bhat.

6. Suresh R Gunjalli,
   Cost Accountant,
   No.10, 1st Floor,
   Vinayaka Apartments,
   Vinayaka Layout,

Basaveshwaranagar,
Bangalore 560 079.

7. Girish .K,
Cost Accountant,
No.36, Chatura Homes,
2nd Main, Meenakshinagar,
Near Krishna Kalyana Mantapa,
Basaveshwaranagara,
Bangalore 560 079.

8. B. Jayendra Naik,
Cost Accountant,
No.101, Siri Meadows Apartments,
II Main, II Stage,
Vasantha Vallabha Nagar,
Vasanthapura,
Bengaluru 560 061.

9. Hari T Devadiga,
Cost Accountant,
No.28, Old No.40,
1st Floor, between 3rd and 4th Cross,
2nd Main Road, Chamarajpet,
Bangalore 560 018.

10. T K. Jagannathan,
Cost Accountant,
No.50, 5th Cross,
2nd Main Road,
Chamarajpet,
Bangalore 560 018.

[respondent Nos.5 to 10 are
Impleaded vide court order

Dated 8.1.2016]

… RESPONDENTS

(By Shri A.S.Ponnanna, Additional Advocate General along with Smt. Pramodhini Kishan, Government Pleader for Respondent Nos.1 to 4;
Shri Udaya Holla, Senior Advocate for Shri Vivek Holla, Advocate for Respondent Nos.5 to 10)

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These Writ Petitions are filed under Article 226 of the Constitution of India, praying to declare clauses (v)(a) and (b) of Section 26 of the Karnataka Co-operative Societies (Amendment) Act, 2014, Act No.35 of 2014 i.e., amending Section 63 of the Karnataka Co-operative Societies Act, 1959, dated 6.9.2014 produced Annexure-G by the respondents to include auditing by Cost Accountants or Cost Accountants Firm, as null and void and ultra-virus the Constitution of India and Central Legislatures and etc;

These Writ Petitions having been heard and reserved on 29.2.2016 and coming on for pronouncement of Orders this day, the Court delivered the following:-

O R D E R

The facts, as stated by the petitioners, are as follows:-

The first petitioner is an Association of Chartered Accountants, registered under the Societies Registration Act, 1860. Petitioners no.2 to 6 are said to be practising Chartered Accountants. The petitioners seek to challenge the amendment to Section 63 of the Karnataka Co-operative Societies Act, 1959 (Hereinafter referred to as the 'KCS Act', for brevity), whereby auditing of accounts by Cost Accountants of a firm of Cost Accountants is permitted.

2. It is asserted that the KCS Act was enacted by the State Legislature as legislation in respect of the subject 'co-operative societies', which finds place under Entry 32 of List II of the Seventh Schedule to the Constitution of India.

With the 97th Constitutional Amendment Act, 2011, having received the assent of the President of India, and with the introduction of Articles 243ZH to 243ZT, inter- alia, required the State legislatures to introduce a law with a mandate that every co-

operative society shall maintain accounts and audit such accounts in each financial year and such audit was to be done by an Auditor or an Auditing firm.

Consequently, the KCS Act was sought to be amended by the Karnataka Amendment Act no.3 of 2013. Section 63 was amended to make auditing of the accounts of co-operative societies compulsory. The auditing was to be assigned to departmental auditors or to Chartered Accountants. This was made to bring the provision in consonance with the 97th Amendment to the Constitution.

It is the case of the petitioners that succumbing to the pressure of lobbying and political pressure, brought by the members of the Cost Accountants fraternity, the State Legislature sought to bring a further amendment to Section 63 of the KCS Act, by Act no. 35 of 2014. By the said amendment, the definition of 'auditor' was enlarged to include a Cost Accountant, within the meaning of the Cost and Works Accountants Act, 1959. This action on the part of the legislature, according to the

petitioners, permitted Cost Accountants to do the work of auditing thereby encroaching on the profession of Chartered Accountants, which would run counter to the 97th Amendment as well as the Chartered Accountants Act, 1949.

The petitioners contend that the State legislature has overlooked the classification of two distinct classes of professionals. A Chartered Accountant is governed by the Chartered Accountants Act, 1949, whereas a Cost Accountant is governed by the Cost and Works Accountant Act, 1959. The petitioners have depicted the distinction between the two professions, in a tabular form, thus :

CHARTERED ACCOUNTANT	COST ACCOUNTANT
Thorough knowledge of every aspect of accounting, auditing and taxation	Knowledge of cost and financial management to ensure a fine balance between expenditures and available recourses
CAs are involved in core accounting work of an organisation	Cost accountants are involved in the costing part of financial transactions
CAs analyse risk and design	Cost accountants assess the

efficient financial system	feasibility of projects vis-à-vis available funds
Taxation and auditing are main duties of a Chartered Accountant	Cost management and designing cost control methods are main duties of a Cost Accountant

Attention is drawn to the provisions of the Companies Act, 1956, The Income Tax Act,1961 and the Multi-State Co-operative Societies Act, 2002, where under there are special references to the role exclusively conferred on the Chartered Accountants, all of which fortify the stand of the petitioners that the State legislature could not therefore permit the Cost Accountants to entrench upon the profession of the Chartered Accountants, which is the direct consequence of the impugned amendment.

It is in this vein that the grounds urged in the writ petition are sought to be highlighted by the learned Senior Advocate, Shri M.V. Seshachala, appearing for the counsel for the petitioners.

3. The learned Additional Advocate General, Shri A.S.Ponnanna appearing for the State would contend that in the co-operative sector of the State, there are co-operative sugar

factories, co-operative spinning mills, co-operative industrial societies, etc., wherein costing work plays an important role and considering the syllabus, a Cost Accountant has to go through and it was found that even a Cost Accountant has adequate knowledge of Accounting principles and Accounting Systems and taking into account the serious shortage of professionals available for carrying out the audit work of co-operative societies, it was found to be a dire need to include Cost Accountants and Cost Accountant firms within the meaning of Auditor and Auditing firm in Section 63 of the KCS Act.

4. Shri Udaya Holla, Senior Advocate, appearing for the counsel for the impleading applicants, would contend that the petitioners have suppressed the fact that they had earlier filed a writ petition on identical grounds before the Dharwad Bench of this Court and the same having been dismissed, the petitioners are precluded from presenting the present petition.

On merits, it is pointed out that the petition is misconceived as the Curriculum of the Cost Accountants is similar to that of

Chartered Accountants and the services rendered by both are almost similar and various Central and State enactments empower auditing being carried out by the Cost Accountants. A list of 46 such statutes are specified in the statement of objections. There is also a comparative table of the Curriculum, pedagogy and practical training of Cost Accountants and Chartered Accountants to demonstrate that the Cost Accountants are competent to carry out auditing work.

Reliance is also placed on the respective commentaries by the learned authors S.P. Iyengar and M. Hanif, to indicate the relationship between cost accounting and financial accounting. To assert that all Cost Accountants are competent to carry out auditing, which would encompass within itself both the costing aspect as well as the financial statements of an entity.

5. On a careful consideration of the rival contentions, it is not evident that by virtue of the impugned amendment, a Cost Accountant has been enabled to carry out functions which can only be performed by a Chartered Accountant. This is statutorily

governed and there can be no entrenchment on such functions. It is not the case of the petitioners that auditing the accounts of a co-operative society is the exclusive domain of Chartered Accountants. If that be so, there is no ground for challenge made out.

The petitions are accordingly dismissed.

Sd/-
JUDGE

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