



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 20088/2017

CNR: RJHC020602472017 | URN: CW / 34559U / 2017

Rajasthan Rajya Sahakari Avasan Karmchari Sangh, Jaipur through its Secretary Hardayal Pareek S/o late Shri M.B. Pareek, resident of 64/232, Pratap Nagar, Sanganer, Jaipur.



-----Petitioner

Versus

1. State of Rajasthan through Chief Secretary to the Government, Government Secretariat, Jaipur.
2. Principal Secretary To The Government, Department Of Cooperative, Government Of Rajasthan, Secretariat, Jaipur.
3. Registrar, Cooperative Societies, Rajasthan, Sahkar Bhawan, 22 Godam, Jaipur.
4. Rajasthan Rajya Sahkari Avasan Sangh Limited, Jaipur Through Its Managing Director, Sahkar Bhawan, 22 Godam, Jaipur.
5. Dr. R. Venkateshwaran, Former Registrar, Cooperative Societies, Rajasthan, Jaipur, Presently Posted As Principal Secretary, Animal Husbandry, Fisheries And Gopalan Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Respondents

For Petitioner(s)	: Mr. Lokesh Sharma with Ms. Anzum Parveen
For Respondent(s)	: Mr. Anshuman Singh with Ms. Ritika Naruka for Mr. S.S. Naruka, AAG Mr. Nikhil Simlote with Mr. Salim Khan Gori for Mr. R.B. Mathur

HON'BLE MR. JUSTICE ANUROOP SINGHI
Order

03/10/2026

CHALLENGE:-

1. The present writ petition has been filed by the petitioner (**petitioner – Union**), which is a Trade Union registered under the



provisions of Trade Union Act, 1926, having registration No.RTU/23/93 with the following prayers:-

"It is, therefore, respectfully prayed that your Lordships may please to accept and allow the Writ Petition and by an appropriate writ, order or direction:-

i) the respondents may kindly be directed to grant the benefit of Revised Pay Scales Rules, 2008 and the subsequent revised pay scales rules to the members of the petitioner union;

ii) by an appropriate writ, order or direction the respondents may kindly be directed to grant the benefit of selection scale to the members of the petitioner union on completion of 9, 18 & 27 years of services;

iii) by an appropriate writ, order or direction the order dated 30th December, 2015 (Annexure-13) passed by the respondent Registrar, Cooperative Societies, Rajasthan, Jaipur may kindly be ordered to be quashed and set-aside;

iv) by an appropriate writ, order or direction it may kindly be held that the circular dated 31st October, 2008 is not applicable to the cooperative societies which are running in loss and it may kindly be held that the said circular is not the decision of the State Government not to grant the benefit of recommendations of Sixth Pay Commission to the employees of the societies which are running in losses;

v) by an appropriate writ, order or direction the respondents may kindly be directed to treat the members of the petitioner union at par to the employees of the State Subordinate Offices;

vi) any other order or direction which this Hon'ble Court deems just and proper may also be passed in the facts and circumstances of the case."

2. The members of the petitioner - Union are the employees of respondent No.4 - Rajasthan Rajya Sahkari Avasan Sangh Ltd. (**Federation**), which is a Co-operative society registered under the Rajasthan Co-operative Societies Act, 1965. Perusal of the prayers sought in the writ petition reveals that the petitioner - Union has sought directions to grant the benefits of Revised Pay Scale Rules of 2008 (hereinafter referred to as "**the Rules of**





2008") and the subsequent revised pay scales to its members and also to grant the benefit of selection scale on completion of 9, 18 and 27 years of service to its members.

3. Further, it has been prayed that the order dated 30.12.2015, vide which respondent No.3 - Registrar, Co-operative Societies, Rajasthan, Jaipur, (**Registrar**) has denied the said benefits to the members of the petitioner - Union, be quashed and set aside.

SUBMISSIONS ON BEHALF OF THE PETITIONER - UNION:-

4. Mr. Lokesh Sharma, learned counsel for the petitioner - Union, at the very outset submits that the members of the petitioner - Union being the employees of the respondent No.4 - Federation are duly entitled for the benefits of revised pay scales in terms of the Rules of 2008, as revised from time to time and also for the benefits of selection scale on completion of 9, 18 and 27 years of service and respondent No.3 - Registrar has in a grossly arbitrary and illegal manner declined the said benefits by passing the impugned order dated 30.12.2015. Learned counsel submits that the said rejection is neither sustainable on facts nor on law as the findings recorded therein with respect to respondent No.4 - Federation running in losses is perverse and factually incorrect and even if the said ground is considered, without prejudice and accepting the admissibility of the same, the said ground is legally not sustainable and cannot be a justification for denying the benefits to the members of the petitioner - Union.

5. Learned counsel in support of his submissions has relied upon the judgment dated 15.10.2015 passed by a Co-ordinate Bench of this Court in the writ petition filed by the petitioner - Union itself being **S.B. Civil Writ Petition No.14262/2010** titled





as **Rajasthan Rajya Sahakari Avasan Karamchari Sangh Vs. State of Rajasthan & Ors.**, wherein it was held that the members of the petitioner - Union are entitled to the benefits of 6th pay commission as well as the benefits arising out of Government order dated 25.01.1992.

6. Learned counsel submits that once the said finding was categorically recorded in the judgment dated 15.10.2015, the directions issued therein to respondent No.3 - Registrar to consider and decide upon the proposal for approval submitted by respondent No.4 - Federation seeking extension of benefits as contemplated under the Government order dated 25.01.1992 as well as for grant of benefits of 6th pay commission, to its employees ought to have been objectively considered and necessary orders enlarging the said benefits should have been passed.

7. Learned counsel submits that earlier also, a writ petition was filed by the petitioner - Union being **S.B. Civil Writ Petition No.2571/1998** titled as **Rajasthan Rajya Sahakari Avasan Karamchari Sangh Vs. State of Rajasthan & Ors.**, seeking similar benefits with respect to selection scale, after filing of which, the benefits as prayed for in the said writ petition were granted to the members of the petitioner - Union by the Government of Rajasthan, vide Office order dated 28.12.1998 (Annexure-8) and by respondent No.4 - Federation vide subsequent Office order dated 29.10.2005 (Annexure-9), taking note of which, the said writ petition came to be decided vide order dated 07.08.2006.



8. Learned counsel submits that a bare perusal of the judgment dated 15.10.2015 reveals that specific reliance was placed therein upon the judgment passed by a Co-ordinate Bench of this Court at Principal Seat, Jodhpur, in the case of **P.R. Swarankar & Ors. Vs. State of Rajasthan & Ors.** reported in **2011 WLC (4) (Raj) 554**, wherein after considering similar facts, it was held that even if a society is running in losses, that cannot be a reason to deprive its employees from the benefits of revised pay scales and any such denial violate Article 14 and Article 21 of the Constitution of India and consequently, while quashing the impugned orders passed therein denying the benefits of Rules of 2008, specific directions were issued to the respondents therein to grant the benefits of revised pay scales.

9. Learned counsel submits that though much emphasis has been laid by respondent No.3 - Registrar in the impugned order upon the aspect that respondent No.4 - Federation is actually running in losses and the profit as shown in its audit books of account is not the actual profit, the said finding is not only inconsequential but also incorrect.

10. Learned counsel submits that the aspect as to whether losses suffered by a society can be a justification for it to absolve itself from its responsibility to grant the benefits of revised pay scales to its employees has been duly dealt with by this Court in the case of **P.R. Swarankar (supra)**.

Further also, a bare perusal of the final accounts of respondent No.4 - Federation confirms that it has earned profits during the financial years 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23, which is evident from the audited accounts of the



respondent No.4 – Federation, for which attention of this Court was also drawn to the interim order dated 07.03.2022 passed by this Court, wherein the said fact was duly noted.

11. Learned counsel also submits that even the circular dated 31.10.2008 issued by the Office of Registrar, Cooperative Societies, upon which much emphasis has been placed by the respondent No.3 – Registrar, nowhere provides that a loss making society is not required to enlarge the benefits of revised pay scales as well as that of selection scale to its employees, rather it simply requires such societies to submit a plan for overcoming the financial burden due to implementation of the recommendations of the 6th pay commission.

12. Thus, on the strength of all the above submissions, learned counsel prays that the writ petition be allowed and the impugned order dated 30.12.2015 be quashed and set aside and the benefits of revised pay scales and that of selection scale be provided to the members of the petitioner - Union, who are all employees of respondent No.4 - Federation.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:-

13. *Au contraire*, Mr. Anshuman Singh, learned counsel appearing on behalf of Mr. S.S. Naruka, learned Additional Advocate General, submits that the order dated 30.12.2015 has been passed after duly taking note of all the financial aspects and the law applicable and thus, deserves no interference.

14. Learned counsel specifically submits that reliance placed upon the judgment dated 15.10.2015 by the petitioner - Union is misconceived as in the operative paragraph of the said order, the directions have been issued to respondent No.3 - Registrar to



consider and decide upon the proposal for approval submitted by respondent No.4 - Federation with respect to grant of benefits of selection scale and revised pay scales to the members of the petitioner - Union and the judgment dated 15.10.2015, under no circumstances, can be read as a direction being issued by this Court to respondent No.3 - Registrar to necessarily grant the said benefits to the members of the petitioner - Union and accordingly, the authority has been rightly exercised while passing the order dated 30.12.1995.

15. Learned counsel further submits that the circular dated 31.10.2008 grants due right and authority to respondent No.3 - Registrar with respect to assessing the resource positions along with additional resources of the societies, on the basis of which a decision *qua* implementation of the benefits of the 6th pay commission was to be arrived at and the order dated 30.12.2015 duly reflects an objective assessment being made by respondent No.3 - Registrar and only thereafter, the decision to not to grant the benefits of selection scale and revised pay scales to the members of the petitioner - Union has been passed, which cannot be faulted.

16. In support of the said submission, learned counsel has placed reliance upon judgment of the Hon'ble Supreme Court in the case of ***A.K. Bindal & Anr. Vs. Union of India & Ors.*** reported in **(2003) 5 SCC 163**.

16. Learned counsel has also placed reliance upon another judgment of the Hon'ble Supreme Court in the case of ***State of Assam Vs. Barak Upatyaka D.U. Karmachari Sanstha*** reported in **(2009) 5 SCC 694**, to take home his submission that



a trade union representing the employees of a co-operative society has no right to file a writ petition seeking issuance of directions to the government to bear and pay the salary of the employees of a co-operative society.

17. Learned counsel further submits that as per Rule 39 of Rajasthan Co-operative Societies Rules, 2003 (hereinafter referred to as "**the Rules of 2003**"), the pay scales of the employees are to be decided by respondent No.3 - Registrar on the basis of the financial condition of the society and thus, the said authority has been rightly exercised by respondent No.3 - Registrar while passing the order dated 30.12.2015.

18. Learned counsel has also placed reliance upon the documents annexed with the additional affidavit, wherein it has been placed on record that the final accounts of respondent No.4 - Federation has not been prepared in accordance with law, as prescribed norms of NPA (Non-performing Asset) have not been duly applied.

19. Learned counsel submits that it has been specifically stated in the additional affidavit that respondent No.4 - Federation has not made provision against sub-standard assets on the basis of actual outstanding loan interest, on account of which the profit position as shown by respondent No.4 - Federation is incorrect.

20. Thus, learned counsel prays that the no interference is warranted and the writ petition deserves to be dismissed.

21. Mr. Nikhil Simlote, learned counsel appearing on behalf of Mr. R.B. Mathur, learned counsel for respondent No.4 - Federation, while supporting the case of the petitioner - Union submits that the members of the petitioner - Union are its employees and they



are duly entitled for the benefits towards revised pay scales and the selection scale and to buttress his submission, more particularly with respect to the capacity and financial stability of respondent No.4 - Federation, attention has been drawn to an Office note dated 16.02.2009 (Annexure-R-4/7), wherein it has been specifically stated that respondent No.4 - Federation has been regularly earning profits and is in the position to make payments of revised pay scales and selection scale to its employees and thus, he prays that necessary order(s) be passed.

DISCUSSIONS AND FINDINGS:-

22. Heard learned counsel for the parties and perused the material available on record.

23. Perusal of the record reveals that the earlier writ petition filed by the petitioner - Union being S.B. Civil Writ Petition No.2571/1998, wherein prayer for grant of benefits of selection scale in accordance with the Government order dated 25.01.1992 as amended from time to time was sought, came to be dismissed vide order dated 07.08.2006 on the ground that the relief claimed by the petitioner - Union therein regarding benefits of selection scale had already been extended to the members of the petitioner - Union. The basis for the said decision was the Office order dated 28.12.1998 (Annexure-8) passed by Co-operative Department, Government of Rajasthan and Office order dated 29.10.2005 (Annexure-9) issued by respondent No.4 - Federation, vide which the benefits of revised pay scales and selection scale were duly granted.

24. Thereafter, as the benefits towards 6th pay commission were not granted to the members of the petitioner - Union, another writ



petition being S.B. Civil Writ Petition No.14262/2010 was filed by the petitioner – Union seeking grant of benefits of the Rules of 2008 and selection scale on completion of 9, 18 and 27 years of service to its members. The Co-ordinate bench of this Court vide judgment dated 15.10.2015, after considering all the relevant aspects, recorded a specific finding that the members of the petitioner - Union who are employees of respondent No.4 - Federation are entitled to the benefits of 6th pay commission as well as benefits which become due in view of Government order dated 25.01.1992, relevant para 15 of which reads as under:-

"15. The fact that the members of the petitioner-Sangh were accorded benefits of 5th Pay Commission as well as under the Government Order dated 25th January, 1992; is not in dispute. Moreover, the controversy for that claim was agitated and before the matter could be adjudicated upon by the High Court in earlier writ proceedings in SBCWP No.2571/1998; as would be reflected from order dated 7th August, 2006, relief was accorded and therefore, the writ petition was closed. Thus, it cannot be disputed that the members of the petitioner-Sangh, who are employees of respondent No.4, are entitled to the benefits of Sixth Pay Commission as well as benefits which become due in view of the Government Order dated 25th January, 1992."

The said judgment further refers to the judgment passed at Principal Seat, Jodhpur, in the case of **P.R. Swarankar (supra)** and after taking note of the same, the writ petition was allowed with the following directions:-

"20. For the reasons and discussions hereinabove, the writ petition succeeds and is hereby allowed.

21. The respondent No.3, is directed to consider and decide upon the proposal for approval submitted by the respondent No.4, for extension of





the benefits as contemplated under the Government Order dated 25th January, 1992, on completion of 9, 18 and 27 years of service as well as for grant of benefits of Sixth Pay Commission, as expeditiously as possible. The respondents No.1, 2 and 3 shall ensure compliance of this order within four weeks from the date of receipt of a certified copy of this order.

No costs."

25. In the case of ***P.R. Swarankar (supra)***, decided at Principal Seat, Jodhpur, under challenge was the denial of benefits in terms of the Rules of 2008 to the employees on the ground that it would lead to financial burden upon the State. After duly considering the circular dated 31.10.2008 and so also all the submissions with respect to financial burden upon the state, it was held as under:-

"36. It is worthwhile to observe that as per respondents themselves the URMUL society is an independent body and State Government is having supervisory control through the Registrar, Co-operative Societies and RCDF. The State Government is from time to time framing policies and taking decisions to introduce policies, for which, State Government is issuing directions to the co-operative societies including the URMUL society to implement the policies. In the communication dated 24.09.2009, Annex.-R/2, whereby, the Financial Advisor of the RCDF recommended the case of the petitioners for granting them benefit of the Sixth Pay Commission. It was specifically mentioned that employees cannot be blamed or held responsible for losses caused in the URMUL society; meaning thereby, the employees are tools to implement the State Government policies as directed from time to time and, if any loss is caused due to the government policies or the loss is attributable to the administration, then, for that reason the benefit of the Sixth Pay Commission cannot be denied by the respondents.

*37. Likewise, there is no power left with the Registrar, Co-operative Societies to pass order to deny the benefit of the Sixth Pay Commission because no such decision was taken in the meeting held under the Chairmanship of the Chief Secretary vide circular Annex.-6 dated 31.10.2008 which is made applicable upon the government enterprises and co-operative societies. **In my opinion, the action of the welfare State should***





be based upon welfare of the employees and not to crush them. Instrumentality of the State, even if it is co-operative society, is required to follow the constitutional provisions. Here, in this case, the respondents are openly violating Article 14 of the Constitution of India. On the one hand, the respondents are expecting execution of work from the petitioner-employees and, on the other hand, snatching their right of emoluments at par with other co-operative societies.

38. The purpose of accepting the recommendations of the Sixth Pay Commission is to grant relief to the employees in the event of escalation of prices of the essential commodities. More so, implementing recommendations of the Pay Commission is a welfare action of the State and there should not be any restriction or hurdle for granting the benefit under the Revised Pay Scale Rules. In the URMUL society, in past, irrespective of the fact whether the society was running in loss the benefit of Revised Pay Scale Rules was granted to the employees; but, for the first time, the Registrar refused to grant approval for granting benefit of the recommendations of the Sixth Pay Commission. Upon perusal of Annex.-6, the decision taken under the chairmanship of the Principal Secretary, it is nowhere mentioned that employees of those co-operative societies shall not be granted the benefit of Revised Pay Scale Rules, 2008 framed as per recommendations of the Sixth Pay Commission if the society is not running in profit or is running in loss. When it was not found appropriate by the higher authorities, then, it is not open for the Registrar to refuse approval for granting benefit of the Sixth Pay Commission to the petitioners.

39. The URMUL society is a unit based upon cattle of the area and production is of milk and other milk products; and, admittedly, the milk is to be used for the health and nutrition of the citizens of the country. The employees are working against sanctioned strength of the society and the society is following the directions and policies of the State Government and implementing the same. **Therefore, if any failure of policy of the Government causes losses to the society, then, the petitioner-employees cannot be held responsible. So also, the respondents cannot deny the benefit of the Revised Pay Scale Rules, 2008. In this case, the action of the respondents is in violation of Articles 14 and 21 of the Constitution of India because the benefit of the Sixth Pay Commission has already been granted to all other State enterprises and instrumentalities of the State irrespective of loss**





and profit. Therefore, the reason for denying the said benefit is totally unconstitutional.

40. In this view of the matter, I am of the opinion that the respondents cannot be permitted to violate Articles 14 and 21 of the Constitution of India while denying the benefits of Revised Pay Scale Rules, 2008 to the petitioners who are working in the URMUL society, Bikaner. **As such S.B. Civil Writ Petition No.7621/2010 is allowed and while quashing communication dated 24.05.2011 it is held that action of the Registrar, Co-operative Societies is totally arbitrary and illegal and contrary to the facts of the case. It is further held that the petitioners cannot be blamed for the losses occurred to the URMUL Dairy, Bikaner. Consequently, the employees of the URMUL Dairy cannot be denied the benefit of pay fixation under the recommendations of the Sixth Pay Commission as granted to the employees of supervisory bodies i.e., RCDF and other bodies and State Government is under obligation to provide financial aid for the implementation of the recommendations of the Sixth Pay Commission for the purpose of extending the benefit to the petitioners. The respondents are directed to grant all the benefits as per recommendations of the Sixth Pay Commission to the petitioners within a period of two months from the date of receipt of certified copy of this order.**

41. Further, S.B. Civil Writ Petition No.4582/2010 is hereby dismissed as having been rendered infructuous in view of the order passed in S.B. Civil Writ Petition No.7621/2010. No order as to costs."

(emphasis supplied)

26. A perusal of the findings recorded in the case of **P.R. Swarankar (supra)** leaves no room for doubt that members of the petitioner - Union who are employees of respondent No.4 - Federation cannot be denied the benefits of pay fixation under the recommendation of the 6th pay commission and even subsequent revised pay scales and the employees cannot be blamed for the losses, if at all, suffered by the respondent No.4 - Federation. Nothing has been placed on record by the respondent No.3 - Registrar so as to persuade this Court to take a view different than



the one as already taken earlier in the case of **P.R. Swarankar (supra)** and so also in the judgment dated 15.10.2015 and thus, this Court is in complete agreement with the findings recorded therein. As a matter of fact, there is no justification whatsoever for respondent No.3 - Registrar to justify its order dated 30.12.2015, which has resultantly deprived the members of petitioner - Union from the benefits to which they are duly entitled to, and denial of the said benefits by the respondent No.3 - Registrar amounts to violation of Articles 14 and 21 of the Constitution of India.

27. Further also, a perusal of the financial statements placed on record by the petitioner - Union reveals that respondent No.4 - Federation has been earning profits during the financial years 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 and thus, the lame defence taken by respondent No.3 - Registrar that as the respondent No.4 - Federation is suffering from losses, the benefits as prayed for by the petitioner - Union cannot be granted, has no legs to stand.

28. Mere submission on the part of respondent No.3 - Registrar that the financial statements which are duly audited are not proper cannot be accepted, much less to deprive the members of Petitioner - Union from the benefits as prayed for by them in the present writ petition. It is significant to note that respondent No.4 - Federation in its own stand has not only taken a stand that it is earning profits, rather has placed its own Office note dated 16.02.2009 on record, wherein it has been stated that it has been regularly earning profits and the burden which would be placed upon it on account of grant of the benefits of selection scale and





revised pay scales to its employees would not be such as could not be met by it.

29. Further, the reliance placed by learned counsel for the respondent No.3 – Registrar upon the judgment of Hon'ble Supreme Court in the case of **A.K. Bindal (supra)**, would not render any assistance to respondent No.3 - Registrar as the said case was *qua* equivalence being sought by the employees of a sick government company with that of the employees working with the government. Also, the judgment in the case of **Barak Upatyaka (supra)** relied upon by learned counsel for respondent No.3 – Registrar to take home his submission that the writ petition itself is not maintainable as no directions for payment of salaries by the government to the employees of the co-operative society can be sought by a Trade Union, will not advance the stand of respondent No.3 - Registrar as earlier also, twice in the case of petitioner - Union itself, the writ petitions seeking similar reliefs were filed and were duly entertained and in S.B. Civil Writ Petition No.14262/2010 even specific finding was recorded holding that the employees of petitioner – Union are entitled to the benefits of 6th pay commission as well as selection scale and thus, the prayers sought in the present writ petition cannot be denied.

30. The position of law, thus, has been clearly laid down by this Court in the case of **P.R. Swarankar (supra)**, so also in the case of petitioner - Union itself judgment dated 15.10.2015, after considering which, this Court is of the considered opinion that the members of the petitioner - Union who are employees of respondent No.4 are duly entitled to the benefits of revised pay scales as well as benefits towards selection scale which would





accrue to them in view of the Government order dated 25.01.1992.

31. Consequently, the writ petition is **allowed** and the order dated 30.12.2015 passed by respondent No.3 - Registrar, vide which the benefits towards revised pay scales and selection scale have been denied to the members of the petitioner - Union is accordingly, quashed and set aside and the members of the petitioner - Union are held entitled for the grant of benefits as per the Rules of 2008 and the subsequent revised pay scales and also towards the benefits of selection scale on completion of 9, 18 and 27 years of service.

32. Taking note of the fact that the writ petition was filed way back in the year 2017, the necessary computation of the dues of the members of the petitioner - Union along with arrears be made within a period of three months from the date of receipt of certified copy of this order and the said benefits be paid to them within a period of one month thereafter.

33. Pending application(s), if any, stands disposed of.

(ANUROOP SINGHI),J

JAYANT KUMAR /14