
(1996) 08 GAU CK 0009
In the Gauhati High Court
Case No : Civil Rule No. 1032 of 1993

Debo Bora

APPELLANT

Vs

State of Assam

RESPONDENT

Date of Decision : 22-08-1996

Acts Referred:

Assam Co-operative Societies Rules, 1953 — Rule 70, 70, 81, 81, 88(9), 88(9)
Bar Councils Act, 1926 — Section 14, 14

Citation : (1997) 1 GLJ 346 : (1997) 1 GLT 463

Hon'ble Judges : J.N.Sarma, J

Bench : Single Bench

Advocate : S.N.Bhuyan, G.N.Sahewalla, N.M.Lahiri, B.Goyal, A.K.Phukan,
A.K.Goswami, A.Hazarika, N.Dutta, Advocates appearing for Parties

Judgement

1. This writ application has been filed challenging the constitutional validity of Rules 81 and 88 (9) of the Assam Cooperative Societies Rules, 1953.

2. Rules 81 and 88 (9) of the aforesaid Rules are quoted below :

"81. A dispute referred to under section 63 shall include claims by a cooperative society for debts or any other demands due to it from a member or past member or the heirs or assets of a past member or from others as provided in subsection (a), (b), (c) and (d) of section 63 whether such debts or demands be admitted or not:

Provided, however, that if the question at issue between a cooperative society and a claimant or different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend proceedings in the matter until the question has been tried by a regular suit instituted by one of the parties or by the society concerned. If no such suit is instituted within three months of the Registrar's order suspending proceedings, the Registrar shall take action as prescribed in section 64."

"88 (9). In these proceedings neither party shall be represented by any legal

practitioner."

3. The Assam Cooperative Societies Act, 1949 (hereinafter called the Act) was enacted to facilitate the formation and working of the cooperative societies and to consolidate and amend the laws relating to the cooperative societies in the State of Assam. The policy of the Cooperative Societies Act is to save the persons concerned from protracted, expensive and sometime ruinous litigation in the civil Courts and its object is to encourage, help and bring cooperation among the persons having limited means. Its purpose is to create qualify of credit worthiness among agriculturists, artisan and other persons with common economic needs so as to bring about a higher standard of living, better business, better method of protection and equitable distribution and exchange. (See Dewan's Volume 2 page 460). That is Preamble to the Act of 1949. Under the Act Chapter X provides for settlement of disputes. Section 64 provides for settlement of disputes. Section 63 provides for reference of disputes. Section 70 provides for power of the Registrar to direct payment of dues which is quoted below:

"70. Power of Registrar to direct payment of dues Notwithstanding anything contained in Chapter X the Registrar or such other person as may be authorised by him in this behalf may, on his own motion or on the written requisition of a registered society or an affiliating society or a financing bank for the recovery of any loan or any other demand due by a defaulting member, after making such enquiry as he deems fit, grant a Cooperative Demand Certificate for the recovery of the amount found to be due."

4. Section 81 provides for power of attachment of property. Section 82 provides that Registrar shall have power of civil Court for certain purposes. Section 83 provides the mode for recovery of dues. Section 80 (2) provides for the power of review to the Registrar of any order passed by him at any time within 2 months from the date of communication of such order. Section 80 (3) states that no appeal shall lie to the State Government against any order of the Registrar except on a question of law and such appeal is to be preferred within 2 months of the communication of such order. So the right of appeal provided in the Act is a limited one. Section 100 provides the power to make Rules. That section is quoted below:

"100. Power to make rules. The State Government may, after previous publication, make rules to carry out the purpose and objects of this Act, and such rules may provide a penalty not exceeding fifty rupees for a breach thereof."

5. Rules can be made to carry out the purpose and objects of the Act, and in exercise of that power Rules 81 and 88 (9) have been framed. Rules 81 and 88 (9) appear in Chapter IX of the Rules: By these Rules the claims made by the cooperative societies for advance or any other demand due to it from a member has been included as a dispute under section 63 of the Act.

5A. I have heard Shri N. Dutta, learned Advocate for the petitioner and Shri SN Bhuyan, learned Advocate General, Assam regarding the validity of the Rules,

Shri NM Lahiri, learned Advocate appearing for respondent No.4, the Cooperative Bank and Shri AK Phukan, learned Advocate, who appears as Amicus Curiae at the request of the Court.

6. Shri Dutta submits as follows :

(i) Rule 81 having been framed under Chapter IX of the Rules and pertaining to only settlement of disputes could not have extended the meaning of a dispute under section 63 to have included claims of a cooperative society for debts. Rule 81 as it stands amends the provision of section 63 which is legislative action which the Government is incompetent to do and as such Rule 81 to that context is ultra vires of section 100 of the said Act.

(ii) That Rule 88 (9) in no way carries out the purposes and objects of the said Act and is therefore beyond the competence of the Government. There is no reasonable basis or justification behind passing of the said Rule which in any case is directly against the mandatory provisions of the Advocates Act, a Central Act which allows certain privileges to the Advocates and legal practitioner which can not be taken away by a State statute. The said Rule is, therefore, unconstitutional, illegal and ultra vires and beyond the powers and jurisdiction of the State Government.

7. Though Shri Dutta took up the first point, he did not ultimately urge that point so vehemently and it is not necessary to decide that question. As a matter of fact, this point almost was given up by the learned Advocate for the petitioner. So there is no necessity for this Court to decide the validity of Rule 81.

8. Next let us take up Rule 89 (9). In AIR 1985 SC 389 (Lingappa Pochanna Appealwar vs. State of Maharashtra & another, and Kalu Gopya Banjari vs. State of Maharashtra & another, the Supreme Court pointed out that section 30 of the Advocates Act has not been brought into force and as such the Supreme Court held that the right of audience of an Advocate in the facts and circumstances would be regulated by the different statutes and will be to the extent as laid under section 14 (i) (a) (b) (c) of the Bar Council Act.

8A. Let us first have a look at section 30 of the Bar Council Act. Section 30 of the Bar Council Act reads as follows:

"30. Right of Advocates to practice Subject to the provisions of this Act, every Advocate whose name is entered in the (State Roll) shall be entitled as of right to practise throughout the territories to which this Act extends,

(i) in all Courts including the Supreme Court;

(ii) before any tribunal or person legally authorised to take evidence; and

(iii) before any other authority or person before whom such Advocate is by or under any law for the time being in force entitled to practise."

This matter regarding the right of an Advocate to appear before any Tribunal

came up for consideration in a number of cases and the Supreme Court pointed out in (1977) 2 SCC 339 (Paradip Port Trust, Paradip, vs Their Workmen and Management of Keonjhar Central Cooperative Bank Limited vs. Their Workmen) that the Industrial Disputes Act is a special statute. This special Act will prevail over the Advocates Act which is general basis of legislation with regard to the subject matter of the appearance of lawyers before all Courts/Tribunal and other authorities. The lawyer/Advocate can not appear before an Industrial Tribunal without the consent of the opposite party and leave of the Tribunal, merely by virtue of a power of attorney executed by a party. A lawyer can appear before the Tribunal in the capacity of an office bearer of a Registered Trade Union or an Officer of an Association of Employers and no consent of the other side and leave of the Tribunal will then be necessary. Section 36 (1) and (2) of the Industrial Disputes Act provides regarding representation of parties and a bare perusal it will show that there is no absolute bar regarding the appearance of a lawyer. Section 36 (3) and (4) of the Industrial Disputes Act are quoted below:

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding (before a Labour Court, Tribunal or National Tribunal), a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and (with the leave of the Labour Court, Tribunal or National Tribunal), as the case may be."

9. Before we proceed further, let us have a look at section 14 (1) (a) (b) (c) of the Bar Council Act. Section 14 provides a right of Advocate to practise.

"14. Right of Advocates to practise.

(1) An Advocate shall be entitled as of right to practise

(a) Subject to the provisions of subsection (4) of section 9, in the High Court of which he is an Advocate, and

(b) Save as otherwise provided by subsection (2) or by or under any other law for the time being in force in any other Court and before any other Tribunal or person legally authorised to take evidence, and

(c) Before any other authority or person before whom such Advocate is by or under the law for the time being in force entitled to practise."

10. An Advocate's right of audience depends on the right given by section 14. This right is save as/otherwise provided by any other law for the time being in force including the right of audience before any Tribunal or person legally authorised to take evidence. But the Advocates right of audience is, necessarily inseparable from his clients right to appear before a particular Tribunal. If the client is absolutely denied the privilege of being heard by the counsel, the Bar Council Act will not save him from the disability. This matter can be looked into

from another angle. Section 14(1) (b) of the Bar Council Act is limited by a saving clause. That saving clause is sufficient to take in the case which is found in the special Act which makes, the right of an Advocate to appear subject to the provisions of that Act. In AIR 1985 SC 389 (supra), the Supreme Court pointed out that the right of audience of an Advocate can be regulated by different statute and will to that extent be as laid down under section 14(1) (a) (b) and (c) of the Bar Council Act, 1926.

12. As regards the right of the litigant to be represented, the Court observed that apart from the provisions of Article 22 (1) of the Constitution of India there is no fundamental right to be represented by a lawyer in Court and Article 22 (1) relates to an accused arrested and detained in custody. Another important factor is, which the Supreme Court noticed is that in the facts and circumstances of that case the Legislature felt for the implementation of legislation it will not subserve the public interest if the lawyers are allowed to appear, plead or act on behalf of a nontribal. The Court observed that in a case between tribals and nontribals, nontribals are placed in an advantageous position and they are placed unequally. Subsequent to it AIR 1987 Supreme Court 1518, the Court was considering Karnataka Land Reforms Act, 1962. Section 48 provided for constitution of Tribunal to decide the dispute. There section 48 (8) prohibited legal practitioners from appearing in a proceeding before the Tribunal. In paragraph 9 the Supreme Court pointed out as follows : "The argument was that section 48 (8) was repugnant to section 30 of the Advocates Act, 1961 and , section14 of the Indian Bar Council Act. It was said that the State Legislature was not competent to make a law, repugnant laws made by Parliament in pursuance to Entries 77 and 78 of List 1 of the 7th Schedule of the Constitution. The submission of the learned counsel is fully supported by the judgment of a Full Bench of High Court of Punjab and Haryana in Jashobant Kaur vs. The State of Haryana, AIR 1977 Punjab and Haryana 221, we adopt the reasoning of the High Court of Punjab and Haryana arid direct that section 48 (8) will not be enforced so as to. prevent Advocates from appearing before the Tribunal functioning under the Act In regard to the decision already rendered by the Tribunal, we do riot think that it is necessary to reopen on the ground that legal practitioners/were .not allowed to appear before the Tribunal in those cases." AIR 1987 SC 1518 is a judgment by two Judges and AIR 1985 SG 389 is a judgment by three Judges. Interestingly enough Chinnappa Reddy was the presiding Judge in both the cases. But AIR 1985"SC 389 was not referred in AIR 1987 SC 1518.

13. The next case is AIR 1988 SC 1768 (Aeltemesh Rein vs. Union of India), That was a case regarding handcuffing of accused arrested in a criminal case and there the Supreme Court in paragraphs 4,6 and 7 observed as follows:

"4. When section 30 of the Act is brought into force every Advocate whose name is entered in the State roll will be entitled as of right to practise throughout the territories to which the Act extends, before the Courts, Tribunals and other authorities or persons referred to therein. Even today there are laws in force in

the country which impose restrictions on the right of an Advocate to appear before certain Courts, Tribunals and authorities. Section 36 (4) of the Industrial Disputes Act, 1947 provides that in any proceeding before a Labour Court, Tribunal or National Tribunal a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be, section 13 of the Family Courts Act, 1984 provides that no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner. There is a proviso to the said section whereunder if the Family Court considers it necessary in the interests of justice it may seek the assistance of a legal expert as *Amicus Curiae*. There are certain land Tribunals constituted under some of the Acts which are in force in certain States before which Advocates cannot appear at all. In many of the cases which come up before the Courts or Tribunals before which Advocates cannot appear as of right complicated questions of law affecting the rights of individuals arise for consideration and they need the assistance of Advocates. We have travelled long distance from the days when it was considered that the appearance of a lawyer on one side would adversely affect the interests of the parties on the other side. The Legal Aid and Advice Boards, which are functioning in different States, can now be approached by people belonging to weaker sections, such as, Scheduled Castes, Scheduled Tribes, women, labourers etc for legal assistance and for providing the services of competent lawyers to appear on their behalf before the Courts and Tribunals in which they have cases. In these circumstances *prima facie* there appears to be now no justification for not bringing into force section 30 of the Act.

6. The effect of the above observations of the Constitution Bench is that it is not open to this Court to issue a writ in the nature of *Mandamus* to the Central Government to bring a statute or a statutory provision into force when according to the said statute the date on which it should be brought into force is left to the discretion of the Central Government. As long as the majority view expressed in the above decision holds the field it is not open to this Court to issue a writ in the nature of *Mandamus* directing the Central Government to bring section 30 of the Act into force. But we are of the view that this decision does not come in the way of the Supreme Court issuing a writ in the nature of *Mandamus* to the Central Government to consider whether the time for bringing section 30 of the Act into force has arrived or not. Every discretionary power vested in the Executive should be exercised in a just, reasonable and fair way. That is the essence of the rule of law. The Act was passed in 1961 and nearly 27 years have elapsed since it received the assent of the President of India. In several conferences and meetings of lawyers resolutions have been passed in the past requesting the Central Government to bring into force section 30 of the Act. It is not clear whether the Central Government has applied its mind at all to the question whether section 30 of the Act should be brought into force. In these circumstances, we are of the view that the Central Government should be

directed to consider within a reasonable time the question whether it should bring section 30 of the Act into force or not. If on such consideration the Central Government feels that the prevailing circumstances are such that section 30 of the Act should not be brought into force immediately it is a different matter. But it cannot be allowed to leave the matter to lie over without applying its mind to the said question. Even though the power under section 30 of the Act is discretionary, the Central Government should be called upon in this case to consider the question whether it should exercise the discretion one way or the other having regard to the fact that more than a quarter of century has elapsed from the date on which the Act received the assent of the President of India. The learned Attorney General of India did not seriously dispute the jurisdiction of this Court to issue the writ in the manner indicated above.

7. We, therefore, issue a writ in the nature of Mandamus to the Central Government to consider within a period of six months whether section 30 of the Act should be brought into force or not. The writ petition is accordingly disposed of."

14. Nothing has been done in spite of this expectation of the Supreme Court.

15. At this stage let us have a look at the following passages from the De Smith's in his 4th Edition in Administrative Law :

"There is some authority for the proposition that one who is entitled to appear in person before a statutory tribunal is also entitled, in the absence of express or implied provision to the contrary, to be represented by a lawyer or by any other appropriate spokesman of his choice, except in informal proceedings before a domestic tribunal. No matter what the status or function of the tribunal, it would be contrary to natural justice to allow one side to be legally represented but to refuse the same right to the other. In considering whether natural justice implies a right to legal representation (if a party is able to obtain it), one must recall that natural justice demands only minimum standards of fair adjudication, and not ideal standards. Whether and if so, when, legal representation ought to be permitted before a tribunal can raise difficult questions of policy. The reasons for excluding legal representatives (or permitting them to appear only with the tribunal's consent) are various; they tend to introduce too much formality and an inappropriate adversarial element into the proceedings, which are apt to become unnecessarily prolonged, they disturb witnesses and inexperienced members of the tribunal by asking awkward questions and taking "technical" points; their presence increases the likelihood of subsequent proceedings in the Courts to impugn the decision, and judicial review is a bad thing. This recital suggests that, in general, legal representation of the right quality before statutory tribunals is desirable, and that a person threatened with social or financial ruin by disciplinary proceedings in a purely domestic forum may be gravely prejudiced if he is denied legal representation. Since the Franks Report the right to legal representation before statutory tribunals has been extended; and it has begun to find its way into disciplinary procedures in universities and national sporting

organisations. Development of the case law on implied rights to legal representation in non statutory environments should be guided by a realistic appraisal of the interests of the person claiming it, as well as of the interests of the organisation to which he belongs.

Refusal to permit cross examination of witnesses at an administrative hearing will usually be a denial of natural justice. Seldom can such a refusal be justified if a witness has testified orally and a party requests leave to confront and cross examine him the fact that the proceedings may be inquisitorial and informal is inconclusive but they may exceptionally be valid grounds for disallowing questions to a witness on a particular matter. If a party to proceedings claims that he has been denied natural justice because the non appearance of a witness has made it impossible to cross examine him, an attack on the validity of the proceedings may seem to have a still firmer foundation but may well prove to be abortive. A tribunal may be entitled to base its decision on hearsay, written depositions or medical reports. In these circumstances a person aggrieved will normally be unable to insist on oral testimony by the original source of information, provided that he has had a genuine opportunity to test evidence by cross examination. Again deprivation of the opportunity to test evidence by cross examination is not a violation of natural justice if the tribunal can and does decide merely on the strength of an inspection or oral or written submissions supplemented by its own local or specialised knowledge; or if the proceedings before an investigating body are only for the purpose of collecting information; or if the evidence relates to questions of policy rather than to the facts in issue.

Three final points can be made. First, often a party cannot effectively exercise his right to cross examine unless he is represented by a lawyer. Secondly, in proceedings culminating in the imposition of a penalty, natural justice surely requires that after the case has been proved or even if there is no dispute as to the law and facts in the first place, there should be a right to address the tribunal in mitigation unless the penalty is automatic. Thirdly, there may well be questions of law, policy or opinion on which a party cannot properly claim any right to lead evidence or to cross examine witnesses but on which he can fairly claim an implied right to make submissions to the deciding body."

16. Craig on Administrative Law in 2nd Edition has pointed out as follows:

"The position as to whether an individual can be represented by a person of his choice, including a lawyer is as follows. First, there appears to be no absolute right to such representation. Legal representation may be counter productive, unnecessary or overcumbersome in cases where a matter must be speedily resolved, and hence the Courts have resisted claims that there should be a right to such representation. Secondly, the Courts have however emphasised that tribunals possess a discretion as to whether to allow such representation, and are willing to review the manner in which the discretion is exercised. A tribunal is master of its own procedure, and this provides the foundation from which it can permit such representation, Consideration of the statutory scheme within a

particular area may convince the Court that representation by a lawyer should on construction be excluded. However, the Courts are in general reluctant to exclude the possibility of such legal representation in to within a particular area. In exercising their discretion whether to permit such representation, tribunals should take the following facts into account; the seriousness of the charge or penalty; whether any points of law are likely to arise; the capacity of a person to present his own case; procedural difficulties; the need for speed in reaching a decision; and the need for fairness as between the individual and the officers concerned. Thirdly, there does not appear to be any general right to attend a hearing as the friend or adviser of the individual directly concerned; whether such a right exists depends on the nature of the tribunal in question. Any such tribunal does however possess the discretion to allow the individual to be assisted by such an adviser."

17. Wade on Administrative Law 5th Edition has pointed out as follows :

"Legal representation, legal aid, costs As a general rule, any party before a tribunal may be represented by a lawyer or by anyone else. Whether this is a legal right is not at all clear. It is not certain that it is covered by the principles of natural justice. In practice the position is that representation is freely permitted except in rare cases where it is restricted by regulation. The procedural rules of many tribunals give an unrestricted right of representation which the Council on Tribunals encourages. Representation by an experienced Trade Union representative or social worker may often be the most effective, and this is very common before social security tribunals and comparable bodies.

In an earlier period there were irrational restrictions on representation by qualified lawyers, but these were removed in 1958 as already related. One restriction which survived was that enforced in service committees of family practitioner committee (formerly executive councils) in the national health service, where it was thought that patients making complaints against their doctors ought not to be confronted with a professional lawyer defending the doctor. The rule in its earlier form prohibited paid Advocates and also Barristers and Solicitors, whether or not paid and whether or not in practice. But an amendment restricted the prohibition to persons acting in the capacity of paid Advocate, so that a Barrister or Solicitor, if unpaid, may now assist a party in the capacity of a friend,

In Courts of law there is a legal right for a party appearing in person to have the assistance of some one to give advice and take notes, and this right presumably applies equally before tribunals. Legal aid (as opposed to advice and assistance) is at present available for two tribunals only, the Lands Tribunal and the Common Commissioners. In practice the proceedings in many tribunals are inexpensive and informal, particularly where trade unions and social workers provide assistance and representation, so that legal representation is often not a necessity. But difficult problems of law and fact are always prone to occur, particularly under complicated regulations. The Royal Commission on Legal

Services found that there was some need for legal aid in all tribunals and recommended that it be made available. The same recommendation has often been made before, but never, with success. But legal advice and assistance (though not representation) is available for tribunal proceedings and the adviser may assist the client at the hearing though he may not take part in it otherwise. The Lord Chancellor has been empowered to extend "assistance" to include representation before tribunals and inquiries, but he has not as yet done so.

Few tribunals have power to award costs, so that parties usually bear their own in cases involving expense. The Lands Tribunal however possesses this power, and normally exercises it in favour of the successful party in the same way as a Court of law. An industrial tribunal will not normally award costs, but may do so against a party who acts unreasonably."

18. In the Chapter of Right to a Fair Hearing, Wade has pointed out as follows:

"The right to representation by a lawyer or other person may prove to be a part of natural justice in suitable cases, but this is not as yet clearly established. It probably exists in the case of a formal tribunal or investigation if there is no provision to the contrary; but regulations excluding it have been upheld. In cases concerning non statutory domestic tribunals the Court of appeal has favoured the right of legal representation where a serious charge was made, but has held, that it may be excluded by an association's rules. It is also excluded, as the same Court has held, in disciplinary proceedings which demand a rapid hearing and decision, as in the case of offences committed by prisoners. But prison visitors have discretion and must consider any request for representation in the light of all the circumstances, including the seriousness of the charge, the prisoner's capacity to present his case, and fairness generally; and on a charge of mutiny they cannot reasonably refuse the request. There is also a right to legal assistance and representation under the European Convention on Human Rights.

Wrongful refusal of an adjournment, when reasonably requested, may amount to refusal of a fair hearing, particularly where the party affected is thereby disabled from appearing at all. So may the wrongful exclusion from a juvenile Court of a social worker who might have assisted a boy who was convicted.

Lord Denning MR has summed up the procedure in the case of an investigating body such as the Commission for Racial Equality which is under a duty to act fairly.

The investigating body is, however, the master of its own procedure. It need not hold a hearing. It can do everything in writing. It need not allow lawyers. It need not put every detail of the case against a man. Suffice it if the broad grounds are given. It need not name the informants. It can give the substance only. Moreover, it need not do everything itself. It can employ secretaries and assistants to do all the preliminary work and leave much to them. But, in the end, the investigating body itself must come to its own decisions and make its own report."

19. On the basis of the aforesaid discussions and laws we are to test and determine the provisions of subrule (9) of Rule 88 of the Rules, 1953 which lays down that:

"In these proceedings neither party shall be represented by any legal practitioner."

The Supreme Court has noted in the above mentioned case, the question of validity or otherwise of a State Act visavis the provisions of the Central Act pointed out that the Central Act shall hold the field. The Rules were framed under the provisions of section 100 of the Cooperative Societies Act. There is also no question of a lis between two unequals to debar the legal practitioners on either side. In fact, during the proceeding for disposal of the dispute we will have to see the nature of the dispute. The dispute may be for a huge amount due from a member. The complicated question of law can effect the matter raised in such a case, the member who is not properly trained may face difficulty. Further, there is no provisions of appeal on facts save and except an appeal on a question of law to the State Government. In such a proceeding a member may be ruined and he being in a disadvantage position may be prejudiced. Fair trial which is an epitome of all decisions and all decisions making bodies may not be achieved denying the assistance of a lawyer it may not fulfill the object sought to be achieved. No doubt by granting assistance of lawyer the proceeding must not be allowed to be protracted. The Registrar, if he exercises proper control over the matter can cut short the dispute even when lawyers are allowed to be present. It is not understood what purpose is being served by preventing the assistance of a lawyer to a needy person, rather it causes injustice and prejudice.

20. Considering the matter from all these angles I find that Rule 88 (9) quoted above, is beyond the rule making power of the authority and the same is struck down. Rule 88 (9) is struck down with regard to a dispute for recovery of sum dues under section 70 of the Act. Section 70 is quoted below :

"70. Power of Registrar to, direct payment of dues. Notwithstanding anything contained in Chapter X, the Registrar or such other person as may be authorised by him in this behalf may, on his motion or on the written requisition of a registered society or an affiliating society or a financing bank for the recovery of any loan or any other demand due by a defaulting member, after making such enquiry as he deems fit, grant a Cooperative Demand Certificate for the recovery of the amount found to be due."

21. In a dispute under section 70 of the Act (quoted above) a lawyer shall be allowed to appear. But I express a caution or note of caution that the Registrar must take appropriate measure not to prolong the proceeding by allowing a lawyer to be present. This judgment will not allow reopening of the cases already decided by the Registrar without the assistance of a lawyer.

22. This disposes of this writ application.