
(2011) 07 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 7621 and 4582 of 2010

P.R. Swarankar and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2011) 4 RLW 3117

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J.—In the instant writ petition, the Petitioners have made the following prayer:

It is, therefore, humbly and respectfully prayed that writ petition of the Petitioners may kindly be allowed and by an appropriate writ, order or direction:

(A) That, the order dated 7/13th July 2010 (Ann.-21) may kindly be quashed and set aside.

(B) That, consequent to aforesaid the Respondents may kindly be directed to give to the Petitioners benefit of the Rules of 2008 on and from the date same became applicable alongwith the arrears which becomes payable.

(C) That, order dated 24/25th May, 2010 (Ann. 17) passed by MD URMUL Society may kindly be quashed and set-aside.

(D) Any other relief which this Hon'ble Court may deem fit may kindly be granted in favor of the Petitioner;

(E) Cost of the writ petition may kindly be awarded to the Petitioners.

2. In the facts narrated in the writ petition, it is pleaded that in the matter with regard to fixation in the Pay Scale Rules of 1998 when the Registrar, Cooperative

Societies refused to approve the resolution of Jodhpur Sahkari Upbhokta Wholesale Bhandar Ltd. in regard to its employees for fixation in accordance with Rules of 1998 on the ground that it may lead to financial burden, the same was challenged before this Court by way of filing S.B. Civil Writ Petition No. 4041/2006 in the case of Jaswant Singh Panwar and Ors. Said writ petition was allowed and against judgment passed in the writ petition, special appeal filed by the Respondents was also dismissed by the Division Bench of this Court. The controversy involved in this case is identical because the Registrar refused to grant approval to all the employees for extending them the benefit of Revised Pay Scale Rules 2008 framed as per recommendations made by the Sixth Pay Commission.

3. The Petitioners are employees of Uttari Rajasthan Sahkari Dugdh Utpadak Sangh (hereinafter referred to as "URMUL"). In the URMUL society, a resolution was passed on 06.07.1988 whereby service rules of Rajasthan Dairy Federation for the purpose of recruitment and promotion were adopted. Thereafter, the benefit of fixation of pay under the recommendations of 4th Pay Commission, adopted by the State Government, was also effected and necessary fixations were made. Similarly, the Revised Pay Scale Rules 1998 came into effect and the Registrar vide order dated 13/14th July, 1998 decided to extend the benefit of the Rules of 1998 to the employees of URMUL society i.e., the Petitioners. Accordingly, the notional benefit was to be effected with effect from 01.09.1996 while the actual financial benefits were given with effect from 01.01.1997.

4. It is significant to mention here that at the time of granting benefit of fixation under the Revised Pay Scales Rules 1998, as per recommendation of the Fifth Pay Commission, URMUL society was running in accumulated losses, however, in particular bunch of 3 to 4 years it earned profit.

5. In the year 2008, the recommendations of Sixth Pay Commission were made for revision of pay-scales. According to said recommendations Revised Pay Scale Rules, 2008 were framed and the benefit was extended to the employees with effect from 01.09.2006 on notional basis while the actual benefits were given from 01.01.2007. The Respondents issued circular dated 30.10.2008 (Annex.-6), whereby, guidelines for granting benefit of the Rules of 2008 were laid down by the Standing Committee under the Chairmanship of Chief Secretary for 13 apex Cooperative Societies deleted from the list of Bureau of Public Enterprises was taken. According to Clause 3 of the circular, the benefit of the Rules of 2008 could be extended to the employees of loss making societies on submission of a plan for earning profits.

6. The Managing Director, RCDF conveyed its decision for implementing the benefits of Sixth Pay Commission Recommendations for the employees of RCDF and its constituent milk unions which is Annex.7 dated 16.01.2009. In pursuance of the aforesaid circular, the Respondent URMUL passed its first resolution on 25.7.2009, in which, a decision was taken that employees of the URMUL society will be given benefits and their salaries will be fixed as per Rules of 2008. The

copy of resolution is placed on record as Annex.8 dated 25.7.2009. The Managing Director of RCDF upon receiving the aforesaid resolution forwarded the recommendations to the Registrar, Co-operative Societies on 24.9.2009. As a matter of fact, the said recommendations were forwarded by the Financial Advisor on behalf of the Managing Director with his approval.

7. The case of the Petitioners is that as per Clause 3 of circular dated 31.10.2008, plan for earning profits by the Respondent URMUL society was also submitted and in the plan, it was given out that losses are accumulating on account of policies of Gor, Gol and RCDF. Copy of the plan is placed on record as Annex.-10.

8. In the aforesaid circumstances, it is pleaded that decision was to be taken by the Registrar but, despite 9 reminders, no decision was taken by the Registrar.

9. Due to inaction on the part of the Registrar, an agitation was launched by the Petitioner-employees for their demand for implementation of the Rules of 2008 because it became very hard to maintain themselves and their families due to price escalation and a prayer was made to implement the recommendations of Sixth Pay Commission. The Managing Director, URMUL society vide order dated 24/25-02-2010 decided to fix the pay of the Petitioners under the Rules of 2008 and as per orders of the Managing Director, the pay of the Petitioners from February onwards till April 2010 was disbursed in accordance with the Rules of 2008.

10. It is also pleaded in the writ petition that the decision taken on 25.07.2009 by the Board to extend the benefits of the Rules of 2008 to the employees of the society was forwarded to the Registrar, Cooperative Societies through RCDF for approval. In the said decision, the Joint Registrar was also member of the Board and he never recorded his dissent. The Joint Registrar passed order dated 20.04.2010 under instructions of the Registrar, Co-operative Societies staying the order dated 24/25-02-1020. Said order was challenged before this Court, in which, this Court stayed the order of the Joint Registrar.

11. On 29.04.2010, the Registrar, Co-operative Societies directed the Managing Director of the URMUL society to cancel order dated 24/25-02-2010 and effect recovery from the employees. Upon receiving the said direction from the Registrar the Managing Director passed order on 24/25-05-2010 whereby its earlier order dated 24/25,-02-2010 was cancelled. It is specifically pleaded in the writ petition that the order of cancellation was passed during the currency of first stay granted by this Court in the earlier writ petition.

12. The Respondents in a meeting held on 14.01.2010 formed opinion not to grant the benefit of the Rules of 2008 to the employees of URMUL Society, Bikaner and when this decision was taken it was recorded that no recommendation of the Managing Director, RCDF for the purpose of showing how URMUL society will earn profits has been received and since the society is running in cumulative losses the benefit of Rules of 2008 cannot be given. The

entire matter has been sent to the Principal Secretary, Animal Husbandry, Fisheries & Dairy Department. On the basis of the aforesaid letter, the Principal Secretary, Animal Husbandry has taken decision, according to which, it has been decided that benefit of the Rules of 2008 shall not be given to the Petitioners. The Petitioners have placed on record letter dated 02.07.2010 alongwith letter dated 07/13-07-2010 as Annex.-20 and Annex.-21.

13. It is contended in the pleadings that Government of Rajasthan already extended benefit of the Revised Pay Scale Rules 2008 to the employees of RAJFED, CONFED and RCDF which are running in accordance with the Co-operative Societies Act but are in losses. In the same manner, the benefit, prayed for by the Petitioners, has been extended to the employees of RSRTC, RTDC and Vidyut Vitaran Nigams which, too, are running in losses. Therefore, the denial of benefit of the recommendations of the Sixth Pay Commission for revising the pay of the Petitioners as per Rules of 2008 is illegal. It is, therefore, prayed that the reason for denial of implementation of recommendations of the Sixth Pay Commission is totally unfounded because most of the co-operative societies and public enterprises, running under the Control of the State Government, are running in losses but their employees have been granted the said benefit whereas employees of the URMUL society, Bikaner have been denied the benefit of fixation of pay as per recommendations of the Sixth Pay Commission for the reason that URMUL society is running in losses; but, in fact, the losses cannot be attributed to the employees of the society as the losses are admittedly occurring due to failure of the administration and policy decisions of the GoR, Gol and RCDF which is expressly informed by the Financial Advisor of RCDF to the Registrar, Cooperative Societies under communication dated 24.09.2009, Annex.-R/2. Upon perusal of Annex.-R/2, it reveals that none of the reasons speaks that employees of the society are responsible for the losses; but, the Registrar, Cooperative Societies did not care to even consider those reasons, in which, the Petitioners were not held responsible.

14. Learned Counsel for the Petitioners vehemently argued that denial of the benefit to the Petitioners who are employees of URMUL society is totally unwarranted and in violation of Articles 14 and 21 of the Constitution of India. It is contended by learned Counsel for the Petitioners that if any co-operative society is running in losses, then, efforts can be made to improve the financial status of the society; but, at the same time, conscious decision is required to be taken for the purpose of granting benefit to the employees as per rules. In this case, the Petitioners are claiming their right which has already been granted by the State Government to all the government employees and public enterprises and Petitioners are not in position to maintain their families because of price escalation of essential commodities. Further, the Registrar, Co-operative Societies has nothing to do with the administration of the URMUL society but being supervisory body has interfered in the matter arbitrarily and directed the Managing Director not to grant benefit under the Rules of 2008 to the employees of the society.

15. Learned Counsel for the Petitioners submits that as a matter of fact no sanction for applying the Rules of 2008 is required from the Registrar, Cooperative Societies because, in the year 1988 decision had already been taken for adopting the conditions of service *mutatis mutandis* as applicable to employees of RCDF and consequently, the same service conditions as applicable to employees of the RCDF became applicable to the employees of the URMUL society. Here, in this case, by virtue of circular dated 31.10.2008 the Revised Pay Scales Rules, 2008 have been made applicable to the employees of the RCDF by amending the service rules. Once such amendment has come in the service rules of RCDF, the same are applicable to the employees of the URMUL society, therefore, no further approval for applying the Rules of 2008 is required from the Registrar, Co-operative Societies.

16. It is vehemently contended by learned Counsel for the Petitioners that the Registrar, Co-operative Societies extended the benefit of the Revised Pay Scales Rules, 2008 to the employees of RAJFED and CONFED although both are running in regular losses, however, without there being any distinguishing feature in the circumstances, the benefit of the Rules of 2008 is not being extended to the Petitioners. It is further argued that irrespective of the losses suffered by the various institutions like RSRTC, RTDC and Vidyut Vitaran Nigams the benefit of Revised Pay Scale Rules, 2008 has been extended to their employees by the State Government, therefore, it is clear case of hostile discrimination being practiced by the Respondents. It is urged by learned Counsel for the Petitioners that the reason for denial of benefit is not sustainable in the eye of law. Therefore, the Respondents may be directed to grant benefit of the Revised Pay Scales Rules, 2008 to the Petitioners who are employees of the URMUL society.

17. Learned Counsel for the Petitioners submits that during the pendency of this case, the co-ordinate Bench passed order on 16.12.2010 whereby the Respondent dairy was directed to make payment of wages to its employees as per order dated 24.02.2010, affirmed by its Board of Management on 12.03.2010 (as per Annex.-14). Further, the State Government was directed to provide necessary aid to the Dairy for making such payment. But, the said order dated 16.12.2010 was challenged by the Government and vide order dated 02.02.2011 the Division Bench of this Court set aside order dated 16.12.2010 and specifically directed that since the issue involved in the matter is with regard to payment of emoluments and monitory benefits to large number of workers, the writ Court may dispose of the writ petition expeditiously preferably within a period of six months.

18. After passing of the above order in D.B. Civil Special Appeal (Writ) No. 12/2011 on 02.02.2011, the matter was again heard and thereafter, an order was passed on 28.02.2011, by which, the Registrar, Cooperative Societies, Jaipur was directed to decide the matter of sanction with regard to granting benefit of recommendations made by the Sixth Pay Commission within a period of 15 days. Further, it was directed that at the time of consider the aforesaid matter the

judgment of Hon''ble Supreme Court in the case of Haryana State Minor Irrigation Tubewell corporation and Ors. v. G.S. Uppal and Ors. reported in AIR 2008 SC 2154 shall be taken into consideration and appropriate orders may be passed.

19. In pursuance of the above order, it is informed by learned Counsel for the Respondents that vide order dated 24.05.2011 the Registrar, Co-operative Societies, Jaipur has rejected the approval. The communication dated 24.05.2011 has been filed along with additional affidavit on 25.05.2011, whereby, the Registrar has completely denied the benefit, therefore, it is prayed by learned Counsel for the Petitioners that matter may be adjudicated as per directions of the Division Bench passed in D.B. Civil Special Appeal (W) No. 12/2011 decided on 02.02.2011 and the Respondents may be directed to grant benefit of recommendations of the Sixth Pay Commission to the Petitioners as per order dated 24.02.2010 passed by the Managing Director, URMUL Dairy and affirmed by its Board of Management on 12.03.2010.

20. Learned Counsel for the Petitioners in support of the claim invited my attention towards following judgments of this Court as well as Hon''ble Supreme Court to substantiate the claim of the Petitioners:

(1) Employees of Tannery and Footwear Corporation of India Ltd. and another Vs. Union of India and others,

(2) Haryana State Minor Irrigation Tubewells Corporation and Others Vs. G.S. Uppal and Others, and

(3) Judgment of this Court in Jaswant Singh Panwar's case, in S.B. Civil Writ Petition No. 4041/2006 which is affirmed by the Division Bench of this Court on 03.12.2008 in D.B. Special Appeal (W) No. 853/2008.

While placing reliance upon the aforesaid judgments, learned Counsel for the Petitioners submits that the Petitioners are entitled for the grant of benefit under the recommendations of the Sixth Pay Commission for the reason that benefit of Sixth Pay Commission has already been extended to the employees of the RCDF and other co-operative societies and public enterprises which, too, are running in losses.

21. Per contra, learned Counsel appearing on behalf of the Respondents No. 1 and 2 submits that the Petitioners are not entitled for the direction as prayed for by them in the writ petition because the benefit of the Revised Pay Scales Rules, 1998 was made applicable to the employees of the URMUL Dairy by the Registrar, Co-operative Societies on the recommendation of the General Administration Department. Likewise, for implementation of the Rules of 2008, the Registrar issued notification in respect of the apex body RCDF and Petitioners are not employees of the RCDF because the Petitioners are employees of independent society and its governing body is Board of Directors of URMUL.

22. In reply to para 12, it is specifically stated that the recommendations of the

Sixth Pay Commission do not automatically become effective in respect of Uttari Rajasthan Sahkari Dugdh Utpadak Sangh, Bikaner because circular dated 31.10.2008 was issued under the Chairmanship of the Principal Secretary for 13 apex bodies, in which, the societies which are running in losses are required to submit plan for overcoming the financial burden due to implementation of the recommendations of the Sixth Pay Commission. However, the said proposal was implemented by the Managing Director without approval of the competent authority illegally which is against the circular of the Government dated 31.10.2008.

23. Learned Counsel for the Respondents invited my attention towards reply to para 15 of the writ petition and submitted that proposals were sent to the Principal Secretary for granting sanction under the REPSSAR Act but before sanction could be issued the Managing Director of the URMUL society issued orders for implementation of the Rules of 2008 which was, however, later on cancelled and RCDF sent amended proposal on 21.01.2010 to the Registrar. In the said proposal, URMUL Dairy was shown to be in losses of Rs. 2,90,00,000/-. Said proposals were again sent for approval but the proposals were rejected because the URMUL society is running in losses and not in a position to bear more financial load due to implementation of the Rules of 2008.

24. Learned Counsel for the Respondents submits that the order dated 25.02.2010 was issued by the Managing Director without the approval of the State Government or Board of Directors, whereby, the RCS (Revised Pay Scale) Rules, 2008 were illegally made applicable for the employees of URMUL. The Petitioners are not State Government employees and Respondents No. 3 and 4 have no authority to implement the Rules of 2008 without sanction of either the State Government or the Board of Directors. Hence, the order dated 25.02.2010 was passed illegally by the Managing Director, therefore, it was cancelled.

25. It is submitted on behalf of Respondents No. 1 and 2 that the URMUL Dairy is an independent society and separate entity of its own and the proposal for implementation of revised pay-scales was to be looked into while taking into consideration the financial status of the URMUL Dairy, Bikaner.

26. Learned Counsel for the Respondents submits that main crux of argument is that URMUL Dairy is running in losses, therefore, as per circular Annex.-6 dated 31.10.2008 it is decided by the Registrar, Cooperative Societies vide order dated 24.05.2011 not to implement the Rules of 2008 framed as per recommendations of the Sixth Pay Commission as per directions issued by this Court vide order dated 28.04.2011. The Registrar, after considering all facts, gave cogent reasons to deny the benefit, therefore, it is prayed that the writ petition may be dismissed.

27. I have considered the rival submissions made by both the parties and perused the pleadings and documents placed on record.

28. The main controversy in this writ petition is that, whether the Petitioners

being employees of the Uttari Rajasthan Dugdh Utpadak Sahkari Sangh Ltd., Bikaner are entitled for the benefit of the Revised Pay Scale Rules, 2008 which is framed as per recommendations of the Sixth Pay Commission by the State Government and further whether the denial of approval for implementation of the recommendations by the Registrar is justified for the reason that URMUL Dairy is running in losses.

29. In this case, it is not disputed that all the earlier Revised Pay Scale rules prior to the Rules of 2008 were implemented and employees of the URMUL Dairy were granted benefit of the Revised Pay Scale Rules in past. It is also not disputed by Respondents No. 1 and 2 that benefit of recommendations of the Sixth Pay Commission was granted to other institutions although they are running in losses like RSRTC, RTDC, Vidyut Vitaran Nigams and RCDF. It is also not disputed by the Respondents that this benefit was granted to the apex body RCDF and to all the employees of the State Government.

30. It is also worthwhile to observe here that as per terms and conditions of service it is nowhere provided that benefit of Revised Pay Scales Rules will not be granted if the society is running in losses. In whole of the reply, the only reason given for the denial of the benefit is that decision has been taken under the chairmanship of the Principal Secretary, in which, it was decided for 13 apex co-operative societies, in which, those societies which are running in losses were directed to send proposals with details of resources and plan to overcome the financial burden on the societies due to implementation of the recommendations of the Sixth Pay Commission. In this case, objection is raised that the Managing Director illegally implemented the recommendations of the Sixth Pay Commission without approval of the competent authority. It is worthwhile to observe here that no specific decision has been placed on record to show that any decision has been taken under the chairmanship of the Principal Secretary not to grant benefit of the recommendations of the Sixth Pay Commission to the employees of those societies which are running in losses. Following decision was taken vide circular Annex.6 dt. 31.10.2008:

Office of the Registrar Cooperative Societies Rajasthan, Jaipur No. F. 112()CDR/Mktg./Pay scales/Apex Soc/08 Date : 31.10.2008

CIRCULAR

Subject : Revision of prevailing pay scales of employees of Apex Cooperative Societies separated from the Bureau of Public Enterprises and grant of Sixth Pay Commission benefits.

The following guidelines are being issued in consequence of the decisions taken in the Standing Committee under the Chairmanship of Chief Secretary for the 13 Apex Cooperative Societies deleted from the list of Bureau of Public Enterprises.

1. Those societies which have been in annual profits consecutively for the last three years and are also currently in accumulated profits may take a decision

approved by its Board of Directors for payment of the benefits of Sixth Pay Commission; provided that the society does not come under loss after revision of such pay scales. Such societies, however, should give effect to revision of pay-scale after due approval from the competent authority/level.

2. Those societies which have been in annual profits for the last three consecutive years but are currently in a position of accumulated losses shall analyse their financial resources, business prospects and economic viability with respect to the burden to be incurred due to implementation of the recommendations of the Sixth Pay Commission. After such analysis, if the Board of Directors of the society takes a decision for implementation of the recommendations of the Sixth Pay Commission, the society will seek approval of the competent authority/level along with complete financial analysis.

3. As far as loss making societies are concerned, they may assess their resources position along with the additional resources which could be mobilized, (sic) plan and take a decision regarding implementation of the benefits of the Sixth Pay Commission and furnish proposals to the competent authority/level for approval. The proposals should contain a detailed plan of action to meet the additional financial burden. The proposal shall also include specific provisions regarding the date of implementation of the package along with the provisions regarding payment or non payment of arrears.

4. Under no circumstances shall any society grant pay scales higher than those granted by the State Government to its employees vide the State Government's notification No. F.11(7)D/Rules/2008 dated September 12, 2008.

5. The procedure for fixation of pay in the new pay scales shall be followed mutatis mutandis as given in the said notification of the State Government.

Sd/-Registrar

31. Upon perusal of the above circular, it emerges that decision was taken that proposals may be taken in detail of its resources and plan to overcome the financial burden upon the society due to implementation of the recommendations of the Sixth Pay Commission for the societies which are running in losses; meaning thereby, no decision was taken in the meeting held under the Chairmanship of the Principal Secretary not to grant benefit of the recommendations of the Sixth Pay Commission to the employees of the society which is running in loss. The only decision was to take proposal in detail of its resources and plan to overcome financial burden on the society. The Registrar while taking shelter of the said decision denied the benefit to the Petitioners but, it is not justified because the reason for running in losses is not tenable in view of the fact that welfare State is required to watch interest of the public at large and to protect fundamental rights granted under Article 21 of the Constitution of India and should not violate Article 14 of the Constitution of India. In this case, when there is no specific decision of the State Government not to grant the benefit of the recommendations of the Sixth Pay Commission to the employees of

the societies which are running in losses, then, obviously the Registrar has no power to usurp the jurisdiction for denial of approval.

32. It is also evident from Annex.-R/2 dated 24.09.2009, filed by the Government along with additional affidavit, in which, following information was given to the Registrar by the Financial Advisor of RCDF while making recommendation for grant of approval to implement the Revised Pay Scale Rules 2008:

Milk Union Bikaner:

The matter was placed before the committee at RCDF for examination of financial data's after considering the facts and the Agenda No. 169/7 passed by the Board of Directors of Milk Union Bikaner on dated 25-7-2009 for implementation of the 6th pay commissions recommendation, the committee observed that the Accumulated Loss of Milk Union Bikaner was beyond the control of the Management of Milk Union and to some extent was due to policy matters introduced by the GOR/GOI/RCDF time and again in the past years hence the Milk Union had turned into such loss, according to the view expressed by the committee the case of Milk Union Bikaner is being forwarded to the Registrar, Co Operative Societies Rajasthan, Jaipur for consideration at their end as per the directions issued on dated 23-3-2009 as well as also as per the direction laid in the Minutes of the meeting held on dated 8-5-2009 in the Chairmanship of Principal Secretary AH & DD GOR Jaipur.

33. I have perused the recommendations made by the Financial Advisor of RCDF to the Registrar. After perusal of the above recommendation, I am of the opinion that after passing order by this Court on 28.04.2011 the Registrar, Co-operative Societies was under obligation to consider the said information given by the Financial Advisor, in which, there is no allegation that the employees are in any manner responsible for the losses of the society. It is specifically mentioned that due to policy matters introduced by the GoR, GoI and RCDF, URMUL Dairy is running in losses. The Registrar, Co-operative Societies has completely ignored the said recommendation, in which, correct information was given after passing resolution by the RCDF.

34. It seems that the Registrar, Co-operative Societies even after passing order by this Court on 28.04.2011, during pendency of this writ petition, has not only ignored the factual aspect of the matter but has passed order dated 24.04.2011 that in the event of granting benefit under the recommendations of the Sixth Pay Commission to the employees the financial condition of the Respondent daily will be adversely affected. It seems that the Registrar, Cooperative Societies has not cared even to peruse the decision taken in the meeting held under the Chairmanship of the Principal Secretary communicated vide circular dated 31.10.2008 and recommendations made by the RCDF but has taken the decision for denial of approval on its own vide communication dated 24.05.2011. All this scenario manifestly reflects that the Registrar, Co-operative Societies is either

having prejudice against the employees of URMUL society or is not competent to honour the office he is holding because he has not only ignored the factual aspect of the matter but has also tried to mislead this Court that due to inaction of the Petitioner-employees the URMUL Dairy is running in losses. The order dated 24.05.2011, which is passed in pursuance of the order passed by this Court, is totally contrary to the decision of the Government as well as against the recommendations made by the Financial Advisor of the RCDF.

35. The Financial Advisor of the RCDF has categorically informed vide Annex.-R/2 dated 24.09.2009 that the employees cannot be held responsible for the losses and the losses have been caused due to policy matters introduced by the GoR, Gol and RCDF.

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.