IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

BEFORE:-

THE HON'BLE JUSTICE SHAMPA SARKAR
&
THE HON'BLE JUSTICE ARJUN RAY MUKHERJEE

FMA 898 of 2020
with
CAN 1 of 2018

Sri Bhaskar Mukherjee & Anr.
vs.
The State of West Bengal & Ors.

For the Appellant	: Mr. Shyamal Kumar Mukherjee, Sr. Adv., Mr. Sattwik Bhattacharyya, Adv. Mr. Aashutosh Bhattacharyya, Adv. Mr. Aritra Roy, Adv.
For the State	: Ms. Susmita Saha Dutta, Ld. AGP., Ms. Tanusree Ghosh, Adv. Mr. Dipjyoti Chakraborty, Adv.

Judgment reserved on	: 19.08.2026
Judgment pronounced on	: 16.09.2026
Judgment uploaded on	: 16.09.2026

Arjun Ray Mukherjee, J.

1. This is an appeal against an order dated June 4, 2018, arising out of W.P. No. 140 [w] of 2017. By the said order, the learned Single Judge dismissed the writ petition, thereby upholding the judgment and order dated October 4, 2016, passed by the West Bengal Cooperative Tribunal [hereinafter referred to as 'the Tribunal'] in Appeal No. 71 of 2004, preferred by the appellants / writ petitioners.

2. The case of the appellants, which is relevant for the purpose of adjudication of the issues involved in this appeal, is stated hereinbelow:-

a) The appellant no. 1 / writ petitioner no. 1 [hereafter 'appellant no. 1'] is a member of the Pranabananda Cooperative Bank Limited / appellant no. 2 / writ petitioner no. 2 [hereafter 'the said Bank']. The said Bank owes its origin to the Pranabananda Cooperative Credit Society [hereafter 'the said credit society'] which was founded in or about April, 1985. The said credit society achieved steady progress in its business and by an order bearing no. 727/16.51.25/95-96 dated April 17, 1996, the Reserve Bank of India [hereafter 'the RBI'] included it in the list of primary cooperative banks. Pursuant to such direction of the RBI, the said credit society was renamed as 'the Pranabananda Cooperative Bank Limited, Burdwan. The appellants subsequently applied for a licence under Section 22 of the Banking Regulation Act, 1949 [hereafter 'the said Act, 1949]. By an order dated July 27, 1999, the Cooperation Department, Government of West Bengal, owing to resignation of some members from the Board of the said Bank, dissolved the elected Board of Directors and appointed a Board of Administrators in its place. The order dated July 27, 1999 was assailed before this Court in W.P. No. 4273 [w] of 2000 and by an order dated March 30, 2001, a learned Single Judge of this Court allowed the said writ petition by quashing the order dated July 27, 1999. Despite repeated requests, the charge of the Bank was not handed over either by the Board of Administrators or by the authority concerned, to the appellant no. 1 or other Board members.

b) When the said Bank was under the control and management of the Board of Administrators, the RBI issued a show cause notice dated June 24, 2000, calling upon the said Bank to show cause as to why its application dated March 1, 1997, for the grant of licence should not be rejected.

c) The RBI by an order no. "UBD.CO.BSD III/2167/12.03.1542/2000-2001 dated January 25, 2001, rejected the application dated March 1, 1997. The order reads as follows:

> *"1. The Pranabananda Co-operative Bank Ltd, Burdwan (hereinafter referred to as the bank) was initially registered as a Society as on 30 April 1985 and subsequently included in the li8st of Co-operative Banks as on 17 April 1996. It had on 1 March 1997 applied for grant of license under Section 22 of the Banking Regulation Act 1949 (As applicable to Co-operative Societies) (hereinafter referred to as the 'Act'), to carry on banking business in India. <u>The said application was kept in abeyance in view of various deficiencies/irregularities noticed in its working which were duly communicated to it with an advice to rectify the same</u>.*
>
> *2. The first statutory inspection since its inception as a bank was conducted by Reserve Bank of India with reference to its financial position as on 31/12/97, which revealed the precarious financial position of irregularities/deficiencies were observed the bank, further, the following major irregularities/deficiencies were observed:*
>
> *i. the erosion in the value of assets of the bank, worked out to Rs. 279.72 lakh as on 31 December 1997, which not only wiped out the entire paid-up capital and reserves of the bank but also eroded its deposits to the extent of Rs. 213.32 lakh. The bank is, therefore, not complying with the provisions of*

Section 11(1) of the Banking Regulation Act, 1949 (As Applicable to Co-operative Societies);

ii. While the total outside liabilities of the bank stood at Rs. 1487.64 lakh as on 31 December 1997, the realizable value of its assets was estimated at Rs. 1274.32 lakh as on the date. Thus, the bank did not have the capacity to pay its present and future depositors in full as and when their claims accrue and hence it had not complied with the provisions of Section 22(3)(a) of the Act;

iii. the bank had been a chronic defaulter in submission of return in Form I since the commencement of banking business in June 1996;

iv. the bank did not maintain a Register to record, inter alia, the particulars of Cash Reserve and Liquid Assets required to be maintained and actually maintained by the bank on daily basis. Instead, the bank prepared the positions in loose sheets only on each reporting Friday;

v. the bank had been defaulting heavily in the maintenance of SLR under Section 24 of the Banking Regulation Act, 1949 (As Applicable to Cooperative Societies) throughout the entire period of its functioning as an urban cooperative bank since June 1996.

vi. the bank had violated RBI directives on payment of interest on deposits and granted incentives to the agents of Daily Deposit Scheme against RBI guidelines;

vii. pre-sanction appraisal of loan proposals and post sanction supervision of loans and advances suffered from serious deficiencies;

viii. the bank had not implemented RBI guidelines on income recognition, asset classification and provisioning for non performing assets;

ix. the accumulated loss as on 31 December 1997 amounted to Rs. 235.31 lakh;

x. the internal control, particularly in the area of balancing of books of accounts, reconciliation of bank's accounts, etc., was not property exercised by the banks,

xi. the methods of operation of the bank and the conduct of its affairs are defective and detrimental to the interests of its *depositors. The bank, therefore is not complying with the provisions of Section 22(3)(b) of the Act, ibid.*

3. It can be seen from the aforesaid that the bank was not Complying with the provisions of Section 11(1), 22(3)(a) and (b) of B.R. Act, 1949 (as Applicable to Cooperative Societies) and its methods of operations were not satisfactory and found to be detrimental to the interests of the public and the financial position of the bank has deteriorated to such an extent as to leave no scope for turnaround after the first inspection itself. To check the deteriorating financial position of the bank, the bank was issued directions under Section 35 of B.R. Act 1949 (AACS) vide UBD-BSDIV/1476/12.03.1542/99-2000 dated 5 November 1999, which was effective from 13 November 1999.

4. Subsequent to this, it was reported that the bank was closed and that the bank was not responding to the various communications addressed to it. Moresoever in the State Level Review committee meeting convened by the Calcutta Regional Office, the Chief Executive Officer of the bank had stated that the head office and almost all the branches of the bank were closed since 29 November 1999 due to depositors' unrest. It was further observed that due to non-availability of actual/up-to-date accounts of the bank, Board of Administrators had expressed their inability to submit any statutory return to RBI or submit any concrete proposal for revival of the bank.

5. A show cause Notice dated 24/6/2000 was issued to the bank under Section 22 of the Banking Regulation Act, 1949 (AACS) listing out the irregularities/deficiencies observed in its functioning and advising it to show cause within a month of receipt of the notice as to why its licence application should not be rejected.

6. In response to the show cause notice, the bank contended that the deficiencies pointed out were 'matters of records'. The reply did not contain any meaningful clarification/concrete proposal for rectification of errors and improvement in its state of affairs, The bank's reply is, therefore, considered unsatisfactory.
7. It is evident from the foregoing that:

1. the bank is not in a position to pay its present and future depositors;

2. the affairs of the bank are being conducted in a manner detrimental to the interest of depositors;

3. the financial position of the bank leaves little scope for its revival;

4. in all likelihood, public interest would be adversely affected if the bank is allowed to carry on its business any further.

8. Having regard to all these facts, Reserve Bank of India is satisfied that no useful purpose would be served by keeping in abeyance the request of the bank to grant it a licence to carry on banking business under Section 22 of the Act and the same deserves to be rejected. Accordingly, the applicable for licence, dated 1 March 1997 submitted by the Pranabananda co-operative Bank Ltd., Burdwan (West Bengal) to carry on banking business in India under Section 22 of the Banking Regulation Act, 1949 (As applicable to Co-operative Societies) is rejected.
9. A copy of the order may be served on the Pranabananda Co-operative Bank Ltd. Burdwan, West Bengal.

Sd/-P.B. Mathur
Executive Director

d) By another order no. UBD.BSD III2166/12.03.1542/20002001 dated January 25, 2001, the RBI issued requisition to the Registrar of Cooperative Societies, West Bengal [hereafter 'the RCS'] to wind up the said Bank. The order reads as follows:

> *"The Pranabananda Co-operative Bank Ltd., Burdwan-Action under Sections 99 and 100 read with Section 145 of the West Bengal Co-operative Societies Act, 1983 and Section 13D(i) of the Deposit Insurance- and Credit Guarantee Corporation Act, 1961. Reserve Bank of India, being satisfied in the public interest that the <u>Pranabananda Co-operative Bank Ltd., Burdwan (West Bengal) has failed to comply with requirements specified under Sections 11(i), 22(3)(a), 22(3)(b) of the Bank Regulation Act, 1949 (As Applicable to Co-operative Societies) and that the bank is unable to pay its debts, hereby requires the Registrar of Co-operative Society West Bengal in terms of the provisions of Section 99 and 100 read with Sect 145 of the West Bengal Co-operative Societies Act, 1983 and Section 13 D(1) the Deposit Insurance and Credit Guarantee</u>*

Corporation Act, 1961 to make order for winding up of the Pranabananda Co-operative Bank Ltd., Burdwan (West Bengal) and the appointment of a liquidator thereof."

Sd/ P.B. Mathur
(P.B. Mathur)
Executive Director"

e) The RCS in purported exercise of the power conferred by Section 99 of the West Bengal Cooperative Societies Act, 1983 [hereafter 'the said Act, 1983'] passed an order no. 6884 dated August 6, 2002 for the winding up of the said Bank. The order dated August 6, 2002 is reproduced hereunder:

"No. 6884 Date 6.8.2002

ORDER

Whereas Pranabananda Co-operative Bank Ltd., Burdwan having Registration No. 122 dt. 15.5.1996, is a Cooperative Bank registered as per West Bengal Cooperative Societies Act, 1983 and West Bengal Cooperative Societies Rules, 1987 (herein after referred to as said Bank);

AND

Whereas an inspection under section 92 was conducted into the affairs of the said bank, which, inter alia, exhibits a lot of irregularities into the working, financial and administrative affairs of the Bank;

AND

Whereas Reserve Bank of India, Mumbai had, in their letter No.2166 dated 25th January, 2001, requested to make an order for winding up of the said Bank & appointment of a liquidator in terms of section 99 and 100 of WBCS Act respectively in view of non-compliance of section 11(1), 22(3)(a) and 22(3)(b) of the Banking Regulation Act, 1949;

AND

Whereas I am of the opinion that the Pranabananda Co-operative Bank Ltd. ought to be wound up in the interest of the public in particular and cooperative movement in general;

Now, therefore, in exercise of the power conferred on me under section 99(1) of the WBCS Act, 1983, I do hereby order for winding up of the said bank;

Sd/-
Registrar of Co-operative Societies
West Bengal.
Date 6/8/2002"

f) The order dated August 6, 2002 was challenged by the appellant no. 1 by filing a writ petition before this Court. By an order dated October 9, 2002, a learned Single Judge of this Court dismissed the said writ petition granting liberty to the petitioners therein to avail the alternative remedy of appeal provided by the said Act, 1983.

g) Pursuant to the leave granted by this Court, the appellants approached the Tribunal. The Tribunal, after hearing the learned counsel for the parties, by a judgment and order dated July 7, 2006, passed in Appeal No. 71 of 2004, set aside the impugned order dated August 6, 2002. The operative portion of the order dated July 7, 2006 is as follows:

> *"Thus, it appears that the impugned order dt. 6.08.02 is arbitrary, illegal and violative of principle of natural justice. So also the order dated 6.1.02 appointing the Liquidator.*
>
> *Hence,*
>
> *It is ordered that the appeal be and the same is allowed on contest without cost. The impugned order dated 6.08.02. is hereby set aside. LCR be sent back along with a copy of judgment".*

h) The Principal Secretary to the Government of West Bengal along other officers of the State Government, and the RBI, by filing W.P. No.

22474 [w] of 2006 and W.P. No. 6139 of 2007 respectively, questioned the legality and validity of the order dated July 7, 2006 passed by the Tribunal. The appellants also filed W.P. No. 7933 [w] of 2007 seeking, inter alia, a direction upon the respondents to hand over the charge of the Bank together with its assets and valuable documents to the appellant no. 1.

i) A learned Single Judge of this Court took up all the aforesaid three writ petitions for hearing together and by a judgment and order dated May 5, 2009, disposed of all the writ petitions. The operative portion of the judgment and order dated May 5, 2009 is reproduced hereunder:

> *"The impugned judgment of the Tribunal stands set aside. Appeal No.71/2004 is remanded back to the Tribunal for a fresh decision in the light of the aforementioned observations.*
>
> *The Tribunal is encouraged to decide the appeal at an early date but positively within a period of four months from date of receipt of this order upon granting reasonable opportunity of hearing to the parties concerned. The parties shall co-operate with the Tribunal to enable it decide the appeal within the above time-frame.*
>
> *Consequently, W.P. Nos. 22474 (W) of 2006 and W.P. No.6139 (W) of 2007 stand allowed while W.P. No. 7933 (W) of 2007 stands dismissed.*
> The records of Appeal No.71/04 shall now be de-tagged and transmitted to the Tribunal at once by the office."

j) Challenging the judgment and order dated May 5, 2009, three appeals being F.M.A. No. 1266 of 2010, M.A.T. No. 1499 of 2010 and M.A.T. No. 1500 of 2010 were preferred. All three appeals were taken up for consideration by a coordinate Bench of this Court and by an order dated March 7, 2013, the Division Bench disposed of the appeals, inter alia, by passing the following order:

> *"<u>In the aforesaid circumstances, we modify the impugned judgement and order under appeal passed by the Learned Single Judge by directing the learned Tribunal to decide the appeal No. 71 of 2004 afresh upon taking note of all the relevant documents including the documents referred to and relied upon by the Learned Single Judge in the impugned judgement and order under appeal</u>.*
>
> *Needless to mention that the learned Tribunal will decide all the issues as have already been raised or may be raised at the time of hearing of the appeal, strictly in accordance with law by a reasoned order without being influenced by the earlier findings of the learned Tribunal or by any observation of the Learned Single Judge as recorded in the impugned judgement and order appeal.*
>
> *Since a considerable time has already passed, we direct the learned Tribunal to decide the appeal as early as possible but positively within a period of four months from the date of receipt of this order. The learned counsel of the respective parties are requested to cooperate with the learned Tribunal to decide the appeal at an early date.*
>
> *With the aforesaid observations and directions, we dispose of the three appeals without awarding any order as to costs".*

k) Appeal No. 71 of 2004, was once again taken up for consideration by the Tribunal. By a judgment and order dated October 4, 2016, the Tribunal dismissed the said appeal, thereby, affirming the order of winding up dated August 6, 2002, passed by the RCS. The operative portion of the judgment and order dated October 4, 2016 reads as follows:

> *"That the appeal be and the same is hereby dismissed on contest against the respondents.*
> *Consequently, the Order of liquidation dated 06.08.2002 passed by the RCS is hereby affirmed.*
> *Let a copy of this judgment along with LCR be communicated to the RCS. Government of West Bengal for information."*

l) The appellants, being aggrieved by the judgment and order dated October 4, 2016, filed W.P. No. 140 [w] of 2017 [hereafter 'the said writ petition'], seeking, inter alia, the following reliefs:

"a. A writ in the nature of Mandamus commanding the Registrar of Cooperative Societies, West Bengal to cancel and / or to rescind the winding up order and appointment of liquidator dated 06.08.2002 passed vide its memo nos. 6884 and 6886 dated 06.08.2002, upon setting aside the impugned judgment and order dated 04.10.2016 passed in Appeal no 71 of 2004 by the Learned Cooperative Tribunal, West Bengal confirming the liquidation and appointment of liquidator without setting aside the order of winding up dated 06.08.2002 of the instant Bank;

b. A Writ in the nature of Certiorari directing the Registrar and the authorities concerned to transmit all the records pertaining to the instant case before This Hon'ble Court so that conscionable justice may be done by setting aside the impugned judgment and order dated 04.10.2016 passed in Appeal No 71 of 2004 by the Learned Cooperative Tribunal, West Bengal and orders dated 06.08.2002 passed by Registrar of Cooperative Societies, West Bengal."

m) The said writ petition came for consideration before the learned Single Judge of this Court and by the impugned judgment and order dated June 4, 2018, the learned Single Judge dismissed the said writ petition. The learned Single Judge, inter alia, observed the following:

"The facts of this case, inter alia are that the said Cooperative Bank Limited was originally registered as a Cooperative Society and subsequently declared an Urban Cooperative Bank in the year 1996. The bank is stated to have made an application for license under the Banking Regulation Act 1949 before the Reserve Bank of India in the year 1997. The Reserve Bank of India conducts an inspection and finds serious and gross irregularities in the functioning of the bank. Details reasons have been given by the Reserve Bank of India, in that regard. The R.B.I. also conducted a further inspection in the context of Sections 99 and 100 read with Section 145 of the West Bengal Cooperative Societies Act, 1983 and Section 13D(1) of the Deposit Insurance and Credit Guarantee Corporation Act, 1961. A recommendation dated 25 January 2001 was made by the Executive Director of the RBI for appointment of a liquidator on the said Cooperative bank. Pursuant to such recommendation dated 25 January, 2001 the Registrar Cooperative Societies, West Bengal passed an order dated 6 August 2002 for winding up the bank under Section 99 of the WBCS Act, 1983. The Registrar also appointed a liquidator on the Bank.

Such order came to be challenged in diverse proceedings initially before the Cooperative Tribunal, which stayed it. The said order of the Cooperative Tribunal dated 7th July, 2006 was challenged before this Court both by the RBI, and the State Government. The matter was remanded back to the Tribunal by this Court for consideration of grievance, of the parties afresh.

Upon remand, as aforesaid, in Appeal no.71 of 2004 the Cooperative Tribunal has come to confirm the order of the Registrar, Cooperative Society and as also the order of winding up of the bank.
In fact, the Registrar under the 2006 Act is entitled to take the benefit of an enquiry by a much larger and more stringent watchdog on Banks in this country as conceived of Banking Regulation Act, 1949. The same reason could apply to the argument raised by the petitioner in respect of the order of the Registrar under Section 145 of the 1983 Act.

There is yet another reason not to entertain this writ application. Mr. Roy for the State Government has asserted a preliminary objection that when an order of winding up has been passed no proceeding can be maintained in the name of the society and it is only the liquidator who can sue or maintain any proceeding. It is thoroughly illegal and highly improper on the part of the writ petitioner no.1 to include and

> *implead as a second writ petitioner and the bank herein which is itself under liquidation. The writ petitioner was trying to mislead this Court if not act contumaciously on the face of the Court.*
>
> *In any event the order and recommendation dated 25.01.2001 of the R.B.I. have not been challenged before any forum and have attained finality.*
>
> *In these circumstances W.P. No.140 (W) of 2017 is dismissed."*

3. Mr. Shyamal Mukherjee, learned counsel appearing for the appellants, placed reliance on Sections 93, 99, 100 and 145 of the said Act, 1983. Mr. Mukherjee submitted that before passing the impugned order of winding up dated August 6, 2002, neither any inspection under Section 92 nor inquiry under Section 93 of the said Act, 1983 was conducted. The respondents also did not issue 30 days' notice to the said Bank in terms of Section 99[2] of the said Act, 1983 prior to passing of the order dated August 6, 2002. He submitted that the order dated August 6, 2002 was in violation of the principles of natural justice.

4. Per contra, Ms. Susmita Saha Dutta, learned Additional Government Pleader, State of West Bengal, appearing for the State respondents, opposed the contentions of Mr. Mukherjee. She submitted that there was no infirmity in the order dated August 6, 2002, as the RCS acted on the direction of the RBI. The Tribunal, having considered the issue in question, rightly dismissed the appeal preferred by the appellants. Consequently, the learned Single Judge dismissed the writ petition.

5. We have considered the rival contentions of the parties.

6. Before we proceed to deal with the legality and validity of the order dated August 6, 2002, followed by the order of the Tribunal and the learned Single Judge, certain aspects are required to be considered.

7. The subject appeal was taken up by this Court on July 14, 2026 and the following order was passed:-

"<u>In Re: FMA 898 of 2020</u>

6. The Registrar of cooperative societies will come back with definite information and records, including the enquiry report indicating:-

(a) Whether the inspection was made prior to the decision for winding up, as per Section 92 of the West Bengal Co-operative Societies Act, 1983".

(b) Whether a report was prepared and served upon the appellants.

(c) Whether the appellants were heard and thereafter the order was passed.

(d) Present status of the society and its assets and liabilities upon the liquidator being appointed.

7. The other issue which should be clarified on the basis of the records and the law, is whether a request by the RBI to wind up the bank would be binding on the Registrar of cooperative societies and the Registrar of Cooperative societies could act on the basis of such request *without following the other requirements of Section 99 of the West Bengal Cooperative Societies Act, 1983".*

8. Pursuant to the order dated July 14, 2026, the learned counsel for the State respondents filed a report dated August 14, 2026, duly affirmed by the Special Registrar of Cooperative Societies, Government of West Bengal. The said report provides as follows:

> *"A Report in connection with FMA 898 of 2020 in the Matter of Sri Bhaskar Mukherjee & Anr. Vs The State of West Bengal & Ors.:*
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> *In compliance with solemn order passed by the Hon'ble Division Bench of High Court, Calcutta dated 14.07.26 in FMA 898 of 2020 with CAN 1 of 2018 With CAN 2 of 2018 in the matter of Sri Bhaskar Mukherjee & Anr. Vs The State of West Bengal &*
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> *Ors, the following report is submitted based on the existing records and reports:*
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> *1. [Point (a) of Para 6]: Prior to issuance of order for winding up of Pranabananda Cooperative Bank Ltd (hereinafter referred to as 'liquidated entity'], an inspection under Sec 92 of the now repealed WBCS Act, <u>1983 was carried out in terms of Order No. 6003 dated 29.07.1999 of the Additional Registrar of Cooperative Societies, West Bengal</u>.*
>
> *<u>Pertinent to add that the Reserve Bank of India (RBI) is also empowered under Section 35 of the Banking regulation act, 1949 to conduct inspect of the said cooperative bank at any time and examine its books and accounts. In the instant case, Pranabananda Cooperative Bank Ltd was regularly inspected by the RBI.</u>*
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> *2. [Points (b) and (c) of Para 6]: A detailed report covering various aspects including its general working, financial analysis, etc. was compiled by the Inspection team and submitted to the Registrar. It appears further the first petitioner Sri Bhaskar Mukherjee, the Chief Promoter turned Chief Executive, was placed under suspension by the Government appointed Board of Administrators with effect from 09.08.1999 for alleged misconduct of illegal issuance of appointment letters to casual employees.*
>
> *3. In terms of Section 145 of the WBCS Act, 1983 read with Banking Regulation Act, 1949, <u>the liquidated entity was a cooperative bank under the direct supervision of the Reserve</u>*

Bank of India. The statutory inspection carried out by the RBI having revealed several serious irregularities, the apex bank had, in terms of order No. UBD.CO.BSD.III/2167 dated 25.01.2001, rejected the application of the liquidated entity for banking licence. The said advisory was served upon the liquidated entity as well.

4. In another order bearing No. UBD.BSD.III/2166 dated 25.01.2001, the RBI had requested the Registrar to make an order for winding up of the liquidated entity and appoint a liquidator thereof. On the basis of the said advisory, the Registrar of Cooperative Societies, West Bengal issued order for winding up of the Pranabananda Cooperative Bank Ltd in terms of Section 99(1) of the WBCS Act, 1983. The said order was issued in terms of No. 6884 dated 06.08.2002.

5. It is worth reproducing Section 145 of WBCS Act, 1983 in order to understand the position of RBI as regards an insured cooperative bank:

'Notwithstanding anything contained elsewhere in this Act, the Registrar shall not take any action under this Act in respect of an insured cooperative bank without obtaining previous sanction of the Reserve Bank of India and without compliance with the requirement of the Deposit Insurance Corporation Act, 1961. The liquidated entity's deposits were insured with the DICGC, a wholly owned subsidiary of RBI, and RCS, WB was bound to comply with the request of the RBI for winding up. The non obstante clause in Section 145 of WBCS Act, 1983 implies that the usual procedure laid down in Sec 99 ibid need not be followed. Subsequently, Sri Phelaram Mukherjee, an officer in the rank of Cooperative Development Officer, was appointed as the Liquidator.

6. The records of the liquidated entity were subsequently seized in connection with a case and as per latest report from the Addl. DG & IGP, Western Zone, WB, the case was transferred to the Enforcement Branch, West Bengal and the records are not available with the Purba Bardhaman District police. Hence, audit could not be carried out nor the exact financial position as regards the assets and liabilities known to the authorities. [latest correspondence is attached]".

9. We shall deal with the aforesaid report filed by the State respondents a little later, but before that, we shall deal with the two communications of the RBI. By the first order bearing no. "UBD.CO.BSD III/2167/12.03.1542/2000-2001 dated January 25, 2001 [hereafter 'the first order of RBI'], the RBI rejected the application of the appellants dated March 1, 1997 for grant of licence.

n) In the second order bearing no. UBD.BSD III 2166/12.03.1542/2000 2001 dated January, 25, 2001 [hereafter 'the second order of RBI'], the RBI issued requisition to the RCS for winding up of the said Bank.

10. The first order of RBI, rejecting the appellants' application for grant of a banking licence, was passed in exercise of the discretion vested in the RBI by the Banking Regulation Act, 1949. The second order of RBI was a consequential direction issued pursuant to the first order, requiring the RCS to take steps for the winding up of the Bank in accordance with the provisions mentioned therein. We once again, at the risk of repetition, reiterate the exact direction passed by the RBI in the second order:

> *"Reserve Bank of India, ..., hereby requires the Registrar of Co-operative Society West Bengal in terms of the provisions of Section 99 and 100 read with Sect 145 of the West Bengal Co-operative Societies Act, 1983 and Section 13 D(1) the Deposit Insurance and Credit Guarantee Corporation Act, 1961 to make order for winding up of the Pranabananda Co-operative Bank Ltd., Burdwan (West Bengal) and the appointment of a liquidator thereof."*

11. Since the said Bank was set up under the provisions of the said Act, 1983, the RBI while requiring the RCS to make an order of winding up referred to the provisions of the said Act, 1983, and

Section 13D(1) of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

12. To deal with the rival contentions we deem it fit to refer to the following provisions of the said Act, 1983:

> "*<u>Section 93. Inquiry by Registrar.</u> (1) The Registrar may, at any time of his own motion, hold by himself or by any person authorised by him by order in writing an inquiry into the constitution, working and financial condition of a co-operative society or into any specific matter relating to the affairs of a co-operative society.*
>
> *(2) An inquiry under sub-section (1) may also be held by the Registrar or by any person authorised by him by order in writing on the application of-*
>
> *(a) the financing bank, if any, of which the co-operative society is a member or a debtor;*
>
> *(b) the majority of the directors of the board of the co-operative society;*
>
> *(c) one-third of the members of the co-operative society each of whom has been a member for not less than six months immediately preceding the date of application and who have deposited such security for costs, if any, as the Registrar may direct: Provided that in the case of a co-operative society having more than one thousand and five hundred members, an application under this sub-section*

may be made by the delegates elected in the prescribed manner;

(d) the creditors, representing not less than one-half of the borrowed capital of the co-operative society, who have deposited such security for cost, if any, as the Registrar may direct.

(3) The Registrar shall communicate the report of an inquiry under this section or a summary thereof to the co-operative society and to the applicant who made the application under sub-section (2).

Section 99. <u>Winding up of co-operative society</u>. (1) <u>If, after an audit under section 90 or an inspection under section 92 or an inquiry under section 93 or on an application made by not less than three-fourths of the members of any co-operative society, the Registrar is of opinion that the co-operative society should be wound up, he may by order direct it to wound up.</u>

(2) <u>The Registrar may of his own motion, after giving thirty days' notice in the form prescribed, by order direct the winding up of a co-operative society</u>-

(a) where the co-operative society has not commenced working within twenty-four months from the date of its registration or has ceased to function for eighteen months; or

(b) where the number of members of the co-operative society has been reduced to less than the minimum provided in section 13 for the purpose of registration.

(3) The Registrar may, after orders have been issued under sub-section (1) or sub-section (2), consider the reports, if any, of the liquidator appointed under section 100, by order cancel the registration of the co-operative society.

(4) If, however, the Registrar is of opinion that a co-operative society which has been directed to wound up under sub-section (1) or sub-section (2) should continue to function, he may, with the prior approval of the State Government, cancel such order for winding up.

Section 100. Appointment of liquidator.- After an order has been issued under sub-section(1) or sub-section (2) of section 99, the Registrar may, in accordance with the rules, appoint a person to be a liquidator of the co-operative society in respect of which such order has been issued and fix his remuneration in the manner prescribed and may, if necessary, in the like manner remove such person and appoint another person in his place:

Provided that it shall not be necessary to appoint any liquidator for winding up of a co-operative society which has not commenced working.

Section 145. Insured cooperative bank.- Notwithstanding anything contained elsewhere in this Act, the Registrar shall not take any action under this Act in respect of an insured co-operative bank without obtaining previous sanction of the Reserve Bank of India and without compliance with the requirements of the Deposit Insurance Corporation Act, 1961 (47 of 1961).

Explanation- "Insured co-operative bank" shall mean a cooperative bank which is an insured bank within the meaning of clause (1) of section 2 of the Deposit Insurance Corporation Act, 1961."

13. The first order of the RBI was passed while considering the society's application for licence to carry on banking business in India. The application was rejected in exercise of power under Section 22 of the Banking Regulation Act. The second order is a requisition to the RCS to make an order of winding up with reference to Sections 99, 100, 145 of the Cooperative Societies Act. The fact that winding up process was guided by the provisions of the said Act, 1983 was also the legal understanding of the RBI. The RCS was required to act within the four corners of the law. We have already quoted the relevant provisions of the said Act, 1983 in the preceding paragraphs.

14. Section 99[1] of the said Act, 1983 empowers the RCS to pass an order for the winding up of any cooperative society if in his opinion the said cooperative society should be wound up. Such decision is subject to the fulfilment of any of the four preconditions, namely, [i] after an audit under Section 90, or [ii] an inspection under Section 92, or [iii] an inquiry under Section 93 or [iv] on an application made by not less than three-fourth of the members of any cooperative society. The report of the RCS mentions an inspection under Section 92 of the said Act, 1983, which was carried out sometime in 1999, whereas, the requisition of the RBI is dated August 6, 2002.

15. At this stage, we wish to refer to a portion of a paragraph, which is part of the judgment and order dated May 22, 2009 passed by a learned Single Judge, referred to hereinabove, in W.P. No. 22474 [w] of 2006 and two other writ petitions:

"In their writ petition, the Principal Secretary and the other officers of the Government have annexed an inspection report wherefrom it appears that an inspection of the Bank under Section 92[1][a] of the 1983 Act was conducted in terms of the order of the RCS dated 27.09.1999 for ascertaining its working and financial condition. A report was submitted by the Deputy Registrar of Cooperative Societies on 6.9.1999."

16. It appears from the above paragraph that the inspection report sought to be relied upon by the RCS in his report filed before this Bench was conducted in terms of Section 92[1][a] of the said Act, 1983. Under Section 99 of the said Act, 1983 an inspection held as per the legal provision and report prepared on the basis thereof can be a precursor to winding up of a cooperative society.

17. Section 92 of the said Act, 1983 reads as follows:

"Inspection by Registrar or financing bank.-
(1) Every co-operative society shall be liable at any time to inspection-

a) <u>By the Registrar or by any person authorised by the State Government or the Registrar in this behalf by general or special order;</u>
b) By the financing bank, if any, of which it is a debtor;
c) By the apex society or the central society, if any, of which it is a member.

(2) An inspection under sub-section (1) by a financing bank or an apex society or a central society, as the case may be, shall be made by an officer of such financing bank or apex society or central society certified by the Registrar in accordance with the rules as competent to conduct such inspection.

(3) <u>The Registrar may by general or special order direct that the report of an inspection under sub-section (1) or a summary thereof in respect of a co-operative society or a class of co-operative societies shall be communicated within one month from the date of inspection to the co-operative society and to the financing bank</u> and the apex society or the central society, if any, of which it is a debtor or a member, as the case may be, and, when the inspection is made by the financing bank, to the Registrar also.

(4) An inspecting officer may seize in the manner prescribed any book or document of a co-operative society during its working hours and shall report the fact of such seizure to the Registrar within twenty-four hours with a copy of the seizure list and the requisition:
Provided that no such seizure shall be made unless a written requisition is served on the co-operative society specifying therein the books and documents to be seized and the reasons therefor."

18. Therefore, in terms of Section 92[1][a] of the said Act, 1983, the RCS himself or any person authorised by the State Government or the Registrar, by a general or special order can cause any cooperative society to be inspected. Once such inspection is conducted, the RCS, in terms of Section 92[3], shall, by a general or special order, direct that the report of the inspection conducted under Section 92[1] or a summary thereof in respect of a cooperative society, shall be communicated to the cooperative society, within one month from the date of such inspection.

19. Therefore, before taking any coercive steps under Section 99 of the said Act, 1983, based on an inspection in terms of Section 92 thereof, the Statute provides a mechanism for adherence to the principles of natural justice. The provision under Section 92 being couched in the words '... <u>shall be communicated within one month from the date of inspection to the cooperative society</u> ...' is mandatory in nature. Since such report can be the sole basis for winding up of a society, any violation of such mandate not only gives rise to an infraction of the statutory provision but also constitutes a violation of the rules of natural justice, thereby, being de hors the provisions of Article 14 of the Constitution of India.

20. It is the case of the appellants that no such inspection report was ever served on them.

21. Before ascertaining whether such report was served on the appellants, we will reiterate two questions, posed by this Bench, to the State respondents on July 14, 2026:-

"[i] Whether the inspection was made prior to the decision for winding up, as per Section 92 of the West Bengal Co-operative Societies Act, 1983".

[ii] Whether a report was prepared and served upon the appellants."

22. So far as the first question is concerned, the State in its report dated August 14, 2026, referred to hereinabove, furnished the following answer:

> *"Prior to issuance of order for winding up of Pranabananda Cooperative Bank Ltd (hereinafter referred to as 'liquidated entity'], an inspection under Sec 92 of the now repealed WBCS Act, 1983 was carried out in terms of Order No. 6003 dated 29.07.1999 of the Additional Registrar of Cooperative Societies, West Bengal."*

23. So far as the second question is concerned, we have not found any answer and by drawing an adverse inference, we come to a conclusion that the said inspection report was never served upon the appellants before passing the impugned order of winding up dated August 6, 2002 under Section 99 of the said Act, 1983.

24. Here, we have taken note of an interesting chain of events. As we have pointed out earlier, by an order dated July 27, 1999 the Cooperation Department, Government of West Bengal, owing to the resignation of some members from the Board of the said Bank, dissolved the elected Board of Directors of the said Bank and appointed a Board of Administrators in its place. The inspection was conducted two days after the order dated July 27, 1999, i.e. on July 29, 1999. The appointment of the Board of Administrators was quashed by this Court on March 30, 2001. Therefore, even assuming that the report was served, it did not reach the appellants and / or the actual stake-holders [the dissolved Board of Directors], but was received by the Board of Administrators, whose appointment was declared by this Court as illegal and who did not have any interest to save the Society. Despite there being a declaration by this Court vide order dated March 30, 2001, that the appointment of the Board of Administrators was illegal, the appellants were not allowed to function and subsequently the impugned order of winding up was passed on August 6, 2002.

25. The suffering of the appellants did not end here. As we have already stated, the Government of West Bengal dissolved the elected Board of Directors on July 27, 1999 and with effect from the said date till the date of winding up, neither the appellants nor the other Members of the Board got a chance to manage the affairs of the Bank. Therefore, when the said Bank was under the control and management of the Board of Administrators, the RBI issued the show cause notice dated June 24, 2000, calling upon the said Bank to show cause as to why its application dated March 1, 1997 praying for the grant of a licence, should not be rejected. The reply, if any, came from the Board of Administrators, who were appointed as a stop-gap arrangement and who did not have any interest in the survival of the Bank / Society and the appellants, who were the actual aggrieved persons, did not get an opportunity to respond to such show cause notice.

26. The RBI, being dissatisfied with the so-called reply to the show cause notice, which was sent by the Board of Administrators, issued the two purported orders dated January 25, 2001, which prompted the RCS to immediately issue the order of winding up.

27. Therefore, it appears that not only the orders dated January 25, 2001 and order of winding up dated August 6, 2002 were passed behind the back of the appellants, but a series of illegal actions were also taken and decisions were made in an orchestrated manner, in gross violation of the statutory provisions and the settled principles of natural justice.

28. The entire chain of events clearly suggests that the principles of natural justice have seriously been compromised by the acts of the respondents. The RCS acted arbitrarily, illegally and on the dictates of the RBI, without recording reasons as to why he was of the opinion that the society should be wound up.

29. Even assuming that the report was served upon the Board, the principles of *audi alteram partem* require that a hearing should be given to the person(s) likely to be affected by the proposed decision and not to the person(s) who, in the guise of being an affected person, involves himself in the course of hearing but ultimately will not be aggrieved by any coercive decision. Such course of action would render the entire decision-making process void ab-initio. Moreover, the said report has not been produced even before the Tribunal in the appeal, or before this Bench, despite several opportunities. The report of the RCS filed before us indicates that the inspection was held after the supersession of the elected Board, but not after the RBI required the RCS to make an order of winding up of the society.

30. Apart from non-service of the report of the purported so-called inspection, the RCS did not extend an opportunity of hearing to the appellants before passing the order of winding up dated August 6, 2002. The report has not seen the light of the day and we are persuaded to draw an adverse presumption under Section 114 of the Evidence Act. Mere mention in the impugned order to an inspection under Section 92 of the said Act, 1983 cannot substitute the need for production of the report for scrutiny by the Tribunal in the appeal, when the Division bench had specifically directed that all relevant documents, records and materials should be considered by the Tribunal, de novo.

31. There is no express provision in Section 99 of the said Act, 1983 requiring an opportunity of hearing to be extended to the person likely to be affected, but it is well settled that even when there is no specific provision in a statute asking the person to show-cause against the action proposed to be taken, the duty to give a reasonable opportunity of being heard must be read into the statute.

32. In *A.K. Kraipak Vs. Union of India* reported in *1969 [2] SCC 262 / AIR 1970 SC 150*, the Hon'ble Supreme Court, inter alia, observed:

> "20. *The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules*

can operate only in areas not covered by any law validly made. In other words they do not supplant the law of the land but supplement it. …"

33. In *Maneka Gandhi Vs. Union of India* reported in *1978 [1] SCC 248 / AIR 1978 SC 597*, the Hon'ble Supreme Court, inter alia, observed:

"It is well established that even where there is no specific provision in a statute or rules made thereunder for showing cause against action proposed to be taken against an individual, which affects the rights of that individual, the duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to take punitive or damaging action."

34. In *Swadeshi Cotton Mills v. Union of India*, reported in *(1981) 1 SCC 664*, the Hon'ble Supreme Court, inter alia, observed:

"… if the statute conferring the power is silent with regard to the giving of a pre-decisional hearing to the person affected and the administrative decision taken by the authority involves civil consequences of a grave nature, and no full review or appeal on merits against that decision is provided, courts will be extremely reluctant to construe such a statute as excluding the duty of affording even a minimal hearing shorn of all its formal trappings and dilatory features at the pre-decisional stage, unless, viewed pragmatically, it would paralyse the

administrative progress or frustrate the need for utmost promptitude. In short, this rule of fair play must not be jettisoned save in very exceptional circumstances where compulsive necessity so demands. The court must make every effort to salvage this cardinal rule to the maximum extent possible, with situational modifications. But, the core of it must, however, remain, namely, that the person affected must have reasonable opportunity of being heard and the hearing must be a genuine hearing and not an empty public relations exercise."

35. One may contend that, once the RBI decided to reject the appellants' application for a banking licence and issued a requisition to the RCS for the winding up of the said Bank, any opportunity of hearing or issuance of a show cause would be otiose and / or an idle formality as the appellants, in the facts and circumstances of the present case, could not have demonstrated real prejudice in not being heard, as the winding up of the bank was inevitable.

36. We must remember that where there has been a violation of the principles of natural justice, the question of actual prejudice is immaterial. In *M.S. Nally Bharat Engineering Co. Ltd. v. State of Bihar*, reported in *(1990) 2 SCC 48,* the Hon'ble Supreme Court, inter alia, observed:

> *"25. The management need not establish particular prejudice for want of such opportunity. In S.L. Kapoor v. Jagmohan Chinnappa Reddy, J., after referring to*

the observation of Donaldson, J., in Altco Ltd. v. Sutherland said that the concept that justice must not only be done but be seen to be done is basic to our system and it is concerned not with a case of actual injustice but with the appearance of injustice or possible injustice. It was emphasized that the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary."

37. In *Mangilal v. State of M.P.,* reported in *(2004) 2 SCC 447,* the Hon'ble Supreme Court, inter alia, observed:

> *"10. Even if a statute is silent and there are no positive words in the Act or the Rules made thereunder, there could be nothing wrong in spelling out the need to hear the parties whose rights and interest are likely to be affected by the orders that may be passed, and making it a requirement to follow a fair procedure before taking a decision, unless the statute provides otherwise. The principles of natural justice must be read into unoccupied interstices of the statute, unless there is a clear mandate to the contrary. No form or procedure*

should ever be permitted to exclude the presentation of a litigant's defence or stand. Even in the absence of a provision in procedural laws, power inheres in every tribunal/court of a judicial or quasi-judicial character, to adopt modalities necessary to achieve requirements of natural justice and fair play to ensure better and proper discharge of their duties. Procedure is mainly grounded on the principles of natural justice irrespective of the extent of its application by express provision in that regard in a given situation. It has always been a cherished principle. Where the statute is silent about the observance of the principles of natural justice, such statutory silence is taken to imply compliance with the principles of natural justice where substantial rights of parties are considerably affected. The application of natural justice becomes presumptive, unless found excluded by express words of statute or necessary intendment."

38. It is well settled that an administrative order which involves civil consequences must be consistent with the rules of natural justice. The expression 'civil consequences' encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its wide umbrella, everything that affects a citizen in his civil life inflicts a civil consequence. [See: 1978 (1) SCC 405 (Paragraph 66) (Mohinder Singh Gill & Anr. Vs. Chief Election Commissioner, New Delhi & Ors.)].

39. In *Rajesh Kumar v. CIT*, reported in *(2007) 2 SCC 181*, the Hon'ble Apex Court, inter alia, observed:

> *"26. Effect of civil consequences arising out of determination of lis under a statute is stated in State of Orissa v. Dr. Binapani Dei. It is an authority for the proposition when by reason of an action on the part of a statutory authority, civil or evil consequences ensue, principles of natural justice are required to be followed. In such an event, although no express provision is laid down in this behalf, compliance with principles of natural justice would be implicit. In case of denial of principles of natural justice in a statute, the same may also be held ultra vires Article 14 of the Constitution."*

40. In the light of the aforesaid propositions of law laid down by the Hon'ble Supreme Court and the facts of the present case, let us now examine the judgment under appeal.

41. The Learned Single Judge dismissed the writ petition on three grounds, namely, [i] that the Registrar under the 2006 Act was entitled to take the benefit of an enquiry by a much larger and more stringent watchdog on banks in this country as conceived under Banking Regulation Act, 1949 and the same reasoning could apply to the argument raised by the appellants in respect of the order of the Registrar under Section 145 of the 1983 Act; [ii] that when an order of winding up had been passed, no proceeding could be maintained in the name of the society and it was only the liquidator who could sue or maintain any proceeding; and [iii] that the order and recommendation dated 25.01.2001 of the RBI was not challenged before any forum and had attained finality.

42. Firstly, the finding of the learned Single Judge is erroneous to the extent that the provisions of the 2006 Act do not apply to the present case. The provision under Section 145 of the said Act, 1983 which says: '*Notwithstanding anything contained elsewhere in this Act, the Registrar shall not take any action under this Act in respect of an insured co-operative bank without obtaining previous sanction of the Reserve Bank of India and without compliance with the requirements of the Deposit Insurance Corporation Act, 1961'* is an additional protection provided by the legislature to the insured co-operative banks to the extent that, before the RCS could take recourse to the provisions of the said Act, 1983, a previous sanction of the RBI was mandatory without compliance of the provisions of DIC Act, 1961. Here, the RBI required winding up of the society. Thus, the said provision would only be applicable when the RCS takes steps against a cooperative bank on his own or as per the provisions of the Act. This section does not empower the RBI to direct winding up by RCS, without due adherence to the procedure prescribed by said Act, 1983.

43. Secondly, the learned Single Judge appears to have been oblivious to the fact that the appellants had been pursuing the issue of winding up and appointment of the liquidator by the order dated August 6, 2002 since 2002. Almost 24 years have lapsed, but the appellants are still awaiting the outcome of the proceedings. In any event, to require the appellants to challenge the appointment of the liquidator through the liquidator himself, as suggested by the learned Single Judge, is like an 'appeal from Caesar to Caesar's wife'. Asking the liquidator to challenge his appointment amounts to asking him to be a judge in his own cause. Significantly, the learned Single Judge failed to take notice of the provisions under Section 136 of the Act of 1983 and the corresponding provisions of the Third Schedule, which is set out below:-

THIRD SCHEDULE
Appeals

Serial No.	***Appeal lies against***	***By whom appeal may be preferred***	***Authority to whom appeal shall lie***	***Period of limitation***
***	***	***	***	***
13.	*An order for winding up of a co-operative society under section 99.*	*Any member of the Co-operative society.*	*To the Co-operative Tribunal having jurisdiction.*	*Two months from the date on which the order is communicated.*

44. A member can prefer an appeal from an order of winding up.

45. Thirdly, it is true that the orders dated January, 25, 2001 have not been challenged, but that does not give the RCS a freehand to violate the provisions of the said Act, 1983. The RCS ought to have passed the order of winding up within the four corners of the said Act, 1983 and by not doing so, the rights of the appellants have been severely infringed.

46. The learned Single Judge erred in holding that an enquiry by RBI was sufficient compliance of Section 99 of the said Act. The society was registered as a cooperative society and not a cooperative bank. It did not have the permission to conduct banking business, but was allowed by RBI in the interim period. Under Section 35A of the Banking Regulation Act, 1949, RBI can issue directions, but RBI cannot usurp the power conferred upon the RCS under Section 99 of the said Act, 1983.

47. Section 35A of the Banking Regulation Act is quoted below:-

> *"**35.A. Power of the reserve Bank to give directions.-** (1) Where the Reserve Bank is satisfied that—*
>
> *(a) in the [public interest]; or*
>
> *[(aa) in the interest of banking policy; or]*
>
> *(b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or*
>
> *(c) to secure the proper management of any banking company generally,*
>
> *It is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the*

banking companies or the banking company, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.]"

48. The order of the RCS is unreasoned. Every statutory function and decisions taken in exercise thereof must be tested on the touchstone of reasons. The unreasoned order smacks of arbitrariness and is violative of Article 14 of the Constitution of India.

49. A wrong, more precisely a statutory violation, cannot be diluted by the passage of time. A citizen, whose right is protected under the law of the land, should not suffer on the grounds of delay due to the pendency of litigation or change of circumstances. The appellants had a right to fair treatment and they were entitled to an opportunity of hearing from the stage when the Board of Directors was illegally dissolved and subsequently the inspection under Section 92 was conducted, followed by the issuance of the impugned order dated August 6, 2002, passed by the RCS. Therefore, we must turn the clock back to that stage for the ends of justice.

50. Accordingly, the impugned order of winding up dated August 6, 2002, passed by the RCS, is quashed. Consequently, the order dated October 4, 2016 passed by the Tribunal and the order under appeal dated June 4, 2018 are set aside. The society will revive as a cooperative credit society and function in accordance with law. The society shall not carry on any banking business as a cooperative bank. The RCS is at liberty to act and proceed in accordance with law, if he deems fit.

51. The order of appointment of the liquidator is also set aside. The liquidator will hand over the assets to the members of the society. The RCS will supervise the process of handing over. This order will not cause any prejudice to the proceedings, if any, initiated by any other authority.

52. The appeal is allowed to the above extent.

53. Urgent Photostat certified copies of this judgment, if prayed for, be supplied to the parties upon fulfillment of requisite formalities.

I agree.

(Arjun Ray Mukherjee, J.) **(Shampa Sarkar, J.)**