

internationally reputed consumer policy expert and was a member of the Food Safety and Standards Authority of India (FSSAI) and of the Central Advisory Committee of FSSAI. The petitioner is also associated with several consumer related issues and has been instrumental in bringing certain laws and its enforcement to protect the rights of the consumers throughout the country. The petitioner has been regularly highlighting the violations of the consumer rights in various Government and private fora for its immediate rectification and correction in the interest of the consumers. The petitioner has been organizing several awareness programmes for the rights of consumers throughout the country. The petitioner is committed and dedicated in building consumer awareness in India and facilitate in creating a consumer-friendly environment in the country to assure fair and ethical business practices prevail in our country. The social contribution of the petitioner has been fully acknowledged by various national and international agencies. Recently, the petitioner raised several issues relating to the health of citizens of our country before this Hon'ble Court. The

petitioner has unblemished record of relentlessly contributing towards ensuring the rights of the innocent consumers of the country.

3. That it is submitted that the petitioner, along with the Government of India, has also conceptualized and founded several important projects for the Ministries of the Government including inter alia the following.

(a) The Ministry of Chemicals and Fertilizers, Department of Pharmaceuticals, commissioned the Petitioner to manage a helpline on generic medicines and other related information associated with the accessibility and affordability of medicines in India.

(b) The Petitioner is also responsible for the foundation, development and management of the CORE Centre (www.core.nic.in) which is a Consumer Online Research and Empowerment Centre funded by the Department of Consumer Affairs, Government of India.

(c) On 26.04.2011, this Hon'ble Court allowed the Civil Appeal of the petitioner's Organization and held that the collection of Airport Development Fee

(ADF) on ad-hoc basis was ultra vires and illegal, reported in 2011 (5) SCC 360 titled as "Consumer Online Foundation Versus Union of India & Ors."

4. That the Petitioner has no political affiliation to or membership of any political party. The Petitioner further submits that he has never held any post of any national or regional political party. The Petitioner never directed his attention towards evaluation and interfering in the working of any State or Central Government or authorities.
5. That it is submitted that it is common knowledge That it is submitted that the Deposit Insurance and Credit Guarantee Corporation (DICGC) 1961 i.e. respondent No. 6 is a subsidiary of RBI, which was set up under the act of the Parliament for the purpose of insurance of deposits and guaranteeing the credit facilities. However, the said act does not provide for 100% insurance to all types of deposits like saving deposit, term deposit is not covered by DICGC. There are the other areas like the government and interbank deposits are also not covered under the said acts. It is further submitted that deposits of state land development banks with state co-operative banks are not covered under the said act. In

addition to aforesaid, the most glaring lacuna in the insurance cover in the banking is the limit of insurance is capped at Rs 100000/- only for both principal and interest and this policy has been for last 26 years without any kind of its reviewing and amendments which are completely arbitrary in as much as entire financial land scape of the country has undergone change beyond any recognition. It is further emphasized that the co-operative structure, it can not have a professional board. The board of directors of the co-operative banks are elected by the banks members and the process is often gamed by politicians to gain control of the co-operative banks. It is further submitted that the politicians also wielded a lot of influence to manipulate and bend the rules and regulations for their own advantages. It is further submitted that the co-operative banks with their paid-up share capital and reserves of more the Rs 100000/- only were brought under the purview of Banking Regulation Act 1949 keeping of dual regulation of Urban Co-operative Banks (UCBs) that continues to this date. While the state registrar of the co-operative banks regulates their banking function. Multi state UCBs comes under the ambit of Central Registrar of Co-operative Society.

Therefore, duality in control are leading to scaping any detection of the irregularities in the UCBs. Further UCBs do not need the RBI approval to appoint the chief executive unlike commercial banks.

6. That it is further submitted that the respondents had not taken any emergency steps towards the protection of hard-earned money of victim depositors.
7. That it is further submitted that the interest of affected victim depositors should be given the highest priority and who so ever responsible for the present financial crisis should be made accountable to the losses suffered by the affected victim depositors. It is a common knowledge that co-operative and nationalized banks of our country having only insured for Rs 100000/- with principal and interest money towards their entire deposited amount irrespective of each depositor. Hence, an immediate amendment to the existing laws and appointment of an effective single regulator is the need of the hour to protect the interest of the innocent depositors and regulate all the financial affairs in an open and transparent manners to avoid such situation of financial crisis.

PROVISION OF LAW

8. That it is submitted that the relevant provisions of law under Banking Regulation Act 1949, applicable to the present writ petition are reproduced here in below for ready reference:

Sr. NO	Secti on	Particulars
(i)	5(b)	"banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise;
	5 (c)	"banking company" means any company which transacts the business of banking ¹ [in India]; Explanation.--Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;
	5 ca	"banking policy" means any policy which is specified from time to time by the Reserve Bank in the interest of the banking system or

		in the interest of monetary stability or sound economic growth, having due regard to the interests of the depositors, the volume of deposits and other resources of the bank and the need for equitable allocation and the efficient use of these deposits and resources;
	35A	<p>Power of the Reserve Bank to give directions. —</p> <p>(1) Where the Reserve Bank is satisfied that</p> <p>(a) in the public interest; or</p> <p>in the interest of banking policy; or</p> <p>(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</p> <p>(c) to secure the proper management of any banking company generally,</p> <p>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.</p> <p>(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</p>

		modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.
	36A CA	<p>Supersession of Board of Directors in certain cases</p> <p>(1) Where the Reserve Bank is satisfied, in consultation with the Central Government, that in the public interest or for preventing the affairs of any banking company being conducted in a manner detrimental to the interest of the depositors or any banking company or for securing the proper management of any banking company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of Directors of such banking company for a period not exceeding six months as may be specified in the order: PROVIDED that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.</p> <p>(2) The Reserve Bank may, on supersession of the Board of Directors of the banking company under sub-section (1) appoint in consultation with the Central Government for such period as it may determine, an Administrator (not being an officer of the Central</p>

		<p>Government or a State Government) who has experience in law, finance, banking, economics or accountancy. (3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions. (4) Upon making the order of supersession of the Board of Directors of a banking company, notwithstanding anything contained in the Companies Act, 1956(1 of 1956),-- (a) the Chairman, Managing Director and other Directors shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956(1 of 1956) or this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such banking company, or by a 1</p> <p>Inserted by Act 4 of 2013, w.e.f. 18-1-2013 1 Parts IIB and IIC (sections 36 AD to 36 AJ) Inserted by Act 58 of 1968, w.e.f. 1-2-1969. 73 resolution passed in general meeting of such banking company, shall, until the Board of Directors of such banking company is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under</p>
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		<p>sub-section (2): PROVIDED that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such banking company. (5) The Reserve Bank may constitute, in consultation with the Central Government, a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties. (6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank. (7) The salary and allowances to the Administrator and the members of the committee constituted under sub-section (5) by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned banking company. (8) On and before the expiration of two months before the expiry of the period of supersession of the Board of Directors as specified in the order issued under subsection (1), the Administrator of the banking company, shall call the general meeting of the company to elect new Directors and reconstitute its Board of Directors. (9) Notwithstanding anything</p>
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		contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office. (10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of Directors of such banking company has been reconstituted.] 1
	56(c ci)	“Co-operative bank” means a state co-operative bank, a central co-operative bank and a primary co-operative bank;
	56 (ccii a)	“Co-operative society” means a society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-State co-operative societies, or any other Central or State law relating to co-operative societies for the time being in force;
	(ccci iia)	“multi-State co-operative bank” means a multi-State co-operative society which is a primary co-operative bank”
	(cciii b)	“multi-State co-operative society” means a multi-State co-operative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;

	56 (ccv)	<p>“primary co-operative bank” means a co-operative society, other than a primary agricultural credit society,</p> <p>(1) the primary object or principal business of which is the transaction of banking business;</p> <p>(2) the paid-up share capital and reserves of which are not less than one lakh of rupees; and</p> <p>(3) the bye-laws of which do not permit admission of any other co-operative society as a member: Provided that this sub-clause shall not apply to the admission of a co-operative bank as a member by reason of such co-operative bank subscribing to the share capital of such co-operative society out of funds provided by the State Government for the purpose;</p>
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QUESTION OF LAW

8. That it is submitted that in the circumstances mentioned herein above and below, the pertinent question of law emerges for consideration and determination which are set out as under:-
- (a) **Whether**, the direction for an immediate approval for raising the insurance cover from Rs 100000/- to 100 % against the all deposits of depositors for the

banking institutions including the co-operative and others banks in terms of section 16 (1) of the DICGC Act 1961 which empowers for raising the limit of the insurance with approval of the central government ?

- (b) Whether, there is an urgent requirement of solitary regulator for the purpose of overseeing all types of banking in order to prevent the wide scale scams and financial frauds affecting the economy of the country ?
- (c) **Whether**, there is a requirement of comprehensive overhauling of all the co-operative banks including the nationalized banks at micro and macro level to ensure financial accountability towards the depositors ?
- (d) **Whether**, the circular dated 23.09.2019 passed under section 35A of Banking Regulation Act 1949 is ultra-vires of the article 14 and 21 of the Constitution of India ?

GROUND

- 9. Being aggrieved by financial sufferings of thousands of innocent depositors of PMC Co-operative banks, the question of accountability and propriety must be addressed to inspire the confidence of the crores of the people in the banking systems. The recent incident of

financial fiasco of the PMC Co-operative Bank which caused mass erosion of the public confidence in the banking system of our country. Being consumer activist, thousands of the depositors have approached the petitioner for remedial action. Hence the petitioner is socially obligated to raise this issue before this Hon'ble Court by this petition of public interest litigation on the grounds inter-alia the following grounds as mentioned herein below :-

- (a) **Because**, the thousands of depositors across the country are grappling the financial hardships by arbitrary circular issued by the respondent No.5, which leads to limit the withdrawal of their own money initially up to Rs 10000/- only and subsequently to Rs 25000/-. Hence, the said arbitrary and discriminatory act of respondent No.5 is ultra-vires of the provision of the Constitution of India.
- (b) **Because**, the instant circumstances had highlighted that there is no financial protection to the depositors in case of such financial crisis. The depositors have no alternative except to take the extreme steps despite their hard-earned money lying stuck in the banks. Hence, there should be an alternative mechanism for insulating the interests of the innocent depositors.

- (c) **Because**, the insurance capping up to Rs 100000/- against the any amount is arbitrary and violates the fundamental provision of the Constitution of India where the hard-earned deposited money of depositors is not secured to the extent to which their deposits are lying. There is no reasonable justification as to why the entire deposit amount of common people in the PMC Co-operative bank are not fully insured. Hence, it is utmost important that entire amount of the depositors must be insured by the respondent No. 5.
- (d) **Because**, there is urgency of regulating all the co-operative and nationalized banks under one regulator having control of every aspects of the affairs of those financial institutions, as it has been observed that due to multi-level controlling and different-different regulation are causing the happening of wide scale fraud and scams in our country. Hence, all the financial institution must be brought under one umbrella to ward off any financial eventualities.
- (e) **Because**, the depositors of the PMC Co-operative bank are having nightmarish of financial impediments even to carry out the necessary financial work. Situation has reached a catastrophic level where these victims are rendered

without any kind of hope of getting their hard-earned deposited money back. Thus, there is an urgent need to laydown the appropriate guidelines for regulating those loosely regulated financial institutions in our country.

10. That it is submitted that the petitioner craves the leave of this Hon'ble Court to plea and urge any other further grounds which may be taken by the petitioner during the course of arguments on the present petition and same will be filed at the earliest on direction of this Hon'ble Court.

11. That it is submitted that the authorities in India must ensure that the policy decision relating to regulating the financial institution are to be ensured by laying down the affirmed policy. It is further submitted that the petitioner, in the interest of the general public at large is filing the present petition to stress the need for a comprehensive regulatory with detail guidelines to regulate the financial institution.

PRAYER

In view of the above and in the interests of justice, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Issue a direction in nature of mandamus or any other appropriate writ, order/direction or directions for issuance of an interim protective measures for insuring the 1500000 consumers whose hard-earned money is blocked in PMC Co-operative bank.

And/or

- (b) Issue an exhaustive and comprehensive guideline to safeguard the banking and co-operative deposits in the eventuality of emergency financial crisis where common people are financially stranded by the acts of few unscrupulous persons which eventually leading to various personal irreversible catastrophes.

and/or

- (c) Issue a direction to respondent No. 1 and respondent no. 5 for complete insulation and insurance of the hard-earned deposited money of the common people in various co-operative banks including nationalized banks by enacting of an appropriate measure in nature of 100% insurance coverage towards their hard-earned deposited amount

and/or

- (d) Issue a direction to constitute a high-powered committee for looking into the complete affairs of working and their operation in all co-operative banks in order to have robust and transparent mechanism which can inspire the

confidence of the common people in co-operative banks.

and/or

- (e) Issue an appropriate direction thereby quash/set aside the notifications/ directives dated 23.09.2019, 26.09.2019 and 03.10.2019 declaring them as ultra-virus of the fundamental rights of the citizen which guaranteed under article 14 and 21 of constitution of India.

and/or

- (f) Pass such further order(s) as may be deemed fit and proper under the facts and in the circumstances of the case.

AND FOR THIS ACT THIS KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.

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