

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17000 of 2014

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Raju Chaudhary, son of Sri Suresh Chaudhary, elected Secretary
Manjhaulia Block Fishermen Cooperative Society, Ltd., resident of village-
Madhopur, P.S. Majhauriya, District West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Registrar Cooperative Society, Bihar, Patna
3. District Cooperative Officer, West Champaran, Bettiah
4. Braj Kishor Sahani, Chairman, Manjhaulia Fisherman Cooperative
Society Ltd. son of....
5. Shashi Bhushan Choudhary, son of Dinanath Mukhiya, resident of
Dumari, P.S. Majhauriya, District West Champaran.
6. Wakil Sahani, son of Late Goop Chand Sahani, resident of Goda,
Semra, P.S. Majhauriya, District West Champaran.
7. Kamal Sahani, son of Late Ganesh Sahani, resident of Goda Semra,
P.S. Majhauriya, District West Champaran
8. Bhoj Sahani, son of Late Rudal Sahani, resident of Karmwa, P.S.
Majhauriya, District West Champaran.
9. Surendra Mukhiya, son of late Sitaram Mukhiya, resident of village-
Satbhiwa, P.S. Majhauriya, District West Champaran
10. Diplal Sahani, son of late Nathuni Sahani, resident of village-
Majhauriya Sekh, P.S. Majhauriya, District West Champaran.
11. Adalat Chaudhary, son of Kashi Chaudhary, resident of village-
Majhauriya Shekh, P.S. Majhauriya, District West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Mahasweta Chatterjee, Adv. Mr. Nitesh Kumar, Adv.
For the Respondent-State:		Mr. Md. Irshad, A.C. to SC-18
For the private respondents:		Mr. Yogendra Mishra, Adv. Mr. Mukesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 06-05-2015 Heard Ms. Mahasweta Chatterjee, learned counsel for the

petitioner, learned counsel for the State and Mr. Yogendra Mishra,

learned counsel for the private respondents.

The petitioner has prayed for issuance of a writ in the nature
of certiorari for quashing the order dated 6.6.2013 passed by the



District Cooperative Officer in Case No. 1 of 2013, whereby the District Cooperative Officer has approved the removal of the petitioner as Secretary of the Cooperative Society, a copy of which is placed at Annexure-15 to the writ petition and which order has been affirmed by the Registrar, Cooperative Societies in Appeal No. 69 of 2013 preferred by the petitioner which was heard along with the revision also preferred by the petitioner bearing Revision Case No. 64 of 2013 and although the affirmation to the removal is on different grounds but the result is the same. A copy of the order passed by the Registrar is placed at Annexure-16.

In the nature of order which this Court proposes to pass it would not require to delve in deep into the matter.

Whereas the District Cooperative Officer has upheld the removal of the petitioner as Secretary of the Majhauria Block Matsyagivi Sahayog Samiti Ltd., District- West Champaran from the post of Secretary on grounds that he has been relegated to a minority, the removal of the petitioner has been upheld by the appellate authority on grounds of his failure to participate in the meetings as required under the bye-laws as well as for incurring a disqualification under Rule 23(1) (f) read with Rule 24 (2) of the Bihar Cooperative Societies Rule, 1959 (hereinafter referred to as 'the rules') framed under Section 66 of the Bihar Cooperative

Societies Act, 1935 (hereinafter referred to as 'the Act').

Ms. Mahasweta Chatterjee learned counsel for the petitioner has sought to question the orders impugned on the following grounds:

- (a) In absence of any transfer by the Registrar under Section 48 of 'the Act' the exercise of jurisdiction by the District Cooperative Officer suffered from the vice of 'coram non judice' as he has no jurisdiction to entertain any such dispute unless transferred by the Registrar.
- (b) There is no provision in the bye-laws which can be invoked for removal of a Secretary on grounds of having been relegated to a minority.
- (c) The findings of the Registrar as an appellate/revisional authority is on a different ground namely, failure to participate in three consecutive meetings and incurring disqualification under Rule 23(1)(f); and
- (d) The reasons for upholding the disqualification of the petitioner is a subsequent event.

The argument of Ms. Chatterjee has been contested by learned counsel for the State as well as Mr. Mishra appearing for the private respondents and while justifying the exercise of jurisdiction by the District Cooperative Officer relying upon a



Division Bench judgment of this Court reported in **AIR 1983 Patna 137 (Raghav Jha Vs. The Registrar, Co-operative Societies Bihar and others)**, it was submitted that even otherwise and leaving all other accounts aside, in view of the disqualification incurred by the petitioner by suffering a cognizance order on 5.3.2014 he has ceased to hold the post of a member of the Society under Rule 23(1)(f) read with Rule 24 of the Rules.

While responding to the argument of Mr. Chatterjee that the foundation for the appellate/revision orders rests on subsequent events, Mr. Mishra has relied upon the Division Bench judgment of this Court reported in **AIR 1959 Patna 560 (Gajadhar Lodha Vs. Khas Mahatadih Colliery Co. and others.)** and a judgment of the Supreme Court reported in **AIR 1975 SC 1409 (Pasupuleti Venkateshwarlu Versus The Motor & General Traders)** to submit that the jurisdiction of the appellate Court to examine subsequent events stands recognized. He thus submits that in the circumstances where admittedly, the petitioner has suffered a cognizance before passing of the appellate order, he has ceased to hold the post in terms of the provisions underlying Rule 24 read with Rule 23(1)(f) of the rules.

I have heard learned counsel for the parties and I have perused the materials on record.



Though the order of the District Co-operative Officer upholding the removal of the petitioner as Secretary of the Cooperative Society is on a different count, his removal stands confirmed under the order of the appellate authority who has also exercised revisional powers as vested in him under Rule 66 of 'the rules' and which also vests jurisdiction in such authority to exercise all statutory powers provided under the Civil Procedure Code. There being no dispute on the issue of cognizance order having been passed on 5.3.2014 against the petitioner hence in view of the clear stipulations provided under Rule 24 read with Rule 23(1) (f) of the Rules, he cannot seek any relief on any count. This Court thus without going into the intricacies as to whether the District Cooperative Officer had jurisdiction to entertain the dispute and/or whether the petitioner has suffered any disqualification on being relegated to a minority or the issue of non participation in the meetings of the society, would uphold his removal on the disqualification suffered by virtue of the cognizance order passed against him on 5.3.2014.

Although Ms. Chatterjee tried to salvage the situation for the petitioner by submitting that the order of cognizance has been set aside on 29.8.2014 but it is submitted by Mr. Mishra that a revision against such order is pending consideration before this

Court.

Be that as it may, in view of the clear stipulations provided under Rule 24 of the Rules there leaves no room for confusion that a person suffering disqualification upon passing of a cognizance order ceases to hold office and there is no automatic reversal of such cessation by any subsequent event. The moment the person concerned has ceased to hold office, the post held stands vacated and can be only filled up through a process of election.

In view of such uncontested position discussed hereinabove, I am not persuaded to grant indulgence to the prayer made by the petitioner and the writ petition is accordingly dismissed.

(Jyoti Saran, J)

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