

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10234 of 2015

With

I.A. No.5721 of 2015

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Ajay Kumar Singh, son of Late Bihari Singh, Resident of Village- Awarhi, P.S-
Dawath, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Co-operative Department, Bihar, Patna.
3. The Registrar, Co-operative Societies, Bihar, Patna.
4. The Deputy Registrar, Co-operative Societies, Bihar, Patna.
5. The District Co-operative Officer, Rohtas (Sasaram).
6. The Block Cooperative Extension Officer, Dawath Block, Bikramganj Circle, Rohtas.
7. Block Agriculture Officer, Dawath Block, Bikramganj, Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate with
Mr. Sanjeev Kumar

For the Respondent/s : Mr. Madhukar Mishra, AC to SC-31

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 05-10-2015 Heard Mr. Y.V. Giri, learned senior counsel
appearing on behalf of the petitioner and Mr. Madhukar Mishra,
learned Assisting Counsel to Standing Counsel No.31 for the
State.

Although the petitioner attempted to question the
order bearing No.3734 dated 22.6.2015 of the Registrar,
Cooperative Societies, Bihar, Patna, a copy of which is placed
at Annexure-5 to the writ petition whereunder decision was
taken to institute criminal prosecution against the petitioner, to
initiate surcharge proceeding as also to take appropriate action
for supersession of the society in question, of which the
petitioner happens to be the Chairman under section 41 of the



Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') and the Rules framed thereunder, but while advancing the cause of the petitioner Mr. Giri restricted his relief to the order in so far as it directs for initiation of proceedings of supersession. While fairly admitting that the order has partially taken its effect inasmuch as an FIR has been instituted against the petitioner giving rise to Dawath P.S. Case No.55 of 2015 and even the surcharge proceeding bearing Surcharge Case No.16 of 2015 has been initiated to enquire into the allegations of omission and commission against the petitioner, Mr. Giri questions the order of the Registrar, Cooperative Societies dated 22.6.2015 in so far as he has mechanically proceeded to order for supersession of the society in question in exercise of powers vested under section 41(1) of 'the Act'. Mr. Giri with reference to the order dated 30.6.2015, a copy of which is impugned at Annexure-9 to I.A. No.5721 of 2015 has submitted that even though the order entirely rests on the directives of the Registrar as found in his letter dated 22.6.2015 and even when the provisions of section 41(1) of 'the Act' mandates that an opportunity of hearing is to be granted to the society concerned before an order of supersession is passed yet the District Cooperative Officer discharging the functions of the Registrar has mechanically proceeded to order for

supersession of the Jagsona Primary Agriculture Credit Cooperative Society, Dawath in the district of Rohtas.

Although a counter affidavit has been filed on behalf of the State but the illegalities is self eloquent for the order of supersession entirely rests on the directives of the Registrar as found in his letter dated 22.6.2015.

Section 41(1) of 'the Act' discusses the circumstances in which the order of supersession can be passed by the Registrar, Cooperative Societies but attaches a pre-condition of such exercise which is an opportunity of hearing to the Board/Managing Committee of society concerned. Apparently this exercise has not been carried out. On this limited ground the order bearing Memo no.571 dated 30.6.2015 of the District Cooperative Officer, Rohtas impugned at Annexure-9 to I.A. No.5721 of 2015 cannot be upheld and is accordingly set aside.

The writ petition is allowed to the aforesaid limited extent. Interlocutory application stands disposed of.

(Jyoti Saran, J)

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