

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12918 of 2013

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1. Rishikesh Kashyap, son of Jibachh Prasad, R/O Address-1st Floor Meen Bhawan, West Boring Canal Road, New Punaichak Patna-23, P.S.-S.K. Puri, Distt.-Patna, through Chairman of Bihar Prantiya Matasyajivi Swablambi Sahkari Parisangh Ltd. COFFED (Cooperative Fisheries Federation).
 2. Darbhanga Prakhand Matasyajivi Swablambi Sahkari Samiti Ltd. through the then Chief Executive Kabita Aagney, W/o Suresh Kumar, R/O Mohalla-Shivagi Nagar, P.S.-Town, Distt.-Darbhanga
- Petitioners

Versus

1. The Union of India through Principal Secretary, Law Department of India.
2. The State of Bihar through Principal Secretary, Co-operative Department, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Pashupati Prasad Sinha, Advocate Mr. Deepak Kumar, Advocate
For the Union of India	:	Mr. Anshuman Singh, CGC
For the State of Bihar	:	Mr. Ajay Behari Sinha, S.C.-19 Mr. Surya Kant Kumar, A.C.to S.C.-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 29-04-2015

The 1st petitioner is the Chairman of Bihar Prantiya Matasyajivi Swablambi Sahkari Parisangh Ltd. and the 2nd petitioner is stated to be the Chief Executive of Darbhanga Unit of the said Society. In this writ petition, they challenge Section 8(1)(b) and Section 11B of the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as "the Act"), which



have been added through Section 8(1b) and Section 11 B of the Act, which was introduced by Act 22 of 2010 of the Bihar State Legislature. They also challenge sub-section (4) of Section 11 of the Bihar Self Supporting Co-operative Societies Act, 1996. The Act provides for Registration of the Societies and other connected matters.

We are concerned with the Fishermen Co-operative Societies. Before the Act was amended, it was possible for particular number of persons, to form Fishermen Co-operative Societies with its area of association as one or several villages. Through the amendment, the Legislature insisted that only one Co-operative Society for the Fishermen can be formed in a Block, covering the entire geographical area. Provision is also made for automatic amalgamation of the existing Societies that are operating in the Block.

The petitioners contend that the amendment that was effected by introduction of Sections 8(1b) and 11 B of the Act are violative of the fundamental

rights, guaranteed under Article 19(1)(c) of the Constitution of India and they are *ultra vires* Part IX-B of the Constitution of India.

Heard Shri Pashupati Prasad Sinha, learned counsel for the petitioners, Shri Anshuman Singh, learned counsel for the Union of India and Shri Ajay Behari Sinha, learned Standing Counsel No.19 for the State.

Article 19(1) (c) of the Constitution of India, no doubt, guarantees right to a citizen, to form an Association or Union or Co-operative Society. That, however, is subject to Clause (4) of Article 19, which is to the effect that the State shall have the power to make law imposing reasonable restrictions in the interests of the sovereignty and integrity of India or public order or morality, or other similar factors. Part IX-B of the Constitution of India was introduced in the year 2012, by way of amendment indicating certain features of the Co-operative Societies and placing the Governments, under obligation to ensure timely conducting of elections etc. Part IX-B does



not indicate the area of operation of any particular Society. On the other hand, the definition of "Co-operative Society" under 243-ZH(c) is to the effect that it shall be a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State. In other words, the matter pertaining to the registration of society is left entirely to be dealt with by the Legislature of the State.

Till the Act was amended, it was possible for the required number of individuals, to form a Society covering the area of operation. Existence of large number of Societies within a block gave rise to problems, particularly when the area of the water bodies is spread over more than one village. To avoid all these complications, the State Legislature has introduced Section 8(1b) and Section 11 B in the Act, which read thus :

"(1b)Notwithstanding anything contrary contained in Bihar Co-operative Societies Act, 1935 or any other Bihar Act or Rules framed thereunder or bye-laws of a Co-operative Society or class of Co-

operative Societies or any order issued by the State Government or Registrar of Co-operative Societies, there shall be only one registered Fishermen Co-operative Society in a Block with its area of operation extending over the whole Geographical limit of the Block."

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"Section 11B Notwithstanding anything contrary contained in any provision of Bihar Act VI of 1935 or any other Act, Rules made thereunder and Bye-laws of a registered Co-operative Society or class of Co-operative Societies, any order issued by the State Government or Registrar, Co- operative Societies, all existing Fishermen Co-operative Societies at block level, area of operation being confined to the Geographical limit of the Block shall stand merged in one Co- operative Society and shall be deemed to be registered as a new Co-operative Society under Bihar Act VI of 1935, and the Registrar, Co-operative Societies shall issue registration certificate:

Provided that on such reorganization, all members of the existing Co-operative Societies registered under Bihar Act VI of 1935 or Bihar Self Supporting Co-operative Societies Act, 1996 shall be deemed to have become members of such reorganized Society and shall have all rights and liabilities as members of the said society;

Provided further that on such reorganization, for managing the

affairs of the new Society and all such affiliating Societies of which the Fishermen Co-operative Society is a member, the Registrar/Government shall constitute an ad hoc Managing Committee for a period not exceeding one year, within which the new Managing Committee shall be constituted after elections."

From the above, it becomes clear that the Block is made as Unit for registration of a Fishermen Co-operative Society. The existing Societies within the Block were amalgamated through legislature measure itself.

The petitioners are not able to point out as to how the provisions, referred to above, are contrary to law. Equally, sub-section B of Section 11 enables the Society to seek amalgamation in the interest of the Society. It is just not understandable as to what detriment, the petitioners suffer, on account of these provisions.

We do not find any merit in the writ petition. Accordingly, the same is dismissed.

The interlocutory application, if any, shall

also stand disposed of. However, there shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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