

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13187 of 2015

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Pankaj Kumar son of Sri Jyotish Yadav, resident of village- Maharajpur,
P.O. Pokharia, Police Station- Muffasil, Rani Patra, District- Purnia.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative Society, Govt. of Bihar, New Secretariat, Patna.
2. The Registrar, Department of Co-operative Societies, Govt. of Bihar, New Secretary, Patna.
3. The Additional Registrar, Department of Co-operative Societies, Govt. of Bihar, New Secretariat, Patna.
4. The District Magistrate, Purnia.
5. The District Co-operative Officer, Purnia.
6. The Block Development Officer-cum-Returning Officer, Purnia East Block District Purnia.
7. The Chief Election Officer, Bihar State Election Authority, 32 Harding Road, Patna.
8. Vinay Kumar Sinha son of Late Basudeo Lal Das, resident of village- Maharajpur, P.O. Pokharia, Police Station- Muffasil, Rani Patra, District- Purnia.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Aditya Narayan Singh, Advocate
Mr. Kundan Kumar Sinha, Advocate

For the Respondent/s : Mr. Md. N. Hoda Khan, SC-18
Mr. Md. Arshad, A.C. to SC-18

For the Private Respondent: Mr. Chandan Priyadarshi, Advocate

For the State Election Authority: Mr. Mukesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 10-12-2015 Heard Mr. Aditya Narain Singh, learned counsel

appearing for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the order dated 08.7.2015
/ 15.7.2015 of the Additional Registrar, Cooperative Societies in
Election Case No. 343 of 2014, whereby the petitioner has been
declared disqualified to continue as Chairman of the Maharajpur



Primary Agriculture Credit Cooperative Society, Purnea East Block in the district of Purnea for having incurred a disqualification under Section 23(1)(f) of the Bihar Cooperative Societies Rule, 1959 framed under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as the 'Act').

It is not in dispute that the foundation for the impugned order lies in the FIR arising from Sadar P.S. Case No. 326 of 2011 instituted under Section 7 of the Essential Commodities Act, 1955. It is also not in dispute that the allegation made in the FIR charges the petitioner as a Chairman of the Society in the transportation of food grains purchased from the member farmers.

Mr. Aditya Narain Singh, learned counsel appearing for the petitioner while agreeing to the statutory provisions underlying Rule 23(1)(f) submits that the legislative intent has to be interpreted in the manner required and in view of the report of the Additional Collector present at Annexure-5 which clears all cloud insofar as the allegation of illegal transportation of rice is concerned, the order requires an interference. Mr. Singh has relied upon a judgment of the Supreme Court reported in **(2014) 9 SCC 1 (Manoj Narula vs. Union of India)** and with particular reference to paragraph 121 and 122 of the judgment it is submitted that a mere institution of criminal case *ipso facto* is not sufficient



to accuse or disqualify an elected representative. Learned counsel has also argued that a mere taking cognizance in criminal matter can not be held sufficient for disqualification for its only a first hand impression of the allegation. He further submits that the provisions of Rule 23(1) (f) has to be read along with the provisions of Section 47 of the 'Act' which prohibits any criminal proceeding without the sanction of the Registrar. It is thus sought to be argued that since the order results in unseating an elected representative of the society, the provisions has to be given a wider interpretation.

The argument has been contested by the counsel appearing for the State as well as the private respondent-complainant in reference to the order impugned and the statutory provisions in consideration.

I have heard learned counsel for the parties and I have perused the records. Although the argument of Mr. Singh does appear rather attractive but considering the statutory provisions which clearly prohibits the person suffering a disqualification under Rule 23 from contesting any election and also provides under Rule 9 and 24 that any person suffering any such disqualification, would cease to be a member of the society, until such time that the provision continues on the statute book even if

it would be resulting in hardship for the returned candidates, the legislative intent reflected in the statutory provisions, would have to be upheld.

Considering that the criminal case so instituted, does relate to the business of the society, hence in view of the stipulations underlying Rule 23(1)(f), I am not persuaded enough with the argument of Mr. Singh, to interfere with the order impugned.

The writ petition is dismissed.

(Jyoti Saran, J)

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