

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11749 of 2014

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1. Haspura Prakhand PACS Vikash Samanway Samiti, Haspura, District- Aurangabad (Bihar), through its Secretary, Ramsidh Singh S/o Late Faujdar Singh R/o Village-Gawaspur, P.S- Haspura, District- Aurangabad.
 2. Ramsidh Singh S/o Late Faujdar Singh Village-Gawaspur, P.O- Piru, P.S- Haspura, District- Aurangabad (Bihar), Chairman, PIRU PACS.
- Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Co-Operative Department, Govt. of Bihar, Patna.
 2. The Registrar, Co- Operative Societies, Bihar, Patna.
 3. District Co- Operative Officer, Aurangabad.
 4. Managing Director, District Central Co-Operative Bank Ltd., Aurangabad.
 5. Assistant Registrar, Co-Operative Societies, Aurangabad.
 6. Block Development Officer, Haspura.
 7. Block Co-Operative Extension Officer, Haspura, District- Aurangabad.
 8. Shri Sarju Ram, PACS Manager, Haspura, District- Aurangabad.
 9. Shri Kalimuddin Ansari, PACS Manager, Obra, District- Aurangabad.
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.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Manish Kumar Singh, Advocate
Mr. Ishwari Singh, Advocate
For the Respondent/s : Mr. V.K. Singh, G.A.-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

7 21-01-2015 Mr. Manish Kumar Singh for the petitioner, Mr. Kunal Tiwary, Assisting counsel to G.A. 3 for the State and Mr. Surendra Prasad Singh for the Bank are present.

The petitioner is aggrieved by the order bearing Memo No. 338 dated 16.6.2014 passed by the Managing Director, District Central Co-operative Bank Limited, Aurangabad whereby he has issued directions to all PACS Managers for enrollment of members after obtaining declaration in terms of Rule 7(4) of the Bihar Co-operative Societies Rules, 1959 framed under the Bihar

Co-operative Societies Act, 1935.

It is the contention of Mr. Singh learned counsel appearing on behalf of the petitioner that even while the Managing Director has been notified as a District Co-operative Officer and is vested to exercise the powers of enrollment under Rule 7(4) of the Rules, he has no jurisdiction to delegate such powers which are vested in him under the Acts and the Rules framed thereunder. He thus submits that the direction issued by the Managing Director to the PACS Managers for carrying out the exercise is a delegation having no sanction of law.

It is the contention of learned counsel appearing on behalf of the Bank that even when the PACS Managers have been directed to energize the enrollment, there is nothing on record that the enrollment has been carried out by these managers. Learned counsel for the bank submits that the letter of the Managing Director can bear no grievance for the petitioner until such time he is able to demonstrate that the enrollment of the members have been carried out by the PACS Managers.

I have heard learned counsel for the parties and I have perused the materials on record. The facts are not in dispute rather are admitted. The only contest is whether the Managing Director has delegated wholesome power on the PACS Managers for carrying out enrollment or he has simply directed them to facilitate the enrollment exercise.

The supplementary affidavit which encloses the list of such applicants for enrollment though bears the signature of the PACS Manager but it again does not reflect whether any order of enrollment has been issued by the PACS Manager. In such circumstance and in absence of any document which shows that the PACS Manager have assumed jurisdiction of a District Co-operative Officer, the directive issued by the Managing Director cannot be interpreted to mean a delegation of the statutory powers. It is not in dispute that the election has already taken place on the basis of the members so admitted.

In the circumstances discussed above, this Court is not persuaded to interfere with the directives of the Managing Director contained in the Memo No. 338 dated 16.6.2014 for there is nothing on record to demonstrate that the power stood delegated on the PACS Manager or that the PACS Manager on a misconception have exercised powers vested in a statutory authority under Rule 7(4) of the Rules.

In view of the observations made hereinabove, the writ petition stands disposed of.

(Jyoti Saran, J)

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