IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1085 of 2015

==

1. Mithi Lanchal Co-operative Bank Ltd. AND Anr through its Chief Promoter Sri Amar Kumar Singh,1st Floor, Arjun Singh's Complex, Chhoti Marai Road, Hajipur, Vaishali-844101
2. Amar Kumar Singh, aged about 34 yrs S/o Sri Ram Surat Singh, Residing at - Shekhpur, Post Office- Shekhpur, Police Station- Sahdai Bauzurgr, District- Vashali and at present 1st Floor, Arjun Singh's Complex, Chhoti Marai Road, Hajipur, Vaishali-844101

.... Petitioner/s

Versus

1. The State of Bihar through its Registrar Co-operative Societies, Bihar at Patna
2. The Co-operative Tribunal, Bihar, Patna,
3. The Registrar Co-operative Societies, Bihar at Patna.
4. The Additional Registrar Co-operative Societies, Bihar at Patna
5. The Assistant Manager, Urban Bank Department, Reserve Bank of India, South of Gandhi Maidan, Patna-800001
6. The Central Public Information Officer, Urban Banks Department, Central Office,1st Floor, Garment House, Reserve Bank of India, Worli, Mumbai-400018

.... Respondent/s

==

Appearance:

For the Petitioner/s	:	Mr. Chiranjiva Ranjan, Advocate
For the Respondent/s	:	Mr. Roy Shivaji Nath, AAG-3
For the R.B.I	:	Mr. Amit Prakash, Advocate

==

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

9 10-09-2015 Heard Mr. Chiranjiva Ranjan for the petitioner, Mr. Rajesh Kumar, Assisting Counsel to AAG-3 for the State and Mr. Amit Prakash for the Reserve Bank of India.

The petitioner filed this writ petition being aggrieved by the order dated 10.10.2013 passed by the respondent no. 4 the Additional Registrar, Co-operative Societies, Bihar, Patna as well as the order dated 07.11.2014 passed by the respondent no. 2 i.e. the Co-operative Tribunal, Bihar, Patna in Appeal Case No. 3 of

2013 whereby the application of the petitioner for registration under Section 5 of the Bihar Self Supporting Co-operative Societies Act, 1996 (hereinafter referred to as the ‘1996 Act’), has been rejected.

Facts of the case briefly stated is that an application was filed by the petitioner before the Registrar, Co-operative Societies, Bihar Patna on 28.6.2013 praying for registration under Section 5 of the ‘1996 Act’ and the Rules framed thereunder. Vide letter bearing No. 4601 dated 10.10.2013, the Chief Promoter and the petitioner were intimated by the Additional Registrar, Co-operative Societies that their application stood rejected in the light of the advisory issued by the R.B.I. as contained in letter no. 175 dated 14.11.2012, a copy of which is placed at Annexure-3 to the writ petition and whereunder the Registrar, Co-operative Societies, Bihar, Patna was informed that the Reserve Bank of India was not entertaining any proposal for license of any Urban Co-operative Bank and that any change in the policy decision would be communicated to him accordingly. The application of the petitioner was also rejected on grounds that Clause 30(5), 32(g), 34, 35, 36, 39 and 40(2) of the bye laws of the applicant society was in violation of the provisions of the ‘1996 Act’. The order of the Additional Registrar stands affirmed by the Bihar Co-operative Tribunal as the appeal preferred by the petitioner bearing Appeal

No. 3 of 2013 was dismissed on 07.11.2014.

This Court while hearing the matter on 10.4.2015 framed certain issues for a response by the Co-operative Department as well as the R.B.I. as regarding the necessity of approval by the Reserve Bank of India in the matter of grant of registration by the Co-operative Department in such matters and whether it was a condition precedent for entertaining any such registration. The issue stands noted in the order dated 10.4.2015 of this Court and has been duly responded by the Co-operative Department as well as the Reserve Bank of India. It is stated that since the grant of registration in relation to co-operative banks was relatable to public banking hence in principle approval had to be obtained from the Reserve Bank of India before grant of any such registration. An affidavit is also filed by the Reserve Bank of India that under a policy decision taken in the year 2004, they had put a restraint for grant of any in principle approval in respect of the proposals for Urban Sector Co-operative Banks. The stand of the Reserve Bank of India was contested by the petitioner to bring on record certain documents which reflected that the Reserve Bank of India had issued Licence as late as in 2009. The said complaint has been answered by the Reserve Bank of India by filing a supplementary counter affidavit in which it is stated that it is all such applications which had been received prior to 2004 that had been processed and acted upon belatedly but no fresh proposal for grant of license to an Urban Co-operative Bank is being entertained since the policy decision.

Mr. Rajesh Kumar, learned counsel appearing for the State has submitted that since the application made by the petitioner society accompanied the word 'bank' which impliedly means engaged in public banking, hence in view of the restraint order issued by the Reserve Bank of India on 14.11.2012 (Annexure-3), the same could not be entertained. He submits that apart from the fact that some clauses of the bye laws were in violation of the provisions of '1996 Act', the primary reason to reject the prayer for registration was on grounds of the restraint order issued by the Reserve Bank of India.

I have heard learned counsel for the parties and I have perused the records. In view of the order issued by the R.B.I. on 14.11.2012 restraining the Registrar, Co-operative Societies from entertaining any application regarding grant of registration / license to an Urban Co-operative Bank, in my opinion, the order(s) impugned in this writ petition would not suffer any infirmity requiring interference.

Mr. Chiranjiva Ranjan, learned counsel appearing for the petitioner submits that in view of the restraint order and until such time that a policy decision is taken by the Reserve Bank of India permitting participation of the public in Urban Co-operative Banking the petitioner would appropriately modify his application as well as the bye laws for grant of a fresh registration. In my opinion it is entirely in the petitioner's discretion to make appropriate alterations in his application in the light of the restraint order issued by the R.B.I. and no permission is needed from this Court. The petitioner would be at liberty to avail of the statutory remedy so available to him after making appropriate modifications.

In the circumstances, the writ petition is disposed of and it goes without saying that any such application being filed by the petitioner afresh by removing the defect which are the foundation for not entertaining his earlier application, the same would be considered by the statutory authority on its own merit and be disposed of in accordance with law and considering that the matter has been pending for quite some time an expeditious disposal by the Registrar in the matter would be appreciated.

(Jyoti Saran, J)

S.Sb/-

U			