

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18567 of 2014

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1. Samarjit Kumar Suman S/o - Deep Narayan Rai R/o Village -
Jahangirpur Sham, P.S. - Desari (Chandpura O.P.), District - Vaishali.
..... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Election Officer, Bihar State Election Authority, Patna.
3. The Registrar, Co-operative Societies, Bihar, Patna.
4. The District Magistrate/District Returning Officer, PACS Election, Vaishali.
5. The Joint Registrar, Co-operative Societies, Tirhut Division, Muzaffarpur.
6. The District Co-operative Officer, Vaishali.
7. The Block Development Officer-cum-Returning Officer, PACS Election, Desari Block, District - Vaishali.
8. The Block Co-operative Extension Officer, Desari, Vaishali.
9. The PACS, Jahangirpur Sham, Block - Desari, Vaishali through its Chairman.
10. The Chairman, Jahangirpur Sham PACS, Desari, Vaishali.
11. Sri Shivnath Prasad, the Chairman, Jahangirpur Sham PACS, Desari, Vaishali.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Pandit, Adv.
For the Respondent/s : Mr. Nawal Kishore Singh, S.C.2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

4 26-08-2015 Heard Mr. Awadhesh Kumar Pandit for the petitioner, Mr. Kamlesh Prasad A.C. to S.C.2 and Mr. Rakesh Kumar Jha for the respondent nos. 9 to 11.

The petitioner is aggrieved by the order dated 12.8.2014 passed by the Joint Registrar Cooperative Societies, Muzaffarpur in Membership Case No. 33 of 2014 whereby the election case filed by the respondent No.10 as the Chairman of the Jahangirpur Sham Primary Agriculture Credit Cooperative Society, Desari in the district of Vaishali has been allowed and the membership of



276 members have been set aside and which order of the Joint Registrar has been affirmed in Appeal Case No. 138 of 2014 filed by the present petitioner which was dismissed vide order passed on 23.9.2014/10.10.2014 with liberty to approach the Managing Committee of the society by invoking Section 44AQ(6) of the Bihar Cooperative Societies Act, 1935 for acquiring membership and which would be considered according to the statutory provisions.

Amongst other issues raised in the writ petition, the primary argument that has been advanced on behalf of the petitioner before this Court is that even when the Chairman- respondent No.9 had chosen to question the membership of the petitioner and 275 others before the Joint Registrar in Membership Case No. 33 of 2014 but he did not choose to arraign them as a party and thus their right to representation has been defeated.

It is submitted by Mr. Awadhesh Kumar Pandit learned counsel for the petitioner that this relevant aspect of the matter has been ignored by the Registrar while considering their appeal and a liberty under the order passed in appeal cannot cure the defect for the membership of the petitioner and others has been snatched away without an opportunity of hearing to the members.

The short argument advanced by Mr. Pandit to question the



orders falling squarely within the principles of natural justice cannot be contested. Mr. Rakesh Kumar Jha learned counsel for the Chairman even while supporting the impugned order on grounds that due opportunity has been granted to the petitioner to advance his cause and vindicate his stand, he yet cannot defend the action of the Chairman in obtaining a relief without impleading the petitioner and 275 others in the membership case.

I have heard learned counsel for the parties and perused the records. There cannot be two opinion that the membership case so filed by the respondent no.9 questioning the membership of 276 members of the society bearing Membership Case No.33 of 2014 in absence of the likely affected members whose membership was put to question was not maintainable and ought to have been dismissed at the very threshold. Even when the membership of the petitioner and 275 others was put to question in the matter, they were denied opportunity of hearing and the orders have been passed in complete ignorance of such relevant aspect. On this sole account the orders impugned in this writ petition have been rendered illegal and unsustainable. Accordingly the order dated 12.8.2014 passed by the Joint Registrar, Cooperative Society in Membership Case No.33 of 2014 along with the order dated 23.9.2014/10.10.2014 of the Registrar, Cooperative Society in

Appeal Case No.138 of 2014 are set aside.

The writ petition is allowed. The petitioner along with other 275 members stand restored to the membership of the society. This order however, would not preclude the private respondent no.9 to move afresh but in accordance with law.

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(Jyoti Saran, J)