IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20659 of 2012

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1. The Hadsa -Barhauna Primary Agriculture Credit Co-Operative Society, District - Nawada through the Chairman Namely Chandra Mauleshwar Son of Late Mahendra Singh Resident of Village - Badhauna, P.O. Badhauna, P.S. - Hasua, District - Nawada
2. Chandra Mauleshwar Son of Late Mahendra Singh Resident of Village - Badhauna, P.O. Badhauna, P.S. - Hasua, District - Nawada Presently The Chairman, Hadsa - Barhauna Primary Agriculture Credit Co-Operative Society, District - Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. The Registrar, Co-Operative Societies, Bihar, Patna
3. The District Co-Operative Officer, Nawada, District - Nawada
4. The Sub-Divisional Officer-Cum-Returning Officer, The District Central Co-Operative Bank Ltd., Nawada, District - Nawada
5. The State Election Authority, Bihar, Patna through the Secretary
6. The Chief Election Officer, State Election Authority, Bihar, Patna
7. The District Central Co-Operative Bank Ltd., Nawada, District - Nawada through the Managing Director
8. The Managing Director, The District Central Co-Operative Bank Ltd., Nawada, District - Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. B. K.Mangalam, Adv.&
Mr. Ravi Ranjan, Adv.
For the State : Mr. Sanjeev Nikesh, A.C. to S.C.17
For the Respondent No.s7 and 8 : Mr. Purshottam Kumar Jha, Adv.
For the respondent Nos. 5 and 6 : Mr. Mukesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 24-09-2015 Heard Mr. Ravi Ranjan learned counsel for the petitioners, Mr. Sanjeev Nikesh, learned A.C. to S.C.17 for the State, counsel for the Election Authority and Mr. Purshottam Kumar Jha for the respondent Nos. 7 and 8.

Though the main relief claimed by the petitioners has been rendered academic by holding of the election to constitute the

Managing Committee for the District Central Cooperative Bank Ltd., Nawada but since an argument was raised by the petitioners as to the non communication of reasons for which he has held disqualified that an answer was asked from the respondent authorities. Annexure-5 is a list of defaulters in which the petitioner society shows an outstanding of Rs. 21.04 lacs. The outstanding is in respect of the loan advanced to the Members of the petitioner against Kisan Credit Card.

The counter affidavit filed on behalf of the Election Authority and the Bank encloses a circular of the Cooperative Department bearing No.2116 dated 9.4.2010 in which certain clarifications have been issued in reference to an earlier circular of the department dated 16.3.1999. The circular specifically provides that all Chairman/delegates who have been found wanting in clearing the liabilities incurred in respect of the loan advanced to their Members against Kisan Credit Card, will be held defaulters. The Circular also mentions the period within which the loan is to be refunded.

Mr. Jha in reference to the said Circular as well as Rule 23(2) of the Cooperative Societies Rule framed under the Bihar Cooperative Societies Act, 1935, submits that there is absolutely no confusion on the issue that a loan advanced by the Bank against the Kisan Credit Card to the farmers is treated to be a liability of the society who has to ensure its refund within the prescribed period and the failure on the part of the Chairman of the society to ensure its refund in terms of the stipulation provided under the Circular dated 16.3.1999 as reiterated vide letter dated 9.4.2010 would render him a defaulter and it is for this reason that the petitioner society being in default of a loan to the tune of more than 21 lacs was held defaulter and thus not entitled to be a delegate. A similar stand has been taken by the Registrar, Cooperative Societies who has filed his counter affidavit to today reflecting dues against the petitioner society to the tune of Rs. 12.43 lac which was the figure until March, 2012. The chart present at Annexure-5 was published in October, 2012 meaning thereby the loan amount has increased.

Although Mr. Ranjan learned counsel for the petitioner laboured hard to canvass that until the petitioner society is held a defaulter his right to be a delegate cannot be curtailed but in my opinion considering the guidelines so issued by the Cooperative Department casting responsibility on the Chairman/delegate of the society to ensure that the loan advanced by the Bank against the Kisan Credit Card should be refunded within the time frame so provided under the Circular failing which they would be treated to be defaulter, there can be no contest on the issue. Mr. Ranjan also tried to question the figures of the loan amount on its calculation but in my opinion the forum for the petitioner to question the same lies elsewhere and not in a writ proceedings.

For the reasons aforementioned and considering that the election has already taken place in the year 2012, I am not persuaded to grant indulgence to the relief so prayed in the writ petition which is accordingly disposed of.

(Jyoti Saran, J)

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