

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.401 of 2011

Shri Mihir Nath,

son of late Manoranjan Nath, resident
of village – Narsingpur, P.O. & P.S.
Kanchanpur, District – North Tripura

..... **Petitioner**

V e r s u s

- 1. The State of Tripura,**
represented by the Secretary cum
Commissioner, Department of Co-
Operation, Govt. of Tripura, New Civil
Secretariat, P.O. Kunjaban, Agartala,
District – West Tripura
- 2. The Registrar,**
of Co-Operative Societies,
Department of Co-Operation,
Government of Tripura, P.O. Agartala,
District – West Tripura
- 3. The President,**
Krishak Mangal LAMPS Ltd., Vill –
Srirampur, P.O. & P.S. Kanchanpur,
District – North Tripura
- 4. Sri Sukdeb Tripura,**
Managing Director, Krishak Mangal
LAMPS Ltd., Vill – Srirampur, P.O. &
P.S. Kanchanpur, District – North
Tripura
- 5. Sri Sushanta Chakma,**
son of Sri Mukta Kishore Chakma,
resident of village – Srirampur, P.O. &
P.S. Kanchanpur, District – North
Tripura

..... **Respondents**

**BEFORE
THE HON'BLE MR.JUSTICE S. TALAPATRA**

For the petitioner : Mr. A.C. Bhowmik, Sr. Advocate
Mr. D. Sarkar, Advocate

For the respondents : Mr. J. Majumder, Advocate

Date of hearing and : **18.06.2015**
delivery of judgment & order

Whether it is fit for reporting :

Yes	No
√	

JUDGMENT & ORDER (ORAL)

Heard Mr. A.C. Bhowmik, learned senior counsel assisted by Mr. D. Sarkar, learned counsel appearing for the petitioner as well as Mr. J Majumder, learned counsel appearing for the respondents.

[2] The grievance of the petitioner falls within a short compass. By virtue of the Memorandum dated 13.08.2010, Annexure-B to the writ petition, a practice direction for consideration of the Large Sized Agricultural Multipurpose Co-operative Societies, in short the LAMPS, was issued by the Registrar of Co-operative Societies in respect of recruitment of the Managing Director. A model recruitment rule is annexed with the memorandum dated 13.08.2010. The said model recruitment rules provide the essential qualification for recruitment of the Managing Director, LAMPS as under:

Educational qualification : Essential

- (i) Minimum School Final passed from a recognized Board of Secondary Education. Familiar in Computers.
- (ii) Knowledge in English, Bengali or Kok-barok
- (iii) Training in Cooperation from any recognized Cooperative Training Institute
- (iv) At least 3(three) years service experience in Cooperative sector/ organization (preference will be given)

[3] According to the petitioner, in contrast to that model recruitment rules an employment notice was issued by the Managing Director, Krishak Mangal LAMPS Ltd. under the signature of the respondent No.4 where the educational qualification for the Scheduled Tribe and Scheduled Caste candidates has been shown to be Madhyamik passed and for others, graduation. In addition to that, it has been provided that the local candidate would be given preference. In response to that notice, Annexure-A to the writ petition, the petitioner appeared in the selection process without raising any protest for deviation from the prescription of the model recruitment rules, when he found him not successful on culmination of the selection process, by laying down the grievances as above, the petitioner has approached this Court.

[4] Mr. A.C. Bhowmik, learned senior counsel has submitted that the LAMPS Ltd. under reference is obligated to follow the practice direction of the Registrar of Co-operative

Societies inasmuch as he holds the position to regulate activities of the societies in the State of Tripura under Section 92 of the Tripura Co-operative Societies Act, 1974 as amended from time to time. As such, by deviating from the essential qualification as prescribed by the model recruitment rules, the LAMPS has committed serious illegality and in the process, an efficient person has been discarded.

[5] Mr. J. Majumder, learned counsel appearing for the respondents has succinctly submitted that the petitioner is estopped from raising such objection as he appeared in the selection process on acceding the employment notice. That apart, the proposed practice direction cannot obligate the LAMPS as the Co-operative Society is an entity created by the Tripura Co-operative Societies Act. The said memorandum containing the model recruitment rules is in the form of advisory which is not binding. Moreover, by bringing about an amendment being Tripura Co-operative Society (2nd Amendment) Act confusion or area not properly defined has been plugged. Section 20A of the Tripura Co-operative Societies Act, 2009 after the said amendment provides as under:

"20A – Notwithstanding anything contained in this Act, rules or bye-laws made there under or any other law for the time being in force, a cooperative credit structure society shall have autonomy in all financial and internal administrative matters including the following areas:

(a) Interest rates on deposits and loans,

Provided that in case of the State Cooperative Bank, the interest shall be in

conformity with the guidelines issued by the Reserve Bank;

(b) Borrowing and investments,

(c) Loan policies and individual loan decisions,

(d) Personal policy, staffing, recruitment, posting and compensation to staff.

(e) Internal control systems, appointment of auditors and compensation for the audit.

[6] It is therefore, according to Mr. J. Majumder, learned counsel appearing for the respondents that the LAMPS has its unbridled authority in respect of the personnel policy, staffing, recruitment, posting and compensation to staff. The Registrar of Co-operative Societies even cannot interfere with in such matter as encompassed by the said amendment in the Act.

[7] Having due regard to the submission made by the learned counsel appearing for the parties and in view of the law enunciated by the apex court in **Om Prakash Shukla vs. Akhilesh Kumar Shukla** reported in **1986(Supp.) SCC 286** and **Chandra Prakash Tiwari vs. Shakuntala Shukla**, reported in **(2002) 6 SCC 127**, this Court is constrained to hold that the petitioner is estopped to raise any objection unless the petitioner can establish that any rule having the force of statute has been violated in the process. But no such violation could be demonstrated by the petitioner, particularly on the face of Section 20A of the Tripura Co-operative Societies Act, 1974. That apart, the petitioner is entirely silent whether the LAMPS under reference can come within the ambit of Article 12 of the

Constitution of India. Unless, that is shown this Court cannot exercise its jurisdiction under Article 226 of the Constitution of India. For such inherent lack in jurisdiction, this Court cannot by transgressing the province, asses the comparative merit even for a limited purpose.

[8] Having held so, this writ petition being devoid of merit is dismissed. However, the petitioner shall remain at liberty to place his grievances to the Registrar of Co-operative Societies, if permitted under Section 92 of the Tripura Co-operative Societies Act, 1974.

There shall be no order as to costs.

JUDGE

Sujay