

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6274 of 2015

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Asha Devi, wife of Subhash Singh, Chairman, Nazardih PACS, P.O.-
Maruai, P.S.- Roh, District- Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna.
2. The Bihar State Election Authority, Patna through its Chief Election Officer.
3. The Registrar, Co-operative Societies, Bihar, Patna.
4. The Joint Registrar, Co-operative Societies, Magadh Range, Gaya
5. The District Magistrate, Nawadah
6. The District Co-operative Officer, Nawadah
7. The Block Development Officer-cum-Returning Officer (PACS Election), Block-Roh, District-Nawadah
8. Narendra Kumar Singh, son of Bachhu Singh, resident of village-Nazardih, P.O.- Maruai, Anchal-Roh, District- Nawadah.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Adv.
	:	Mr. Pramod Kumar, Adv.
	:	Mr. Rajesh Kumar Singh, Adv.
	:	Mr. Ritu Raj, Adv.
	:	Mr. Manoj Kumar, Adv.
For the Respondent/s	:	Mr. Ajay, G.A.-12
	:	Mr. Arbind Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 15-02-2016 Heard Mr. Dinu Kumar, learned counsel appearing on behalf of the petitioner, learned counsel for the State and learned counsel for the election petitioner who is respondent no. 8 herein.

The petitioner is aggrieved by the order dated 28.2.2015/23.3.2015 passed by the Joint Registrar, Co-operative Societies, Magadh Division, Gaya in Election Case No. 33 of 2014-15 circulated vide Memo No. 393 dated 25.3.2015 whereby the election of the petitioner to the post of Chairman, Nazardih

Primary Agriculture Credit Cooperative Society (hereinafter referred to as 'PACS') under Block-Roh in the district of Nawada has been set aside *inter alia* on grounds of a faulty voter list as well as on grounds that fake persons had voted.

I have heard learned counsel for the parties and I have perused the records.

The order of prescribed authority is questioned by Mr. Kumar, learned counsel appearing on behalf of the petitioner on grounds that a Joint Registrar, Cooperative Societies *suo motu* cannot entertain an election dispute unless and until it is transferred to him under Section 48(2) of the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') by the Registrar. The order is also questioned on grounds that despite no prayer made by the election petitioner seeking declaration in his favour yet the Joint Registrar has proceeded to grant him such relief and that the allegation is based on no evidence.

Although Mr. Singh, learned counsel appearing on behalf of the election petitioner made a serious effort to contest the arguments but in absence of supporting evidence as well as the jurisdictional error committed by the Joint Registrar in *suo motu* exercising jurisdiction, I am not persuaded with the arguments of Mr. Singh.

In so far as the exercise of jurisdiction is concerned, the



issue stands concluded by the judgment of this Court rendered in the case of **Katra Prakhanda Matasyajivi Sahyog Samiti Ltd. Vs. State of Bihar** reported in **2015 (4) PLJR 359** as well as the judgment of this Court passed in CWJC No. 13830 of 2015 heard with CWJC No. 14114 of 2015. It stands concluded that until such time an election dispute on reference to the Registrar is transferred to an authority concerned notified under Section 6(2) of 'the Act' to assist the Registrar, he cannot entertain the same because he does not hold inherent powers to entertain the election dispute vested in the Registrar, Co-operative Society under Section 48(1) and (2) of 'the Act'.

In so far as the issue of declaration in favour of the private respondent is concerned, the election petition itself confirms the fallacy in the decision of the Joint Registrar in as much as there is no prayer by the election petitioner seeking a declaration for himself.

Coming lastly to the issue of voter list and fake persons voting in the election, a perusal of the election petition which runs into seven paragraphs confirms that on a wild allegation made unsupported by evidence that the Joint Registrar proceeded to accept the same without application of mind and in a whimsical manner has proceeded to unsuit the elected representative. The order impugned is perversity personified.

For the reasons aforementioned the order dated 28.2.2015/23.3.2015 passed by the Joint Registrar, Co-operative Societies, Magadh Division, Gaya in Election Case No.33 of 2014-15 cannot be upheld and is accordingly set aside.

The writ petition is allowed.

The petitioner is restored to her post.

(Jyoti Saran, J)

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