

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6775 of 2016

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1. Tanu Singh, S/o Late Ramekbal Singh, Resident of Village Dhenuki PS Panapur, District Saran at Chapra, presently Chairman Dhenuki PACCS, Block Panapur, District Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar through the Registrar, Cooperative Societies, Patna.
2. The Registrar, Cooperative Societies, Patna.
3. The Deputy Registrar, Cooperative Societies, Patna.
4. The District Cooperative Officer, Saran at Chapra.
5. Harendra Singh, S/o Ramvilas Singh, Resident of Village Dhenuki, PS Panapur, District Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K.Mangalam, Adv.
Ms. Anita Kumari, Adv
For the Respondent/s : Mr. Sadanand Paswan, G.A.29
For the private respondent: Mr. Shashi Kant Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 20-04-2016 Heard Mr. S.B.K. Mangalam, learned counsel for the petitioner, learned counsel for the State and learned counsel for the private respondent who has entered appearance through Mr. Shashi Kant Kumar.

The petitioner is aggrieved by the order dated 8.3.2016 whereby the Registrar, Cooperative Societies while adjudicating on the election case bearing Election Case No. 323 of 2014 has restrained the petitioner who happens to be the Chairman of the Dhenuki Primary Agriculture Credit Cooperative Society from functioning, meaning thereby an ad interim order of stay of his

election, has been passed.

Mr. Shashi Kant Kumar has appeared for the private respondent to submit that the election case has been filed inter alia on grounds of improper acceptance of nomination of the petitioner. According to the election petitioner, the petitioner does not possess a valid membership and also does not possess the eligibility to hold a membership in the society. Meaning thereby the nomination is being questioned by the election petitioner before the prescribed authority on grounds of ineligibility of the petitioner to the membership of the society. It is rather surprising that even before this issue is adjudicated by the prescribed authority, he has directed for stay of the functioning of the petitioner as a Chairman of the society which in fact means a stay of the election and amounts to allowing the election dispute itself. Even otherwise even though the Bihar Cooperative Societies Act (hereinafter referred to as 'the Act') and the rules framed thereunder do provide that an election dispute is to be decided as a dispute under Section 48 of 'the Act' but the nature of jurisdiction discharged in election disputes qua other disputes, is vastly different. In fact no jurisdiction is vested in the Registrar either under 'the Act' or the rules to stay an election.

Although learned counsel for the respondents has



endeavoured to support the impugned action of the Registrar by referring to the provisions of Section 48 of the Act of the Bihar Cooperative Societies Act which under Sub section (7) inter alia vests inherent jurisdiction in the Registrar as provided under Section 151 of the Code of Civil Procedure but in my opinion, the reliance is thoroughly misconceived. Although such power is exercisable in other disputes arising under Section 48 of the Act but the powers stand circumscribed in so far as election disputes are concerned. A restraint order against the petitioner to function as the Chairman of the Society in an election dispute amounts to a stay of his election to the post and which order is wholly without jurisdiction and contrary to law governing elections.

For the reasons so mentioned, the order dated 8.3.2016 of the Registrar Cooperative Societies passed in Election Case No. 323 of 2014 in so far as it puts a restraint on the petitioner to function as Chairman, Dhenuki, 'PACS' is set aside. The writ petition is allowed

(Jyoti Saran, J)

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