

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17662 of 2015

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1. Rajiv Ranjan, son of late Rajendra Prasad.
 2. Sona Singh, S/o late Panchhi Lal Yadav.
- Both are residents of Mohalla- Digha Ghat, Patipul, P.O. Digha Ghat, P.S. Digha, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Patna Division, Patna.
2. The Commissioner, Patna Division, Patna at Bihar.
3. The Registrar Co-operative Societies, Co-operative Department, Govt. of Bihar at Patna.
4. The Joint Registrar Co-operative Societies, Co-operative Department, Govt. of Bihar, Office in the premises of Patna Commissioner's Division Office at Patna.
5. The Deputy Co-operative Societies, Co-operative Department, Govt. of Bihar, office in the premises of Patna Commissioner's Division Office at Patna.
6. The District Co-operative Officer, Patna Sadar, Budha Marg, Patna-800001.
7. Braj Bhushan Prasad Mehta, S/o late Sita Ram Mahto, resident of Mohalla- Digha Ghat, Patipul, P.O. Digha Ghat, P.S. Digha, District Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chiranjiva Ranjan, Advocate
For the Respondent/s : Mr. Krishna Kant Singh, A.C. to S.C.4
For the Respondent No.7 : Mr. Rajendra Narayan, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 04-02-2016 Heard Mr. Chiranjiva Ranjan, learned counsel appearing on behalf of the petitioner, Mr. Krishna Kant Singh, A.C. to S.C.- 4 for the State and Mr. Rajendra Narayan, learned Senior Counsel appearing for the Respondent No. 7.

The petitioners have questioned the entire proceedings pending before the District Cooperative Officer, Patna initiated in the light of a direction issued by the Joint Registrar,

Cooperative Societies, Patna Division, Patna on the instructions of the Commissioner, Patna Division at the instance of the private respondents.

The complaint made by the respondent no.7 before the Commissioner, Patna Division, Patna is present at Annexure-3 to the writ petition and whereby the private respondent has made complaint regarding alleged irregularity engulfing the society of which the petitioners are the office bearers. The application so filed by the respondent no.7 present at Annexure-3 was recommended for appropriate action by the authorities under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') and the Joint Registrar, Cooperative Societies vide letter no.1104 dated 22.9.2015 present at Annexure- 4 endorsed it to the District Cooperative Officer for necessary action thereon. An enquiry was initiated by the District Cooperative Officer with due intimation to the petitioner to be present with the records and it is being aggrieved by the enquiry so initiated by the District Cooperative Officer that the petitioners are before this Court.

A very short submission has been made by Mr. Chiranjiva Ranjan, learned counsel appearing for the petitioners to question the proceedings. He submits that the entire



proceedings leading to the enquiry in question is invalid from its inception because it is founded on a direction issued by the Commissioner, Patna Division who is a stranger to the Cooperative Societies Act and such recommendation has been mechanically endorsed by the Joint Registrar vide Annexure-4 which has led to the enquiry in question.

Mr. Rajendra Narayan, learned Senior Counsel appearing for respondent no.7 while fairly accepting that the Commissioner has no jurisdiction in the matter to issue any directions to the statutory authorities under 'the Act' submits, that it is appreciating the irregularities complained of by the respondent no.7 existing in the Rajiv Nagar Sahkari Grih Nirman Samiti Ltd. that the Joint Registrar, Cooperative Societies required the District Cooperative Officer to enquire into the allegations and submit his report which suffers no infirmity. According to Mr. Narayan, the writ petitioners should have cooperated in the enquiry rather than questioning its legality on technicalities.

Mr. Krishna Kant Singh, while supporting the impugned action has submitted that enquiry by the authorities would cause no prejudice to the petitioners.

I have heard learned counsel for the parties and I have

perused the records.

There cannot be any dispute regarding the jurisdiction vested in the District Cooperative Officer to enquire into any irregularity complained in respect of a Cooperative Society provided there is an appropriate application filed for the purpose. Admittedly there is no such complaint as mandated under the provisions of 'the Act' before the statutory authorities vested with such power rather the proceedings are initiated on the complaint made before the Commissioner, Patna Division, who has no jurisdiction to engage a complaint under the Cooperative Societies Act. Since the proceedings in question is initiated on an application addressed to an authority unconnected with 'the Act', it renders the entire proceedings invalid.

In the circumstances this Court while quashing the enquiry initiated by the District Cooperative Officer in the light of the directions issued by the Joint Registrar, Cooperative Societies bearing letter no.1104 dated 22.9.2015 would grant liberty to the respondent no.7 to proceed in the matter in accordance with law and should any such application be filed by the respondent no.7, the statutory authorities under 'the Act' would proceed therewith and dispose it of in accordance with

law and after opportunity of hearing to the petitioners and the respondent no.7.

Although it is submitted by Mr. Ranjan with reference to Annexure-1 of the writ petition that the issue so raised herein has already been raised and rejected by the statutory authorities but such submissions have been contested by Mr. Narayan to submit that the issue raised herein is entirely distinct to the subject matter of Annexure-1.

Be that as it may, the petitioner would be at liberty to raise all objections as raised herein should any proceeding be initiated at the instance of respondent no.7.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

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