

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2664 of 2016**

- V. Sundareshan S/o Shri A Vishwanathan, Aged About 45 Years R/o Housing Board Colony, 4th Street Behind Ved Pureshwar Temple, Tatibandh P.S. Amanaka Raipur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Co Operative Societies, Mahanadi Bhawan, Naya Raipur Chhattisgarh
2. Secretary, State Sahkari Election Commission, Raipur Chhattisgarh
3. Registrar, Registrar Office Cooperative Society, Indravati Bhawan, Naya Raipur Chhattisgarh
4. Udaya Grih Nirman Sahkari Sanstha Maryadit, Tatibandh, Through President, Raipur, Chhattisgarh
5. Registering Officer, Uday Grih Nirman Sahkari Sanstha Maryadit, Tatibandh, Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Siddhartha Rathod, Advocate
For Respondents-State	:	Shri AS Kachchwaha, Addl. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****27/10/2016**

1. Petitioner is the member of Udaya Grih Nirman Society, Tatibandh, Raipur. He is aggrieved by the circular/order passed by the Registrar, Cooperative Societies, Chhattisgarh on 4-11-2015 whereby the Registrar has directed that such member of a Cooperative Housing Society who has not availed minimum level of service from such society that is to say has not obtained any

loan/any plot and has raised the construction of house on such plot shall not be entitled to vote or contest the election of the society.

2. It is argued by the learned counsel appearing for the petitioner that as per the provisions of Section 22 (1) of the Chhattisgarh Cooperative Societies Act, 1960 ('the Act' in short) every member of the society has one vote in the affairs of the society, therefore, the impugned circular is in contravention of the said provision.
3. True it is that Section 22 (1) of the Act provides for one vote to each member of a Cooperative Society, however, sub-section (7) of Section 48 of the Act provides thus :

7 (a) A member who absents himself willfully in three consecutive meetings without reasonable cause, and which is proved after giving him reasonable opportunity, shall be ceased to be a member of the board, and is debarred from all consequential benefits.

(b) In a Cooperative society, no member shall be qualified for election as member of the board, delegate or representative and entitled to vote in any election of the board, delegate or representative of the Cooperative society unless he has availed minimum level of services by such society as may be prescribed in this regard from time to time.

Explanation.- A non-borrowing member shall be one who never borrowed from such a

Bank or a society in which he is a member :

Provided that the provisions of this sub-section shall apply to the society from the date it commences its lending operations:

Provided further that the provisions of this sub-section shall not apply to the society in so far as its first provisional committee/ nominated committee is concerned.

4. Under the above quoted provision the Registrar, Cooperative Societies has been empowered to prescribe from time to time to declare that a member shall not be qualified to vote or get elected unless he has availed minimum level of services by such society of which he is a member. There being an enabling provision empowering the Registrar to issue the order, the impugned circular/order is not in violation of Section 22 (1) of the Act.
5. Even otherwise, the provisions contained in sub-section (7) of Section 48 read with the impugned circular has an object sought to be achieved inasmuch as it ensures active participation by only such members who have availed the loan facility from the society. Thus, it seeks to exclude artificial participation of persons who are otherwise not in need of the services of the society. It has an object of ensuring participation by actual members and not by persons who play proxy in the affairs of the society and serve the cause of leaders and not the members who are in need of services. Thus, the impugned circular/order does not suffer from any such

arbitrariness or unreasonableness violating the provisions of Article 14 of the Constitution of India.

6. As a sequel, the writ petition, *sans substratum*, is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

Judge
Prashant Kumar Mishra

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