

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8346 of 2017

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Balmiki Sahni, son of Shri Kusho Sahni, resident of Village and PO- Chandpura,
P.S.- Neema Chandpura, Distt- Begusarai, Elected Secretary Begusarai Prakhanda
Matsyajivi Sahyog Samiti Ltd. Chadpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department,
Bihar, Patna.
2. The Registrar, Co-operative Societies, Bihar, Patna.
3. The Joint Registrar Co-operative Societies, Bhagalpur Division, Bhagalpur.
4. The District Co-operative Officer, Begusarai.
5. The Block Co-operative Extension Officer, Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 30-06-2017

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court seeking the
following reliefs:

*“1. That an appropriate writ may be issued
quashing the impugned order dated-
20.04.2017/11.05.2017 passed in Revision Case
No. 38 of 2017 issued vide Memo No. 350/R.L.,
dated-16.05.2017 as contained in Annexure-9
whereby and where under the Respondent No. 2 the
learned Registrar Co-operative Societies, Bihar,
Patna has dismissed the Revision Petition filed by
the petitioner.*



II. That an appropriate writ may be issued quashing the order issued by the District Co-operative Officer, Begusarai, the Respondent No. 4 vide Memo No. 1416, dated-03.12.2016 as contained in Annexure-5 whereby and where under the Respondent No. 4 declared 990 fishermen's as members of the Begusarai Prakhanda Matsyajivi Sahyog Samiti Ltd., Chandpura and directing the Block Co-operative Extension Officer, Begusarai, the Respondent No. 5 to deposit the entry fee and share money in Begusarai Central Co-operative Bank Ltd. Begusarai Branch.

III. That an appropriate writ may be issued quashing all the consequential action taken by the Block Co-operative Extension Officer, Begusarai, the Respondent No. 5 in compliance of the order issued vide Memo No. 1416, dated-03.12.2016 as contained in Annexure-5 passed by the District Co-operative Officer, Begusarai, the Respondent No. 4.

IV. Any other relief/reliefs for which the petitioners are entitled too."

3. The petitioner is the elected Secretary of *Begusarai Prakhanda Matsyajivi Sahyog Samiti Limited, Chandpura* (hereinafter referred to as the 'Society') in the district of Begusarai. It appears that 990 persons had directly applied to the District Co-operative Officer, Begusarai for being made members of the Society



and the said application was forwarded to the petitioner by the District Co-operative Officer on 22.09.2016. Thereafter, in the meeting held on 30.09.2016, the Managing Committee of the Society deliberated upon such claim and ultimately 315 persons were accepted as fresh members whereas the rest were rejected. The same was communicated by the petitioner to the District Co-operative Officer and upon which, the District Co-operative Officer under Memo No. 1284 dated 19.10.2016 approved the said addition of 315 new members. However, later on, by order contained in Memo No. 1416 dated 03.12.2016, the District Co-operative Officer has directed all those 990 persons to be made member of the Society. The petitioner assailed the same before the Registrar, Co-operative Societies, Bihar in Revision Case No. 38 of 2017 which has been rejected by order dated 20.04.2017/11.05.2017. The same is impugned in the present writ application.

4. Learned counsel for the petitioner submitted that under Rule 7 of the Bihar Co-operative Societies Rules, 1959 (hereinafter referred to as the 'Rules') relating to admission to membership, every person desirous of admission has to file an application in Form V before the Secretary of the Society and if such application is not accepted, he may submit such application to the Block Development Officer or the Assistant Registrar of Co-



operative Societies or the District Co-operative Officer who shall grant him receipt for the application in the prescribed form and shall at once send the same to the Society concerned. It was submitted that though none of the persons had submitted any application directly to the Society, however, such application being submitted before the District Co-operative Officer upon being forwarded on 22.09.2016, was duly deliberated upon in the meeting of the Managing Committee dated 30.09.2016 and out of the same only 315 persons have been allowed to become members which was communicated to the District Co-operative Officer. Learned counsel submitted that the remaining 675 persons, who were not made members, had the only remedy under Rule 7 of the Rules to file an appeal before the Registrar within 60 days of the communication of the decision. It was submitted that none of the persons have filed any appeal before the Registrar but that not being the issue involved, the District Co-operative Officer has no power to direct for admitting as member any person and him directing all 990 persons to be made members is totally without jurisdiction. Learned counsel further submitted that none of the remaining 675 persons had filed any application before the District Co-operative Officer and still an order directing them to be made party and that too by the District Co-operative Officer needs to be set aside.



5. Learned counsel for the State submitted that the order passed by the District Co-operative Officer is correct and based on cogent reasons.

6. Having considered the rival contentions, the Court does not find any merit in the writ petition. The issue has to be judged in terms of Rule 7 of the Rules, which reads as under:

“7. Admission to Membership. – [(1) (a) Every person desiring admission to membership of a registered society shall apply in Form V.

(b) The Secretary of the Society or any person duly authorised by him in this behalf shall immediately grant a receipt for the application in the form at the foot of Form V

(c) In case the Secretary of the Society or any such person as aforesaid does not receive the application or grant a receipt for it, the applicant may submit his application to the Block Development Officer or the Assistant Registrar or Cooperative Societies or the District Cooperative Officer, who shall immediately grant him a receipt for the application in the prescribed form, and shall at once send the same to the society concerned.

(d) The application shall be considered by a Managing Committee of the Society and the decision of the Committee thereon shall be communicated to the applicant within 15 days of



receipt of the application and, where the application is rejected, with reasons therefore.

(e) If no decision is communicated to the applicant within the period specified above. It shall be deemed that the application has been accepted and the applicant has been admitted to the membership of the Society.]

(2) A person whose application for admission to membership has been rejected by the managing committee may, within sixty days of the communication of the decision to him appeal to the Registrar whose decision shall be final.

(3) On payment of the admission fee and share money as prescribed in the bye-laws, a member shall be entitled to all the rights and shall be subject to all the liabilities of a member.

[(4) Notwithstanding anything contrary contained in this rule or bye-laws of a Primary Agriculture Credit Society, if any person applies for membership of such a society with a declaration to the Block Development Officer or Assistant Registrar, Cooperative Societies or District Cooperative Officer that-

(a) he fulfills the criteria for attaining membership of such a society,

(b) no other member of his family is a member of the society and

(c) he has applied for membership to the managing committee of such society and has not been



*admitted as a member,
the concerned Block Development Officer, as the
case may be, shall order such person to be made a
member of the said society.”*

7. As per Rule 7 (1) (d) of the Rules, the requirement is that such decision on the application made by any applicant for membership has to be communicated to the concerned applicant within 15 days of receipt of the application. In the present case, in paragraph no. 16 of the writ application itself it has been admitted that “since the applications were received through the District Co-operative Officer, therefore, the Managing Committee communicated the decision to the District Co-operative Officer through whom the applications were received, therefore, there was no necessity of communicating each applicants personally about the decision of the Managing Committee of the Society.”

8. The law clearly requires that irrespective from where the application is received, the applicant i.e., the person who has sought admission, has to be communicated within 15 days of receipt of such application, about the decision of the Managing Committee, by the Managing Committee, failing which it shall be deemed that the application has been accepted and the applicant has been admitted as a member of the Society. When the law is so explicit and clear, and the mandate of the statute has not been



complied with, consequences have rightly followed and thus, the decision of the District Co-operative Officer to hold of that all 990 applicants are required to be made members cannot be faulted. Moreover, the same in revision not being interfered with, thus, also cannot be said to be illegal.

9. In view thereof, the Court does not find any ground to interfere in the matter and accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

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