

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13193 of 2017

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Nand Prakash Singh, Son of Late Laxman Singh, Resident of Village- Ranpatti,
P.S. Manjhi, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-Operative Society, Govt. of Bihar, Patna.
2. The Registrar, Co-operative Society Department, Government of Bihar, Patna.
3. The Joint Registrar, Co-operative Society Department, Government of Bihar, Patna.
4. The District Magistrate-Cum-Collector, Saran.
5. The District Cooperative Officer, Saran.
6. The Returning Officer-Cum-Block Development Officer, Manjhi, District- Saran.
7. The Block Cooperative Officer, Manjhi, District- Siwan.
8. Basant Singh Son of Jagnarayan Singh, Resident of Village- Uriyanpur, P.S. Manjhi, P.O.- Matiyar Via- Phulwariya Tajpur, District Saran and At Present Elected Chairman, Primary Agriculture Co-operative Society, Chaiful, Block- Manjhi, District- Saran , Pin Code- 841209.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Singh, Advocate
For the State : Mr. Manoj Kumar Ambastha, S.C. 26
Mr. Tripurari Nath Ambastha, A.C. to S.C. 26

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 31-10-2017

Heard learned counsel for the petitioner and Mr. Manoj

Kumar Ambastha, learned SC-26 for the State.

2. The petitioner has moved the Court for the following
relief:

*“That the present writ petition is being filed
for issuance of a writ in the nature of Certiorari for
Quashing of the Memo No. 6307 dated 09.08.2017
passed by the Joint Registrar (H.O), Co-operative
Societies, Bihar, Patna who although coming to the
conclusion from the available records and other
materials that the Respondent No. 7 has suppressed*



the important fact in his nomination papers filed for the post of Chairman of the Primary Agriculture Co-operative Societies (PACS) regarding pending of criminal case in the court below at Chapra for offence under various sections of the Indian Penal Code he after reserving the order for about 9 months (the order was reserved on 21.12.2016) refused to interfere in the matter and erroneously remanded the matter back to the District Co-operative Officer, Saran, Chapra directing him to take suitable action in accordance to law although he is not empowered to set aside the election.”

3. In sum and substance, the grievance is that the election suit filed by the petitioner challenging the election of respondent no. 7 to the post of Chairman of Chaiful PACS in the district of Saran under Section 48 of the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as the ‘Act’) before the Registrar, Co-operative Societies, though initially admitted and transferred to the Joint Registrar (Headquarters), Co-operative Societies, Bihar, Patna, was also finally heard and order reserved on 21.12.2016, by order dated 08.08.2017, though the contention of the petitioner has been upheld and finding has been given that there has been suppression of material facts by the respondent no. 7, but instead of passing final orders on the election petition, the matter has been sent to the District Co-operative Officer, Saran for appropriate action.

4. Learned counsel for the petitioner submitted that the



election suit being statutory in nature, the power to decide the same is conferred on the Registrar, Co-operative Societies, who has the power to transfer the matter to any of his subordinates who have also been vested with the power of Registrar under the Act. But once the same has been done, the officer to whom the case has been transferred acts as the Registrar under the Act and has to pass final order and he cannot remand the matter to the District Co-operative Officer, who is not Registrar under the Act or to whom the Registrar has not transferred the initial election suit.

5. The matter being purely legal, learned counsel for the State fairly submitted that the decision of the Joint Registrar (Headquarters), Co-operative Societies, Bihar, Patna to send the matter to the District Co-operative Officer, Saran for appropriate action cannot be justified.

6. Having considered the matter, the Court finds that the order impugned cannot be sustained. The Joint Registrar (Headquarters), Co-operative Societies, Bihar, Patna was acting in a statutory capacity and hearing an election petition, after the same was transferred to his Court by the Registrar, Co-operative Societies. Thus, it was he alone who was required to take a final decision in the matter and the same could not have been sent to the District Co-operative Officer, Saran for further action, moreso, in



view of the finding recorded by him in the order.

7. Accordingly, the direction in the order dated 21.12.2016/08.08.2017 contained in Memo No. 6307 dated 09.08.2017 is set aside to the extent where the District Co-operative Officer, Saran, Chapra has been directed to take appropriate action. As a consequence, the Joint Registrar (Headquarters), Co-operative Societies, Bihar, Patna shall pass final orders and decide the Election Dispute Case No. 311 of 2015 at his level after giving one more opportunity to the respondent no. 7. However, final order shall be passed expeditiously and latest within a period of two months from the date of production of a copy of this order before him (respondent no. 3).

8. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
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