

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3603 of 2017

- =====
1. Bettiah Prakhand Matashyajivi Sahyog Samiti, District West Champaran.
 2. Chandan Kumar Mukhiya, Son of Shri Kanhaiya Mukhiya, resident of village Pipra Pakheri, Police Station Muffasil Bettiah, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Registrar, Co-operative Societies, Bihar, Patna.
3. The Joint Registrar, Co-operative Societies, Tirhut Division, Muzaffarpur.
4. The District Co-operative Officer, West Champaran (Bettiah).
5. The District Fisheries Officer-cum-Chief Executive Officer, West Champaran (Bettiah).
6. Anand Kumar Son of Shri Baijnath Prasad, resident of village Purani Gudri, Turha Toli Town Police Station Bettiah, District West Champaran (Bettiah).
7. Shankar Prasad Son of Hanuman Sah, resident of Mohalla Purani Gudari, Ward No. 10, Police Station Bettiah, District West Champaran.
8. Puja Kumari wife of Ashok Kumar, Resident of Village-Purani Gudri, P.S. Bettiah, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Mahasweta Chatterjee, Advocate
For the State	:	Mr. Sanjay Kumar, A.C. to G.A. 13
For the Respondent No. 6	:	Mr. Rakesh Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-04-2017

Heard learned counsel for the petitioners, State and
the respondent no. 6.

2. Learned counsel for the petitioners is permitted to
complete the description of respondent no. 8 in the cause title of the
writ petition. Let the same be done during the course of the day.

3. The petitioners had sought quashing of order dated
22.12.2016 contained in Memo No. 133/R-L dated 17.02.2017, by
which the Registrar, Co-operative Societies, Bihar, Patna has



dismissed Misc. Case No. 197 of 2016, filed by the petitioners.

4. The controversy involved is as to whether the elected Secretary i.e., respondent no. 7 shall continue to be the Secretary of the Society with effect from 25.03.2014 when cognizance was taken against him in a criminal case in terms of Rules 23 and 24 of the Bihar Co-operative Societies Rules, 1959 (hereinafter referred to as the 'Rules').

5. The petitioner no. 2 claims to have been elected as the Acting Secretary in the meeting of the Managing Committee on 06.04.2015 whereas the respondent no. 6 is said to have been made the Acting Secretary in the meeting on 17.04.2015. There is averment in the writ petition that the respondent no. 8 has been appointed as the Acting Secretary by the respondent no. 6, after cognizance was taken against him also.

6. Be that as it may, the matter relates to questions of fact which this Court would not go into as the Registrar is the Competent Authority under Section 48 of the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as the 'Act'), to adjudicate such issues. One thing is clear that the parties are claiming to occupy the post of Secretary by co-option by the Managing Committee. The same is governed by the Act and the Rules and in the present case, on the basis of materials brought, the Court cannot come



to a definite finding as even the foundational facts are not admitted and thus, there is dispute. The fact that after the case was finally heard by the Registrar and order reserved, a counter affidavit-cum-written argument was filed on behalf of the respondent no. 6, after the hearing was over and which has been taken note of by the Registrar while passing the impugned order.

7. As learned counsel for the petitioners has raised the objection that the petitioners did not have an opportunity to counter such averments made on behalf of the respondent no. 6, the order passed taking note of such fact is not sustainable. The Court finds substance in such contention.

8. At this stage, learned counsel for the respondent no. 6 submitted that the matter can be remanded to the Registrar for fresh consideration.

10. Having regard to the aforesaid, the order impugned passed by the Registrar, dated 22.12.2016 contained in Memo No. 133/R-L dated 17.02.2017, is set aside. The Registrar shall hear the parties afresh and pass reasoned order. The petitioners and the respondent no. 6, who are represented before the Court shall appear before the Registrar, along with a copy of this order on 18th April, 2017, when the next date in the case shall be fixed and any party required to be heard shall also be noticed. However, the



Registrar shall conclude the case within two months thereafter. As there is serious dispute with regard to who is the rightful Secretary and the matter has to be adjudicated first by the Registrar, both the petitioner no. 2 and the respondent no. 8 shall be permitted to submit their list of voters, but with regard to final acceptance of the list, the same shall be subject to the decision by the Registrar in pursuance to the present order of remand. The acceptance of the list submitted by either of the parties shall also be verified in accordance with law.

(Ahsanuddin Amanullah, J.)

P. Kumar

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