

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.2632 of 2008

(Arising out of order dated 18-4-2008 of the District Education Officer,
District Korea, Baikunthpur)

Shramik Bal Kalyan Samiti, West Jhagarkhand Colliery, District Korea, through its Vyavasthapak Mohd. Idrish, S/o Shri Rehmatullah, aged 49 years, R/o West Jhagarkhand Colliery, Village Khongapani, District Korea, C.G.

---- Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, School Education Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. District Education Officer, District Korea, Vaikunthpur, C.G.

---- Respondents

For Petitioner:	Mr. Ghanshyam Patel, Advocate.
For Respondents/State:	Mr. Shashank Thakur, Govt. Advocate and Mr. S.M. Ali, Panel Lawyer.
For Interveners:	Mr. Ratnesh Kumar Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/11/2017

1. The petitioner is a registered society under the Chhattisgarh Society Registrickaran Adhiniyam, 1973 (for short, 'the Act of 1973') and imparting education. By the impugned order Annexure P-4, the District Education Officer has dissolved the governing body of the society which has been called in question in this writ petition.
2. Mr. Ghanshyam Patel, learned counsel for the petitioner, would submit that the District Education Officer has no right, authority and jurisdiction to supersede / dissolve the governing body of the petitioner Society, as that can only be done under Section 34 of the

Act of 1973 by the Registrar, Firms and Societies.

3. Learned State counsel and learned counsel for the interveners would support the impugned order.

4. Section 34 of the Act of 1973 provides as under: -

“34. Provision for dissolution of societies and adjustment of their affairs.—(1) Any number not less than three-fifths of the members of any society may determine that it shall be dissolved and thereupon it shall be dissolved forthwith, or at the time when agreed upon and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claim and liabilities according to the regulations of the said society applicable thereto, if any, and if not, then as the governing body shall find expedient :

Provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the Principal Court of original civil jurisdiction of the district in which the chief building of the society is situated, and the Court shall make such order in the matter as it shall deem fit :

Provided further that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose :

Provided also that whenever the Government is a member of, or a contributor to, or otherwise interested in any society, such society shall not be dissolved without the consent of the Government.

(2) The Registrar may, if on information received by him or otherwise is of the opinion that a society has become defunct or has been persistently making default in the observance of the provisions of this Act, or the regulations or bye-laws made thereunder, by a notice served on the society, call upon the governing body within the period specified in the notice which shall not be less than thirty days, to show-cause as to why registration of the society should not be cancelled.

(3) The Registrar may after considering the reply received, if any, after the expiry of the notice period on being satisfied that no useful purpose is likely to be

served by continuing the society by an order in writing cancel the registration thereof as from the date specified in the order and thereon society shall be deemed to have been dissolved for the purposes of the Act.”

5. A careful perusal of the aforesaid provision would show that the power is vested with the Registrar, Firms and Societies to dissolve a society, if the society has become defunct or has been persistently making default in the observance of the provisions of the Act, or the regulations or bye-laws made thereunder, after giving opportunity to the said society. In the present case, order has been passed by the District Education Officer who is demonstrably incompetent to dissolve the society, as the power is vested with the Registrar, Firms and Societies in view of the provisions contained in Section 34 (3) of the Act of 1973.
6. In view of the above, the impugned order passed by the District Education Officer dissolving the governing body of the petitioner Society is hereby quashed. However, this will not bar the State to proceed in accordance with law.
7. The writ petition is allowed to the extent indicated herein-above.
No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge