

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 12.07.2017****Delivered on 21.07.2017****Writ Appeal No. 136 of 2017**

A. Chandrasekhar Shastri S/o Late S. A. Shastri, Aged About 64 Years R/o 15 State Bank Colony, Mahoba Bazar, Raipur, District Raipur, Chhattisgarh.

---- Appellant**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 Appellant	:	Mr. Shouki Yadav, Advocate
For Respondent -State	:	Mr. R.K. Gupta, Deputy Advocate General
For Respondent No.4	:	Mr. R.K. Mahobiya, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****C.A.V. JUDGMENT****Per Sharad Kumar Gupta, Judge**

1. In this writ appeal, the challenge levied is to the judgment dated 26.10.2016 passed by the learned Single Judge of this Court in Writ Petition (C) No. 2624 of 2016, whereby the said writ petition has been dismissed.

2. The Appellant is a member of the Udaya Grih Nirman Sahkari Sanstha Maryadit, Tatibandh, Raipur. He filed the writ petition challenging the order dated 04.11.2015 passed by the Registrar, Co-operative Societies, Chhattisgarh, marked as Annexure P/1, whereby the Registrar has directed that any member who has been allotted land in the Grih Nirman Society will not be eligible to be elected as Board Member or representative unless that member satisfies the following criteria:

(i) That, the member has legally obtained the allotment of land/courtyard from the Grih Nirman Society after paying the decided amount.

(ii) That, the member has legally transferred the ownership of the land/courtyard in his favour after payment of decided amount.

(iii) That, the member has purchased the land from other member or as per clause (2) has not built the house within 5 years from the date of transfer of land.

The learned Single Judge dismissed the writ petition. Hence, this appeal is filed by the writ petitioner.

3. The learned counsel for the Appellant, Shri Shouki Yadav, vehemently argued that under the provisions of Section 22(1) of the Chhattisgarh Co-operative Societies Act, 1960 (hereinafter referred to as '*the Act*'), every member of the Society has one vote regarding the affairs of the Society and therefore the said order of the Registrar is in contravention of those provisions.

4. Shri R.K. Gupta, learned Deputy Advocate General argued that the said order of the Registrar is valid and passed in conformity with the law.

5. We have gone deep down through the records.

6. It would be pertinent to refer the provisions of Section 22(1)(b) of the Act which reads as under :-

“22. Votes of members. - (1) Every member of the society shall have one vote in the affairs of the society.

(a) xxx xxx xxx

(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.”

The said provision clearly shows that the Registrar of the Cooperative Society is empowered to issue order/circular in accordance with the provisions of Section 22(1)(b) of the Act. Hence, the Registrar had the authority to issue the impugned circular.

7. Cooperative societies are meant for the betterment of its members. This object may be achieved by promoting such members who are inclined to render services to other members of the society and protect their interest; and by avoiding those members who are unwilling to provide services to other members of the society by duly and actively involving in the cooperative movement. Effective functioning of the cooperative societies would be possible only when active members get right to vote and opportunity to be elected to run the activities of the society concerned. Exclusion of members who are not actively involved in the conduct of a cooperative society is the requirement of meaningful existence of such a society. This calls for exclusion of those members who may be in the list of the members, but inactive that they do not make fruitful contribution to the affairs of the society. Situations where such inactive members could be utilized for proxy management of cooperative societies, which are institutions designed to work with democratic values, cannot be ruled out. Therefore, the restriction imposed by the Registrar through the impugned circular is reasonable.

8. On the basis of foregoing facts, circumstances and reasons, we hold that the said order Annexure P/1 is in accordance to the provisions of Section 22(1)(b) of the Act and does not violate any law including Section 22(1) of the Act or the provisions of

Article 14 of the Constitution of India. Therefore, we agree with the reasons stated in the impugned judgment of the learned Single Judge and hold that it is in accordance with law and it is only to be confirmed.

9. On the cornerstone of the aforesaid facts and circumstances, we conclude that no issue has been raised in this writ appeal calling for interference with the impugned judgment. The writ appeal is, therefore, being devoid of merits.

10. In the result, this writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge