

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 893 of 2017

1. Sewa Sahakari Samiti Hirri Block Dhamdha, District Durg (Chhattisgarh).
(Registration No. 1604)
2. Sewa Sahakari Samiti Maro, Block Nawagarh, District Bemetara (Chhattisgarh).
Registration No. 1303
3. Vishesh Kumar Mishra S/o Late Ganga Prasad Mishra, Aged About 68 Years R/o
Village Madiyapar, Block Dhamdha, District Durg (Chhattisgarh)
4. Trilok Singh Gundhar, S/o Late Nattha Singh, Aged About 55 Years R/o Village
Maro, Block Nawagarh, District Bemetara (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Cooperative, Mahanadi
Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Registrar, Cooperative Societies, Chhattisgarh, Indravati Bhawan, Naya Raipur,
District Raipur (Chhattisgarh)
3. Joint Registrar, Cooperative Societies, Durg, District Durg (Chhattisgarh)
4. Secretary State Cooperative Election Commission, Raipur Collectorate Square, In
Front Of Statue Of Dr. B. R. Ambedkar, District Raipur (Chhattisgarh)
5. Chhattisgarh Rajya Sahakari Bank Maryadit (Apex Bank), Raipur, Through Its
Managing Director, Indragandhi Commercial Campus, Pandri, District Raipur
(Chhattisgarh)
6. Chief Executive Officer, District Cooperative Central Bank Limited, Durg
(Chhattisgarh)

---- Respondents

Shri Sameer Uraon, counsel for the petitioner/s.
Shri Sangharsh Pandey, Dy.G.A. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/05/2017

This petition has been filed by the petitioners who are Primary Co-

operative Societies for a direction to respondent authorities to extend the tenure of Primary Co-operative Societies attached under District Co-operative Central Bank, Durg up to the extent of the tenure of the Board of Directors, Central Bank Ltd, Durg till June 2020.

2. Learned counsel for the petitioner submits that the Board of Directors of petitioner's society were elected from time to time and they had also sent their representatives to the Central Cooperative Bank at district level. According to learned counsel for the petitioner, elections of District Co-operative Central Bank was held in the year 2015 which means that the tenure of the District Co-operative Central Bank will continue till 2020. It is submitted that as the tenure of Central Cooperative Bank will continue till 2020, not only representatives of the petitioner / Primary Society but the Board of the petitioner / society also is entitled to continue to function, co-terminus with the tenure of the Central Bank.

The other submission of learned counsel for the petitioner is that under the scheme of the Chhattisgarh Co-operative Societies Act, 1960 (for short 'the Act of 1960') and rules framed thereunder, elections have to be held by the Societies themselves and it is only upon failure of the Society to hold elections before expiry of the term that the Registrar may extend request to the State Election Commission to conduct elections. Next submission is that in any case, even if the elections are not held upon expiry of the term, still the Registrar has power under Section 49 of the Act of 1960 to extend the period for holding meeting by a further period, not exceeding three months. Lastly, it is submitted that as per the provisions contained in Rule 49-H of the C.G. Cooperative Societies Rules, 1962 (for short 'the Rules of 1962'), the Society has to be informed regarding holding of elections and it is only upon failure of the Society that the Election Commission may take up the matter either *suo moto* or on the request of the Registrar.

3. In this case, earlier, the petitioner was granted time to disclose the date on which, the Board of each of the petitioners were elected and their respective term. However, those information which are material one, have been withheld from the Court and at the same time, the petitioner has sought indulgence of the Writ Court.

4. The present statutory scheme of the Act of 1960, as contained in Section 49 mandates under Section 7-A that the term of the Board shall be five years from the date on which, first meeting of the Board is held. Sub-clause 2 of the

said provision provide that the term of the representatives elected by the Board of the Society shall be co-terminus with the term of the Board of the Society for which, representative is elected.

This only mean that notwithstanding the fact that the term of the Board of the Society expires, its representative will continue in the Board of the Central Society. The meaning of this provision cannot be stretched to the extent that the Board of the Primary Society will also continue despite expiry of period of five years from the date on which first meeting of the elected Board was held. This is not reflected from the scheme of the Act.

The submission that the Election Commission can hold election only when the Society fails to continue election till expiry of period, is required to be appreciated in terms of the statutory scheme of the Act. Section 49 (8) clearly mandates that the election of the Board shall be conducted before expiry of the term of the Board. If the elections are not held before expiry of the term, the Board of the Society ceases to function, and all the members of the Board shall be deemed to have vacated their seats and the powers of the board shall be deemed to have been vested in the Registrar and the State Co-operative Election Commission shall hold elections within six months, or 12 months in case of the Co-operative Banks. There is nothing on record to show that the term of the petitioner / Society still continues. This information has been withheld from the Court.

5. In any case, the provision contained in Rule 49-H of the Rules of 1962 provide that if six months before expiry of the term of outgoing Board of any Co-operative Society, request in writing by the Board of that Society is not received, then on receiving quarterly return presented by coordination or on his own information, the Commission shall conduct the election *suo moto*.

6. There is nothing on record to show that any request, as mandated under Rule 49 H (i) was extended by the petitioner / Society. There is no averment in the petition that the requirement of Rule 49-H (ii) was not complied with.

7. The submission that even if the term of the Society has come to an end, it is within the power of the Registrar to extend that period for holding meeting in exercise of power under Section 49 of the Act of 1960, is also not acceptable because proviso to Section 49 of the Act of 1960 restricts the power of the

Registrar in the manner that it saves the meeting in which elections are to be held on expiration of the term of the Board in exercise of powers under Section 49 of the Act of 1960. Therefore, this power of extension is not available to the Registrar when the meetings are to be held for the purposes of election. The petitioners, having withheld relevant information and not coming with clean hands is also an additional reason, why the Writ Court is not inclined to grant any relief.

8. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge