

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.1282 of 2016

- Shakti Mahila Sangh Bahu Uddeshiya Sahkari Samiti Maryadit Majhauri Through Its C.E.O. Narendra Singh Parihar, Aged About 34 Years, S/o Shri Vishram Singh Parihar, Registered Address Shri Prahlad Singh, Thakur, Ka Makan, Civil Line Majhauri, District Jabalpur M.P.

---- Petitioner

Versus

1. Government Of India Through Deputy Director (Cooperation) Department Of Agriculture & Cooperative Ministry Of Agriculture, Krishi Bhawan, New Dehi,
2. Central Registrar, Government Of India, Agriculture & Co - Operation Department, Ministry Of Agriculture, Krishi Bhawan, Delhi
3. Registrar, Cooperative Society Chhattisgarh Office Registration Cooperative Societies Departmental Office, Indravati Bhawan, New Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Smita Verma, Advocate
For Respondent No.1 & 2:	:	Shri N. K. Vyas, ASG
For Respondent No.3	:	Shri Manish Nigam, Panel Lawyer

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/04/2017

Heard.

2. This petition has been filed by the petitioner aggrieved by order dated 17-03-2016 of the Registrar, Co-operative Societies, Chhattisgarh.
3. Learned counsel for the petitioner submits that the petitioner with an intention to operate as Multi State Level Co-operative Society, applied before the Central Registrar constituted under the Multi State Cooperative Societies

Act, 2002 (In short “the Act of 2002”). As Section 22 of the Act of 2002 mandates the Central Registrar to take decision on an application for conversion of Co-operative societies into Multi State Co-operative Society, after consultation with the Registrar of Co-operative Societies of the State concerned and with due satisfaction, the Central Registrar sought consultation with the Registrar of Co-operative Societies, Chhattisgarh, but the Registrar, Co-operative Societies, State of Chhattisgarh vide impugned memo has given a negative opinion against grant of status of Multi State Cooperative Societies in the State of Chhattisgarh to other Cooperative Societies, incidentally against the petitioner also.

4. Learned counsel for the petitioner submits that the State of Chhattisgarh has given its opinion, which is not based on any rational basis. It is submitted that as long as the activities of the petitioner as Cooperative Societies are in accordance with the provisions of law and the Multi State Cooperative Societies Act, 2002 and there was no good reason for giving negative opinion. Further submission is that in view of the provisions contained in Section 22 of the Act of 2002, it ought to have been treated as a case of deemed sanction. In support of her contention, learned counsel for the petitioner adds that the Registrar, Cooperative Societies, Madhya Pradesh has already granted its No Objection in the matter. Reliance has been placed by learned counsel for the petitioner on the decision in the case of ***Naresh Shankar Shrivastava vs. State of U. P. and Others***¹ and ***Kailash and Others vs. Sub-Registrar of Assurances, Indore and another***².

5. On the other hand, Shri N. K. Vyas, learned ASG appearing on behalf of respondents No.1 & 2 submits that the petitioner cannot claim as of right that it

1 AIR 2009 SC 2450

2 AIR 1985 MP 12

should be granted the status of Multi State Cooperative Societies. He further submits that the only right, which the petitioner may have, is to seek proper consideration of its application under the provisions of the Act of 2002. He submits that the issue with regard to regulating the affairs of Multi State Cooperative Societies engaged in banking activity is pending consideration before the Supreme Court in the case of ***Vinayak Credit Co-operative Society Limited vs. State of Rajasthan and Others***, in which, an interim order has been passed on 27-05-2015, such societies shall not carry on any banking business. He submits that this would be a relevant consideration in the matter, because activities of the petitioner are required to be examined in the light of the aforesaid order also.

6. On the other hand, learned State counsel submits that the Registrar, Cooperative Societies, State of Chhattisgarh, after taking into consideration the relevant circumstances and in the interest of people of the State, decided not to grant status of Multi State Cooperative Societies to the petitioner to operate in the State of Chhattisgarh.

7. The provisions contained in Section 22 of the Act of 2002 mandate the Central Registrar to take decision on the application of the petitioner for conversion of Cooperative Societies into Multi State Cooperative Societies, after consultation with the Registrar, Cooperative Societies of the State concerned. Therefore, the provision on its face, involves consultation process. Challenge to the correctness of the opinion given by the Registrar, Cooperative Societies of State of Chhattisgarh is based on the premise that it is a case requiring the Central Registrar to seek prior approval of the Registrar of Cooperative Societies of State concerned. It is well settled that the requirement of consultation is not the same as legal requirement of prior approval. Such

provisions cannot be interpreted to mean that unless the body consulted given its approval, the authority cannot take decision contrary to the opinion given under the process of consultation. Ultimately, it is for the Central Registrar to take decision in the matter, after taking into consideration all the relevant circumstances, scheme of the Act, requirement of law and orders operating in the field passed by the Courts of law. Presently, the decision on petitioner's application has not been taken by the respondent No.2. This petition appears to be misconceived, because there is no need for the petitioner at present to challenge the opinion given by the Registrar, Cooperative Societies, State of Chhattisgarh, unless it leads to rejection of petitioner's application by the respondent No.2. It is only when the petitioner's application is rejected, the petitioner may have cause of action. The petitioner may press her application pending before the Central Registrar for decision. As the Central Registrar is represented through Assistant Solicitor General of India, it is observed that the pending application of the petitioner shall be decided as expeditiously as possible.

8. With the aforesaid observation, this petition is finally disposed off.

SD/-
(Manindra Mohan Shrivastava)
Judge