

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11676 of 2019

Patna Branch A.G. Office Housing Co-operative Society Ltd., Patna through
its Secretary, Rajendra Kumar, aged 62 Years (Male) S/o Late Budhan Mahto,
Resident of A.G. Colony, Plot No.78, P.S. Shastri Nagar, Patna-25

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Co-Operative Department, Govt. of Bihar, Patna
3. The Registrar, Co-operative Officer, Patna Sadar, Patna
4. District Co-operative Officer, Patna Sadar, Patna
5. Co-operative Extension Officer, O/o the Assistant Registrar, Co-operative Societies, Bihar, Patna
6. Shri Achyutanand Singh, The President, Patna Branch A.G. Office Housing Co-operative Society Ltd., Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Yogendra Mishra, Advocate Mr.Awadhesh Kumar Pandit, Advocate
For the State	:	Mr.Uday Prasad, AC to GP-22

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-07-2019 Heard learned counsel for the petitioner and the State.

Petitioner in the present case has moved this Court for
the following reliefs :-

“(a) For direction to the respondents to hold inquiry in the matter of so called decision (here in after Society) taken on 07.10.2018 with regard to transfer of a Plot of a member of the Society to two officials of A.G. Bihar dividing it into two parts, which is beyond Lay-Out-Plan of the Society and beyond provision of the Bye-Laws of the Society.

(b) For direction to the respondents to take response with regard to lodge an F.I.R. against the Ex-Secretary of the Society in the light of letter No.-10939 dated 18.12.2018 (18) issued by Assistant Registrar, Co-operative Societies, Bihar, Patna on account of non-submission of



charge of the relevant Documents/Articles/Papers related to day-to-day activity of the Society by Ex-Secretary named Ashok Kumar Sinha to the petitioner who is newly elected Secretary of the Society.

(c) For direction to the respondents particularly respondent No. 4 not to accept resignation if any, submitted by the President and other members of the Society on account of false & fictitious allegation against the Secretary without holding any inquiry in the matter concerned.

(d) For direction to the respondents not to take any decision with regard to the supersession of the Society on the ground of false and fictitious allegation made by the President and other member of the Society without holding Paper inquiry in the matter. Since the President and some other members of the Society are trying to make the Society under supersession to fulfill their personal goal/interest with regard to transfer of a Plot of the Society to two officials of A.G. Bihar dividing it into two parts illegally, which is beyond Bye-laws and not permissible in the eye of law.

(e) For direction to the respondents concerned to organize General Body meeting of the Society in the light of direction given by the District Co-operative Society, Patna, respond No.-5 vide Memo No.-298 dated 16.02.2016.

(f) For any other relief/reliefs for which the petitioner is entitled in the facts and circumstances of the case.”

Learned counsel for the petitioner submits that at this stage the petitioner is only looking for a direction to the Registrar Co-operative Societies to look into the grievance of the petitioner with respect to the decision taken by the Board of Directors of the Society, which according to him, is contrary to



the bye-laws of the Society. Learned counsel has, therefore, restricted his prayer to submit that the Registrar, Co-operative Societies, Bihar, Patna be directed to consider the request of the petitioner, inquire into the same and decide the matter within a time frame.

It is submitted that the petitioner has made various representations before the Registrar, Co-operative Societies, Bihar, Patna and the District Co-operative Officer, Patna to decide the matter and give a guideline as to whether the plot allotted to a particular member can be a split of in different parts and can be sold to non members and whether or not the Society has any authority to enroll the transferee as a member “A” and (B) and whether the original allottee and the society has any right to execute absolute sale deed in favour of the transferee with respect to the lease hold property, however, no decision has been taken so far by these authorities.

On perusal of the writ application, it appears that during pendency of the writ application the petitioner has filed an interlocutory application giving rise to I.A. No. 1 of 2019 whereby he has sought to challenge the order contained in Memo No. 1131 dated 15.05.2019 issued by the District Co-operative Officer, Patna whereby the Patna Branch A.G. Office



Housing Co-operative Society Ltd., Patna has been superseded. Although, the interlocutory application has been filed but as stated above learned counsel for the petitioner has, at this stage, not addressed this Court on the challenge given to the decision of the District Co-operative Officer as contained in the interlocutory application and has confined his prayer to a direction to the Registrar, Co-operative Societies to consider his representation.

Learned counsel for the State submits that although a counter affidavit has not been filed in this case but what appears to him on going through the record is that this petitioner has no locus standi to maintain this writ application and to seek a direction to the Registrar, Co-operative Societies to consider his representation. It is submitted that the petitioner being Secretary of the Society when did not carry out the decision of the Board of Directors, the members of the Board of Directors have resigned, as a result whereof the District Co-operative Officer has passed the order as contained in Annexure '12' to the writ application in terms of the provisions as contained under sub-Section (5) of Section 41 of the Bihar Co-operative Societies Act, 1935 and has appointed a Special Officer to constitute an Ad hoc Committee and to take appropriate action towards



holding up election of the Managing Committee.

It is submitted that the petitioner has no personal lis and none of the allottees and members of the Society has raised any grievance against the decision of the Board of Directors.

Having heard learned counsel for the petitioner and the State and after going through the records, this Court finds that although in the writ application by filing an interlocutory application the petitioner sought to challenge the order as contained in Memo No. 1131 dated 15.05.2019 passed by the District Co-operative Officer, Patna but he has given up that challenge and at this stage he is only looking for consideration of his representation. This Court would, therefore, examine the request of the petitioner in the light of the totality of the facts and circumstances appearing from the records. It is not in dispute that the petitioner was acting as Secretary of the Society and in his capacity as Secretary of the Society he was called upon to execute the decision of the Board of Directors which he refused to do as according to him the decision of the Board of Directors is not in accordance with the bye-laws of the Co-operative Society. His grievance is that certain plots belonging to a member of the society is being split off and the same is being divided in two parts for officials of the A.G. Bihar which



is illegal. The member of the Society has not raised this dispute before the Registrar, Co-operative Societies or any other authority in accordance with law, in the meantime now the society has already been superseded, the Managing Committee of the Society has already been superseded and the said order is not being challenged. This Court is, therefore, not persuaded to accept the plea of the petitioner to direct the Registrar, Co-operative Societies to consider his representation with regard to the decision of the Board of Directors of the Society.

It is, however, open to the members/allottees who may be aggrieved by such decisions of the Board of Directors/Managing Committee to raise this issue in accordance with law before appropriate court/forum as the case may be. Petitioner has in his supplementary affidavit submitted that he is raising a matter of public importance. This Court sitting in its roaster as it is, is not looking into the Public Interest Litigations and, there being no lis between the petitioner and the Society, the writ application as framed is not fit to be entertained.

It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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