

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15617 of 2019

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1. Bal Vikas Vidhyalaya through the Assistant Managing Director, Dr. Upendra Kumar Verma @ Upendra Verma, Male, aged about 71 years, son of Late Gupteshwar Nath Verma, Resident of Shyam Bhawan, Company Sarai, P.O. and P.S. Sasaram, District- Rohtas.
 2. Om Prakash Chaurasia, Male, aged about 48 years, son of Late Paras Nath Chaurasia, Resident of Basant Bihar Colony, Jagdev Path, P.S. Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. The Chief General Manager, Canara Bank Head Office, Exhibition Road, Patna.
2. The Manager, Canara Bank, Sasaram Branch, Raj Lakhan Complex, G.T. Road, Sasaram,
3. S.P. Verma, Male, aged about 75 years, son of Late Harihar Prasad Verma Resident of Jainath Bhawan, Civil Lines, P.O. and P.S. Sasaram, District- Sasaram.
4. Rohit Verma, Male, aged about 38 years, son of S.P. Verma, Resident of Jainath Bhawan, Civil Lines, P.O. and P.S. Sasaram, District- Sasaram.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. P.K.Sahi, Sr. Advocate Mr.Amish Kumar, Advocate
For the Respondent-Bank	:	Mr.Sanjay Singh Thakur, Advocate Mr. Baua Jha, Advocate
For the Respondent No. 3	:	Mr. Rajesh Kumar Singh, Advocate
For the Respondent No. 4	:	Mr. Rajnish Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 17-10-2019

The present writ petition has been filed for quashing the letter dated 28.6.2019 issued by the Respondent No. 2 i.e. the Manager, Canara Bank, Sasaram Branch, Sasaram whereby and whereunder the bank account of the petitioners' school bearing Account No. 2315101000717 in Canara Bank, Sasaram Branch has been frozen and it has been further prayed that the



Respondent-Bank be directed to allow the petitioner No. 1 school to operate the said account located at Canara Bank, Sasaram Branch, Sasaram.

2. The brief facts of the case, according to the petitioners i.e. M/s Bal Vikas Vidhyalaya, Sasaram are that the petitioner No. 1 School is a progressive co-educational school duly affiliated by the CBSE, which was established on 14.1.1976 and is also duly registered under the Society Registration Act XXI of 1860, having Registration No. 58 of 1984-85.

3. It is the case of the petitioners that the Respondent No. 3 was earlier the Chairman of the Managing Committee of the petitioner No.1 school, however, since he showed his reluctance to continue any further, in his place one Sri L.M.Poddar, was made the Chairman of the School vide resolution of the managing committee dated 9.5.2018, which was further unanimously confirmed vide resolution dated 15.7.2018 and then the petitioners had communicated to the Respondent-Bank vide letter dated 13.8.2018 that the office-bearers of the school in question have been changed, as per the resolution of the managing committee of the school dated 9.5.2018 and 15.7.2018, hence, it was requested to record the new names of the office-bearers for the purposes of making transactions



relating to the said bank account in question. In fact, the Respondent-Bank had also acknowledged the aforesaid letter dated 13.8.2018, written by the petitioners and the said bank account was being operated smoothly. However, the Respondent Nos. 3 and 4 were anguished by the aforesaid developments, hence a complaint was filed by the Respondent No. 3, at the instance of his son, before the Assistant Registrar of Registration, Bihar, Patna on 15.11.2018, alleging certain irregularities in the functioning of the petitioner No. 1-School. Thereafter, the petitioners along with other office-bearers had filed a reply on 27.2.2019, denying the allegations levelled in the complaint. It is submitted that the matter is pending before the Deputy Registrar, Registration Department, Patna for passing of final orders upon the complaint, so made.

4. The learned Senior Counsel appearing for the petitioners has submitted that the Respondent No. 4, namely, Rohit Verma is the President of Lions Club of Sasaram and he claims to be a recognized promoter of the petitioner No. 1 school. It is submitted that the status of the Respondent No. 4 has been questioned by the managing committee of the school before the Deputy Registrar and the same is also subject matter of inquiry before him. In fact, the respondent no. 4 wants to usurp and



hijack the functioning of the school with ulterior motives. It is further submitted that the Respondent-Bank has illegally frozen the bank account resulting in the teachers and staffs of the petitioner No. 1-School not getting day to day salary, resulting in hampering the day to day functioning of the school. It is further submitted that the Respondent-Bank, before freezing the bank account of the petitioner no. 1-school, has not issued any notice to the school management in that regard and the Respondent-Bank has prejudged the issue, which is yet to be decided by the Deputy Registrar, Registration Department, Patna whereas it was incumbent upon the Respondent-Bank to await the final outcome of the proceedings, which is pending before the Deputy Registrar, Registration Department, Patna. The learned Senior Counsel for the petitioners has relied upon a letter of the Deputy Inspector General of Registration, Bihar, Patna dated 22.8.2019, (Annexure 11 to the rejoinder affidavit) wherein it has been clarified that the department has not issued any order / decision for closing / freezing the bank account or regarding the managing committee. Lastly, the learned Senior Counsel for the petitioners has submitted that the Respondent No. 3 has no locus standi of filing a complaint before the Registration Department in capacity of him being the President



of the Lions Club of Sasaram since it is apparent from the bye-laws of the Bal Vikas Vidhyalaya (Annexure-9 to the supplementary affidavit filed on behalf of the petitioners) that the Lions Club of Sasaram is one of the corporate member whereas the managing committee of the society has to consist of only one member from amongst the corporate member and the remaining members have to come from other categories, such as Life Member, Founder Member and Parent Member. It is thus submitted that the Respondent-Bank should be directed, at once, to de-freeze the account in question and permit the petitioners to operate the said account without any hindrance.

5. Per contra, the learned counsel appearing for the Respondent-Bank has fairly submitted that the Bank would abide by such directions as may be issued by this Court.

6. The learned counsel appearing for the Respondent Nos. 3 and 4, referring to the counter affidavit and second counter affidavit filed on behalf of the Respondent Nos. 3 and 4, has submitted that the writ petition itself is not maintainable in view of the provisions contained in Bihar Societies Registration Rules, 2018, framed under the Societies Registration Act, 1860. It is submitted that a bare perusal of Rules 18, 19 and 20 of the said Rules, 2018 would show that in case, a dispute arises out of



the existence of two rival Governing and / or executive bodies for being a rightful Managing body of the society, the IG Registration shall inquire into the matter himself or through such authority as he may deem fit and cause report to be submitted. Consequently, upon such a report being filed before the IG, Registration, he may pass suitable order after giving due opportunity of hearing to all the parties concerned. It is further submitted that under Rule 22 of the said Rules, 2018, all orders passed by the IG Registration shall be appealable before the Member, Board of Revenue, whose decision shall be final. It is thus submitted that any society or a cooperative society registered under the Bihar Societies Act, 1860, being not a State within the meaning of Article 12 of the Constitution of India, no writ petition is maintainable in the matter relating to the cooperative societies and the jurisdiction vests with the IG Registration. It is further submitted that since the main issue is as to whether the petitioners are the Member of the Board of Directors of Bal Vikas Vidhyalaya or not, which is pending adjudication before the IG Registration, Bihar, the present writ petition is not maintainable.

7. The learned counsel appearing for the Respondent Nos. 3 and 4 has further submitted that the Assistant Inspector General



of Registration, Patna Division, has conducted an inquiry regarding the membership of the petitioners and has submitted a report dated 18.4.2019 wherein he has doubted the validity of the members nominated in the meeting held on 7.10.2018 and the election process is not free from doubt. Hence, it is submitted that in case, the account is permitted to be operated by the petitioners, grave prejudice would be caused to the school in question and its functioning.

8. I have heard the learned counsel for the parties and gone through the materials on record and I find that in the facts and circumstances of the case, this Court is not required to issue any mandamus against the cooperative society and the only question to be decided is as to whether during the pendency of an inquiry by the IG, registration, the Respondent-Bank could have frozen the account in question without there being any such direction given by the Registration Department, hence, the objection of maintainability raised by the respondent no. 3 and 4 stands overruled. This Court finds that some complaints, filed by the Respondent no. 4 and others against the managing committing of the school in question, is / are pending inquiry and adjudication before the Inspector General of Registration, Bihar, Patna, however, neither any final decision has been taken nor



any direction / order has been issued to the Respondent-Bank to freeze the account in question or to the managing committee to refrain from conducting day to day affairs of the society in question, hence, this Court is of the view that the Respondent-Bank has illegally frozen the bank account in question and has wrongly precluded the petitioners from operating the same, thus, Respondent-Bank is directed to permit the petitioners to operate the account no. 2315101000717 in Canara Bank, Sasaram Branch, Sasaram, subject to the final decision to be taken by the Inspector General of Registration, Registration Department, Bihar, Patna or by the appropriate authority in the aforesaid pending proceeding.

9. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	5.9.2019
Uploading Date	17.10.2019
Transmission Date	NA

