

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1427 of 2019

Zila Sahakari Kendriya Bank Maryadit Durg Through Its Chairman Pritpal Belchandan S/o Late Budhar Lal, Aged About 58 Years, Office At G E Road, Durg District Durg Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department Of Cooperative Affairs, Atal Nagar, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Joint Registrar Cooperative Society, Durg Division, Durg Office At Bunkar Sangh, Durg, District Durg Chhattisgarh.
3. T R Sahu Assistant Registrar, Enquiry Officer, Cooperative Society, Balod, District Balod Division Durg Chhattisgarh.
4. Dr. Rakesh Mishra President International Human Rights Justice Federation, 68-B, Street No. 12, Smriti Nagar, Bhilai, Supela, District Durg Chhattisgarh.

---Respondents

For Petitioner	:	Shri Manish Upadhyay, Advocate.
For State	:	Shri Jitendra Pali, Deputy Advocate General and Shri Ashutosh Mishra, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26.11.2019

1. The challenge in the present writ petition is to the order Annexure P/2 & P/3 dated 20.03.2019 and 22.03.2019 respectively passed by the respondent No.3, Joint Registrar calling upon the petitioner for inspection of books of the Society.
2. At the outset, counsel for the petitioner submits that order Annexure P-4 is per se illegal for the reason that the same is contrary to the Provisions of Section 60 of the Chhattisgarh Co-operative Societies Act, 1960. According to the petitioner the Provisions of Section 60 clearly envisages a situation under which the Registrar may go in for inspection of the books of a Society. The impugned order does not meet these requirements. According to the petitioner, the present impugned orders have been issued

at the behest of political leaders and has been done with political vendetta and with malafides.

3. Counsel for the petitioner refers to Annexures whereby the respondent No.3 Joint Registrar has on more than one occasion for issuance of order on the basis of complaints that he has received. That from the perusal of the record, it also shows that complaint has not been made by any of the Creditor of the Society nor has the order been one which has been initiated suo-motu by the Registrar, thus the same is bad in law.
4. Defending the said order, State counsel however submits that mere reference of having received certain complaints by itself would not vitiate the order. According to the State counsel once when the Act provides for the power to the Registrar or any authority authorized on his behalf for inspection of books of the Society irrespective of whether any complaint made or not, the order cannot be held to be bad in law.
5. Having heard the contentions put forth on either side and on perusal of record, what is necessary at this juncture to take note of is the Provisions of Section 60 Sub Section 1, which for ready reference is being reproduced hereinunder :-

60. Inspection of books of society- [(1) The Registrar may on his own motion, or on the application of creditor of a society inspect or direct any person authorized by him by general or special order in writing in this behalf, to inspect the books of the society :

Provided that no such inspection shall be made on the application of a creditor unless the applicant-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.]"

6. Plain reading of the aforesaid provisions of law would clearly reflect that Registrar has been granted the power to inspect the books of the Society but the same power has to be exercised by his own motion or on an application to be made by a Creditor of the Society. The very fact that

Legislature has permitted the Registrar to conduct the inspection on an application by the Creditor in addition to the power of the Registrar on his own motion means that there cannot be an inspection of the books conducted on an application or complaint made by any other person other than a Creditor of the Society.

7. If we read Annexure P/2 & P/3 dated 20.03.2019 and 22.03.2019 respectively, it would clearly reflect that Joint Registrar at more than one place has held that the said order has been passed on the basis of certain complaints that he has received and none of the complaints are the Creditors of the Society.
8. Given the fact, this Court is of the view that action initiated by the Registrar at the behest of a person who is not a creditor of the society is per se illegal and without authority. Nothing prevents the Registrar for taking action on his own motion as is envisaged under Section 60. The impugned order does not reflect it to be an order of the Registrar on his own motion but on the contrary it stands established that it has been passed on the basis of complaints so received by the complainants and who are not creditors of the Society.
9. Given the facts, the impugned notice dated 20.03.2019 and 22.03.2019 are not sustainable and same stands set aside/quashed. However, right of the Registrar stands reserved for taking appropriate steps in accordance with the Provisions of Section 60 of the Chhattisgarh Co-operative Societies Act, 1960.
10. With the aforesaid observations, the writ petition therefore stands allowed.

Sd/-
(P. Sam Koshy)
Judge