

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2797 of 2019

Santosh Singh, S/o. Shri Gulab Singh, Aged About 48 Years, R/o. Village Madan Nagar, Post Dharampur, Tahsil Pratappur, District Surajpur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Principal Secretary Cooperative Department, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh.
2. The State Cooperative Election Commission, Raipur, Through Its Commissioner, Ground Floor, Sales Tax Building, Civil Lines, Raipur, Chhattisgarh.
3. The Joint Registrar Cooperative Societies Surguja, Ambikapur, District Surguja, Chhattisgarh.
4. The Registration Officer, Ma Mahamaya Sahkari Shakkar Karkhana Maryadit, Ambikapur, Village Kerta, District Surguja, Chhattisgarh.
5. Ma Mahamaya Sahkari Shakkar Karkhana Maryadit, Ambikapur, Through Its Managing Director, Village Kerta, District Surguja, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Rakesh Pandey, Advocate
For State	:	Mr. Amrito Das, Dy. A.G.
For Respondent No.2	:	Mr. Rajeev Shrivastava, Advocate
For Caveator	:	Mr. V.K.Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09.08.2019

Heard

1. The present petition is filed on the following grounds :
 - (i) The Hon'ble Court may kindly be pleased to issue a writ in nature of mandamus thereby setting aside the order passed by respondent No.3 dated 5.8.2019 (Annexure P-1) and further be pleased to direct the respondent No.4 to place the name of the petitioner in group 7 at serial No.2001 between 2000-2002 and to prepare the list of members in chronological order, in the ends of justice.
 - (ii) Any other relief which the Hon'ble Court deems fit and proper be awarded in favour of the petitioner, including cost.

2. Learned counsel for the petitioner would submit that the election process has not been commenced and the petitioner whose membership number was 2001 has been placed at serial No.5905 which has an effect that his name has been shifted from group No.27 to group No.7. It is contended that by such reallocation of the number, the petitioner since has been placed in group No.7 which is dominated by SC/ST members, the petitioner shall not get any right of representation, thereby his fundamental right to contest the election has been defeated. He further submits that formation of group has to be rational and putting a particular person deliberately in a group which takes away his right to represent as member or elected as director would defeat his right. He submits that as per Section 48(3) of the Chhattisgarh Cooperative Societies Act, 1960, the reservation of the seats on the Board shall be in proportion to their membership. Consequently, if the petitioner is placed in a common group of a general category, he would have right to contest. It is further stated that earlier he was in general group and by shifting of his group it has taken away his fundamental right and further submits if the elections are contested then it cannot be a ground to challenge the further election by way of election petition and therefore this challenge.
3. Per contra, learned counsel for the respondents opposes the argument.
4. The submission made by the petitioner do not influence this Court for the reason that if one person is shifted to other group, as contended then vis a vis, it may happen with any members of the Cooperative Society. The argument if are accepted further it would lead to uncertainty and in such process any election process cannot reach to a finality, as any individual member from the group who has been shifted may contemplate and raise an objection that he might have a desire to contest and may eventually may become a director. The statutory scheme under Section 48(3) of the Chhattisgarh Cooperative Societies Act, 1960 provides for reservation of the

seat on the basis of proportion to the membership on a particular group vis a vis if such section is interpreted in the backdrop of submission of petitioner then the person belonging to general category group on his further shifting to another section/group then in such case the other members of each group may have a grievance for each other. On the contrary, sub-section (3) of Section 48 particularly do not contemplate about any group, it only speaks of proportionality of the membership in the society. The submission of the petitioner that his right would be defeated to be elected to the Board, at this stage, cannot be appreciated, as it would be astrological interpretation at this stage. Therefore, I do not find any merit in this petition so as to entertain. The petitioner cannot have any group of his choice and the election having been notified as per the document, it cannot be further stalled.

5. In view of the above, the petition is dismissed.

Sd/-
Goutam Bhaduri
Judge