

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 945 of 2019

- Shiv Kumar Jalshatri, S/o Shri Rambharosa Jalshatri, Aged About 69 Years, R/o Machli Chowk, Arang, Ward No. 5, Tehsil Arang, District-Raipur, Chhattisgarh.

---- Petitioner

Versus

- Primary Fisheries Cooperative Society Limited Arang Through its Director namely Sukul Ram, having Registration Number 1666, Tehsil Arang, District-Raipur, Chhattisgarh.

---- Respondent

For petitioner	:	Mr. Anshul Tiwari on behalf of Mr. Manoj Paranjpe, Advocate.
For respondent	:	None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

04/02/2020

Heard.

1. This petition has been brought being aggrieved by the order dated 20.9.2019 passed by the learned Chhattisgarh State Cooperative Tribunal, Bilaspur, dismissing the appeal filed by the petitioner against the order dated 23.2.2017 passed by Court of Registrar, Cooperative Societies Chhattisgarh, Raipur.
2. It is submitted by the learned counsel for petitioner that the petitioner had initially filed a complaint before the Sub-Registrar, Cooperative Societies, alleging theft & misappropriation of fishes by the respondent authorities. The said complaint was inquired into and report was submitted recommending initiation of criminal proceedings against the respondent authorities, who, in the course of inquiry, were found involved in illegal exploitation and misappropriation of produce of fish farming. Thereafter, the inquiry proceeding was filed by the Sub-Registrar, Cooperative Societies. The petitioner is the former President

of the respondent society. The Chairman and other members of respondent society held a meeting on 20.7.2014, in which proposal to dismiss primary membership of petitioner from the said society was passed and consequently, an order to that effect was passed on 23.7.2014. The petitioner filed an appeal against the said order before the Court of Registrar, Cooperative Societies Chhattisgarh, which came to be allowed, restoring his membership with respondent society.

3. There is no mention regarding any further proceeding against the order of the Registrar, Cooperative Societies, however, there is mention in the impugned order (Annexure-P1) that an appeal was filed before the Chhattisgarh State Cooperative Tribunal against the order dated 27.2.2017 passed in Case No.78(1)(A)34/2014 and the story behind this matter was this that the complaint filed by the petitioner was inquired and filed. The appeal presented against that order of the Sub-Registrar has been dismissed by the appellate Court i.e. Registrar, Cooperative Societies.
4. It is submitted by the counsel for petitioner that the petitioner had raised dispute as a member of the society, therefore, there was requirement for adjudication on the same. The learned appellate Courts as well as the inquiring authority have committed error in closing the inquiry on the complaint made by the petitioner. Reliance has been placed on the judgment of Supreme Court in SBP & Company v. Patel Engineering Limited & another, reported in (2005) 8 SCC 618. It is submitted wherever a statute raised required that should not be required as administrative manner, hence, it is prayed that petition be allowed and the matter be remanded back to the Tribunal for proper adjudication of the same.
5. I have heard both the parties and perused the documents filed along with the petition.
6. From perusal of the copy of complaint that has been filed by the petitioner against the respondent society, it is clear the petitioner has made allegation against the respondent society regarding embezzlement of the public property. The inquiry was also made by the Sub-Registrar and the report was also against the respondent

society with recommendation for legal action against the persons concerned. However, the said inquiry was closed. It was the burden of the authorities, which were superior to the Inquiry Officer, for taking action on the basis of inquiry report.

7. After completion of inquiry, the proceedings of inquiry has terminated, therefore, there was nothing left to be done by the inquiry Officer. The procedure of inquiry on such complaint is provided under Section 59 of Cooperative Societies Act, 1960 and the action which may be taken on the basis of any such report is provided under Section 61 of the Act of 1960.
8. The petitioner is still having an option to pursue and insist the authority superior to the Inquiry Officer to proceed in accordance with inquiry report submitted by the Sub-Registrar, which has not been done by him so far. Therefore, the orders passed by the appellate authority and the Tribunal do not appear to be erroneous in any manner in which it has been held that the order of closing and filing inquiry is an administrative order which cannot be interfered with. Thus, there is no good ground to interfere with impugned order and other orders related to it.
9. This petition being without substance is liable to be dismissed and is dismissed at motion stage itself.

Sd/-

(Rajendra Chandra Singh Samant)
Judge