

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2635 of 2020

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Krishna Bind (Male), aged about 42 years, son of late Bharat Prasad Bind,
Resident of Village- Telipokhar, P.O. Thanua, P.S. Sheo Sagar, Distt. Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Co-Operative Department, Bihar, Patna.
2. The Bihar State Election Authority, Patna through Chief Election Officer, 32, Harding Road, Patna- 800001
3. The District Magistrate-Cum -District Election Officer, Co-operative Societies, District- Rohtas at Sasaram.
4. The District Co-Operative Officer-Cum- Deputy District Election Officer, Rahotas at Sasaram.
5. The Block Development Officer-Cum-Election officer (Fisheries Co-Operative Societies), Sheo Sagar, Block- Sheo Sagar, P.S. Sheo Sagar, District- Rohtas at Sasaram.
6. Co-Operative Extension Officer, Sheosagar- cum- Administrator, Sheosagar Prakhanda Matsyajivi Sahyog Samiti Ltd. P.S. Sheosagar, District- Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Ms. Mahasweta Chatterjee, Adv.
For the Respondents	:	Mr. Narendra Kumar Singh AC to GP-22
For the B.S.E.A.	:	Mr. Mukesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

10 16-12-2021

This writ application has been filed seeking a



direction to the Bihar State Election Authority to conduct election of *Sheo Sagar Prakhanda Matsyajivi Sahyog Samiti* Limited on the basis of voters' list submitted by the District Co-operative Officer, Rohtas at Sasaram, through his Letter No. 2162, dated 26.09.2019 in compliance of letter No. 1375 dated 04.09.2019 issued by the Bihar State Election Authority.

2. It appears from the pleadings on record that the petitioner has grievance against inclusion of names of 360 voters in the voters' list, subsequently prepared for the purpose of the said election.

3. Ms. Mahasweta Chatterjee, learned counsel appearing on behalf of the petitioner has submitted that the persons, who have been subsequently included in the voters list, are not members of the Co-operative society as they were removed in accordance with the by-laws from the membership of the society.

4. Learned counsel appearing on behalf of the respondents, on the other hand, has submitted that the petitioner has statutory remedy for redressal of his grievance before the Registrar, Co-operative Society under Section 48 of the Bihar Co-operative Societies Act, 1935 (for short ' the Act').

5. On close scrutiny of the provision under Section 48



of the Act, we are convinced that the dispute of the nature can be entertained by the Registrar within the meaning of the said Act. Second explanation of Section 48 of the Act, makes the situation crystal clear which reads as under:-

“Explanation. - (1) The question whether a person is or was a member of a registered society or not shall be a dispute within the meaning of this sub-section.

(2) The Registrar may on receipt of such reference. -

(a) decide the dispute himself; or

(b) transfer it for disposal to any person exercising the powers of a Registrar in this behalf; or

(c) subject to any rules refer it for disposal to an arbitrator or arbitrators.

(3) Subject to any rules, the Registrar may withdraw any reference transferred under clause (b) of sub- section (2) or referred under clause (c) of the said sub-section and deal with it in the manner provided in the said sub-section.

(4) The appointment of an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrators shall be regulated by rule.

(5) In the case of dispute involving property which is given as collateral security, it shall be competent to the person deciding such dispute to



issue mortgage award which shall have the same force as a mortgage decree of a competent Civil Court.

(6) Any person aggrieved by any decision given in dispute transferred or referred under clause (b) or (c) of sub-section (2) may, within three months from the date of such decision, appeal to the Registrar.

(7) The Registrar, in the case of dispute under this section, shall have the power of review vested in a Civil Court under Section 144 and under Order XL VII, rule 1 of the Code of Civil Procedure, 1908, and shall also have the inherent jurisdiction specified in Section 151 of the said Code

(8) The Registrar may where it appears to him advisable, either of application or of his own motion, state a case and refer it to the District Judge for decision, and the decision of the District Judge shall be final.

(9) Save as expressly provided in this section, a decision of the Registrar under this section, and subject to the orders of the Registrar on appeal or review, a decision given in a dispute transferred or referred under clause (b) or (c) of sub-section (2) shall be final.”

6. In such view of the matter, we dispose of this writ application with a liberty to the petitioner to raise dispute before



appropriate authority under Section 48 of the Act.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

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