

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19201 of 2021

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Bipin Kumar Singh S/o Late Kailash Prasad Singh Resident of Mira Sadan,
Gola Road, Patna - 801503, at present, Chief Manager, State Bank of India
(Stressed Assets Management) Branch, J.C. Road, Patna - 800004.

... .. Petitioner/s

Versus

1. State Bank of India 8th Floor, Local Head Office, West Gandhi Maidan,
Patna - 800004 through the Chief General Manager.
2. Sri Shashi Bhushan Chaudhary S/o not known, The Assistant General
Manager, Chairman Election committee (HR), Local Head Office, State
Bank of India, West Gandhi Maidan, Patna - 800001.
3. Chandra Shekhar Singh A.G.M. (Agri), Fathers Name - Not known,
Member, Election Committee, Local Head Office, State Bank of India, West
Gandhi Maidan, Patna - 800001.
4. Sri Ravi Shekhar, C.M. (IT), Member, Election Committee, State Bank of
India, 4th Floor, Local Head Office, West Gandhi Maidan, Patna - 800004.
5. Ajit Kumar Mishra, General Secretary, Central Committee, Fathers name -
not known, AGM (SLBC), Local Head Office, State Bank of India, Patna -
800004.
6. The Registrar / Additional Registrar, Shramik Sangh (Labour Union),
Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad Singh, Sr. Advocate Mr. Rakesh Kumar, Mr. Rajni Kant Singh Mr. Kumar Saurav & Mr. Vaibhav. Veer. Shankar
For the Respondent/s	:	Mr. Amish Kumar Mr. Apurv Harsh Mr. Mani Tripurari & Mr. Sujit Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 21-12-2021

The petitioner claims that he is holding the post of



Chief Manager, State Bank of India, Stressed Assets Management Branch, J.C. Road, Patna and a member of the SBI Officer's Association (in short Association), Patna Circle. He further claims that he is contesting the election of the Central Committee of the said Association, which is registered under the Trade Union Act, 1926 (in short Trade Union Act).

2. This writ petition was registered on 16.11.2021, after its filing on 30th October, 2021. From Annexure-2 of the writ application, it appears that the programme for the election, namely, "*Triennial General Election- 2021-2024*" of the Association was notified on 01.08.2021 where the last date of withdrawal of the nominations was fixed as 15.09.2021, publication of list of contestants as 15.09.2021 and the date of polling as 31.10.2021.

3. As would be evident from the cause title of the writ petition, apart from the State Bank of India and the Registrar/Additional Registrar, Shramik Singh (Labour Union), Government of Bihar, there is no official respondents impleaded in the writ application.

4. The petitioner after having participated in the process of election by filing nomination papers etc, has filed the present writ application, seeking following reliefs:-

"(i) To hold and declare that



Clause 14(ii) of the bye-laws known as State Bank of India Officer's Association, registered at Patna Circle, being registration no. 1972/1975 in accordance with the provisions of Trade Union Act, 1956 is opposed to the principle of free and fair election and as such, it needs to be amended in consonance with the object to hold election of Central Committee of State Bank of India Officers Association in accordance with settled principles of law;

(ii) To hold and declare that any member who intends to contest the coming election should not participate in the selection of the members of the election committee nor the General Secretary of outgoing central committee who intends to contest in coming election in the Central Committee should not publish an election programme under his signature;

(iii) To hold and declare that Clause 14(XXI) of the bye-laws which permit the election committee for scrutiny of ballot paper may nominate independent observer, but not in consultation with a member of the outgoing central committee including the General Secretary who intends to contest election;

(vi) To hold and declare that selection of the present election committee of which respondent no.5 was/is the General Secretary and is presently contesting the election had participated in the selection of 3 members election committee (Respondent No. 2-4) and has published the Election Programme in his signature be declared illegal and mala fide;

(v) To hold and declare that at



the time and in course of the counting of the polled ballot paper/the candidate or his/her authorized representative should be allowed to participate before certifying a candidate elected;”

5. It is evident from the relief(s) which the petitioner is seeking that he wants a declaration from this Court that Clause 14(ii) of the bye-laws of the Association is opposed to the principle of free and fair election and as such, it needs to be amended in consonance with the object to hold election of the Central Committee of the said Association. The petitioner is further seeking a declaration that Clause 14(XXI) of the bye-laws which permits the election Committee for scrutiny of ballot paper, may nominate independent observer, but not in consultation with a member of the outgoing Central Committee including the General Secretary who intends to contest election.

6. A copy of the bye-laws has been brought on record by way of Annexure-1 to the writ application from which it transpires that the bye-laws were framed, way back in 1998. The petitioner apparently, did not raise any grievance before any forum in respect of the legality/correctness of the aforesaid provisions of the bye-laws before filing this writ application, that also after having participated in the process of election. From reading of the averments made in the writ application and



subsequently by the Interlocutory Application registered as I.A. 1 of 2021, it transpires that the petitioner has made several allegations against private respondents. He is not seeking any direction either to the State Bank of India or to the Registrar/Additional Registrar, Shramik Sangh (Labour Union), Government of Bihar, Patna (Respondent No.6) who are State within the meaning of Article 12 of the Constitution of India.

7. After registration of the writ petition on 16.11.2021, the petitioner made an *e-mentioning* for urgent hearing of this matter on 14.12.2021. The request for expeditious hearing of the matter was accepted and accordingly, the matter came to be listed on 17.12.2021. The Court at the very outset, wanted learned senior Counsel appearing on behalf of the petitioner to satisfy this Court on question of maintainability of the writ application involving election disputes in relation to internal affairs of a private Association discharging no public function.

8. Mr. Umesh Prasad Singh, learned Senior Counsel appearing on behalf of the petitioner while contending that this writ application under Article 226 of the Constitution of India is maintainable, has vehemently argued that as the petitioner has no alternative statutory remedy against the



irregularities being committed by the private respondents, he has a right to maintain this writ application. He, in support of his contention, has placed reliance on Supreme Court's decision in case of **Maharashtra Chess Association Vs. Union of India and others** reported in **(2020) 13 SCC 285** and a decision of this Court in case of **Mukund Ram Tanti vs. S.I. Raza Registrar, Trade Unions, Bihar, Patna and other (AIR 1962 Patna 338)**.

9. Mr. Amish Kumar, learned counsel representing the State Bank of India, on the other hand, has placed reliance on a Division Bench decision of this Court in case of **Bokaro Steel Workers Union and anr. Vs. State of Bihar and ors.**, reported in **1995(1) PLJR 400** to contend that after considering the earlier Division Bench decision in case of **Mukund Ram Tanti** (supra), the Division Bench has specifically held that in the absence of any provision in the Trade Union Act, any dispute in relation to election can only be resolved by means of a suit before the Civil Court.

10. The decision of Division Bench of this Court in case of **Mukund Ram Tanti** (supra), as relied on by the learned Senior Counsel does not support his contention in respect of the maintainability of the writ application. In case of



Mukund Ram Tanti (supra), this Court while considering the jurisdiction of the Registrar of the Trade Unions has held that Registrar of the Trade Unions has full jurisdiction to enquire about the legality of the new election of the Office-bearers of a Union only for the purpose of maintaining a proper register, showing the names of the office bearers, who may be, at the relevant time, required to comply with the provisions of the Act or to deal with in accordance therewith. The said Division Bench decision in case of **Mukund Ram Tanti** (supra) has subsequently been considered by the Division Bench of this Court in case of **Bokaro Steel Workers Union and anr** (supra), and it has been specifically held in paragraph 22 as under:-

“22. On an examination and analysis of the Patna decision (Mukund Ram Tanti’s case), the Allahabad, Andhra and the Madras decisions, I come to the following conclusions: (1) In a dispute between two rival factions claiming to be the office bearers of a union, it is open to the Registrar to hold an enquiry for the purpose of maintaining and up-dating the register as required to be maintained under Section 8 of the Act.

(ii) His decision in this regard shall neither confer any right on any person or group of persons nor divest any person or group of persons of



any lawful rights.

(iii) Consequently the Registrar has no authority or power to issue any direction asking/advising the Labour Department of the Government or the employer to recognize and treat any particular person or group of persons as the duly elected office bearers of the Union in dealing with that union.

(iv) The Registrar, Trade Unions has no authority or power to direct the holding of election of the office bearers of a union under his own supervision or under the supervision of his nominee.

(v) In the absence of any provision in the Trade Unions Act, any dispute of this kind can only be resolved by means of a suit filed before a Civil Court.

(vi) The adjudication in a suit at least in this State is normally a slow and time consuming process and does not constitute a wholly satisfactory remedy for resolving the dispute.

(vii) The legislature will, therefore, be well advised to address itself to this lacuna in the Trade Unions Act and to take steps to remedy it which has been long, overdue.”

(Underlined for emphasis)

11. This is also to be noted that learned counsel for the respondents have referred to decisions of Madras High



Court in case of **K.S.S. Kowshik Vs. State of India** in WP No. 18397 of 2016 decided on 10.06.2016 as well as Rajasthan High Court in case of **O.P. Gupta Vs. Union of India and others** decided on 14.09.2000 reported in **(2001) ILJR 832 Raj**, wherein the Courts have held that writ petition under Article 226 of the Constitution of India raising election disputes in respect of Association registered under Trade Union Act cannot be maintained. We concur with aforesaid opinion in view of aforementioned discussions.

12. Our attention has also been drawn to Clause 17 of the bye-laws which provides for a dispute redressal mechanism in respect of any of the provisions under the bye-laws. Clause 24 of the said bye-laws permits the Association to amend, alter, replace, rescind or add the bye-laws at any time by passing suitable resolution by a majority or the members present in the General Council and/or Special General Meeting or through referendum.

13. In our considered view, the Supreme Court's decision in case of **Maharashtra Chess Association** (supra), has no application in the facts and circumstances of the present case to establish maintainability of a writ application, raising purely election disputes of a private body. The said decision of



the Supreme Court in case of **Maharashtra Chess Association** (supra), has been rendered in a different context altogether. In that case Clause 21 of the Constitution and bye-laws of the second respondent (Federation) stipulated that institution of suits/legal action against the Federation could only be in the Courts at Chennai.

14. The High Court solely relying on the jurisdiction ouster clause had determined that its jurisdiction under Article 226 of the Constitution of India was ousted. It is in these circumstances that the Apex Court in the case of Maharashtra Chess Association (supra) has held that while exercising discretion in the matter of exercise of jurisdiction under Article 226 of the Constitution of India, the High Court must look at the case holistically and make a determination as to whether it would be proper to exercise its jurisdiction. The Apex Court in the same case has reiterated the long settled legal proposition regarding the writ remedy under Article 226 of the Constitution of India being a discretionary remedy. In the instant case the nature of dispute raised in the proceeding, in the opinion of this Court, lies purely in realm of the private law. The crux of the matter is that the petitioner is a contestant in the election of Central Committee of the Officer's Association of



the Bank. The election is to be conducted under the bye-laws which, as per a bare perusal of the bye-laws itself, is subject to amendment by a majority of the members present in the General Council and/or Special General Meeting or through referendum. The amendment to the bye-laws therefore, in terms of the bye-laws itself is based on voice of majority to be determined in the meeting as contemplated under Clause 24 of the bye-laws. The democratic concept of the Union for amendment of the bye-laws, cannot be permitted by this Court to be overcome by the petitioner by resorting to these proceedings under Article 226 of the constitution of India.

15. The allegation regarding there being any unfair means being used in the election process for subverting the democratic process, as per assertion made in the writ petition also, are raising disputed issues of fact.

16. In the opinion of this Court, therefore, the petitioner, if, aggrieved by any terms of the bye-laws would be required to resort to the mechanism inherent in its bye-laws for its amendment. Otherwise, sufficient remedy is available to the petitioner in view of the decision of this Court in case of Bokaro Steel Workers Union (supra).

17. In our view, in the wake of the facts of the case



as noted above and the law laid down by a coordinate Bench of this Court in case of **Bokaro Steel Workers Union and anr**, (supra), this application under Article 226 of the Constitution of India is misconceived and cannot be maintained.

18. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.12.2021
Transmission Date	

