

09.09.2022
DL-02
(AGM)

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
APPELLATE SIDE

RVW 88 of 2021
in
WPA 9857 of 2021

Ranjan Patra & Ors
Vs.
State of West Bengal & Ors

Mr. Mohinoor Rahaman,
Mr. Maria Rhaman,
Mr. Iqra Rahaman.
....for the petitioners.

Mr. Subrata Kumar Basu,
Mr. Sounak Sen,
Ms. Mampi Barui,
....for the respondent nos. 5 and 6.

Mr. Arnab Roy,
... for the respondent no. 7.

This is an application for review made by Mr. Ranjan Patra, Mr. Debu Kumar Mondal and Sukdeb Mondal respectively being the petitioners no. 1, 2 and 4 in the writ petition. The review applicants say that in the order dated 28th April, 2021 after holding that the dispute being the subject matter of the writ petition is covered under the provision of Section 102(1) (c) of the West Bengal Co-operative Societies Act, 2006 (hereinafter referred to as the 2006 Act), the petitioners were directed to approach the concerned Assistant Registrar of Co-operative Societies, North 24

Parganas being the respondent no. 3 in the writ petition within a time frame for adjudication of disputes.

The review applicants say that in view of the provisions of Section 102, the dispute could not have been referred to the Assistant Registrar of Co-operative Societies as it was only to be referred to the Registrar of the Co-operative Societies.

The review applicants, therefore, seek in essence a modification of the order by directing the petitioners to approach the Registrar instead of the Assistant Registrar as indicated in the order dated 28th April, 2021.

On behalf of respondent nos. 5 and 6, it is submitted that the “Registrar” in view of the provisions of Section 4(56) of the 2006 Act includes Assistant Registrar of the Co-operative Society, and as such there is no infirmity in the order under review.

On behalf of respondent no. 7, it is submitted that the restrictive meaning of “Registrar” as sought to be given by the review applicants, is impermissible in view of the provisions of Section 103 of the 2006 Act.

In Section 103 it is specifically stated that only in case of apex and federal Co-operative Societies, the reference of disputes has to be only to the Registrar.

Admittedly, the respondent nos. 5 and 6 are neither apex nor federal Co-operative Society in view of the provision of Section 4 (2) and 4 (32) of the 2006 Act.

The respondent no. 7, therefore, also submits that there is no legal infirmity in the order for which review is required.

The respondent nos. 5, 6 and 7 says that this is nothing but a dilatory tactics by the petitioner in order to avoid the legal rigours the writ petitioner nos. 1, 2 and 4 being the review applicants, have approached this Court.

After hearing the parties and considering the materials on record I find in strict sense the application cannot be said to be for review. Review in respect of a writ petition can be entertained only under the principles analogues to these provided under Order 47 of the Code of Civil Procedure, 1908. The grounds made out in the instant review application does not satisfy the first two limbs of Order 47 Rule 1. However, even after giving the review applicants the benefit of coming under “ for any other sufficient reason as in Order 47 Rule 1 of the Code of Civil Procedure, 1908 to maintain the review, I am unable to accept the contention of the review applicants”.

In view of the provisions of Section 4(56) of the 2006 Act the Assistant Registrar can assume jurisdiction in respect of the matter, which was before the Court in the writ petition.

The restrictive use of the office of the Registrar “ as urged by the review applicants in view of the provisions of Section 103 read with Sections 4 (2) and 4 (32) cannot also be given.”

The order in the writ petition was passed on 28th April, 2021 granting the writ petitioners including the review applicants three weeks time to approach the Assistant Registrar of Co-operative Societies (Respondent no.3). The review applicants without doing so after several months i.e. 2nd August, 2021 filed the instant review application. The conduct of the review applicants appears to be a dilatory tactics.

In the aforesaid facts and circumstances, the review petition is dismissed with cost awarded at Rs. 5,000/- to be paid to the High Court Legal Services Committee. The cost has to be paid by 7th November, 2022 and shall be a pre-condition for the review applicants in filing any proceeding in connection with the issues involved in the writ petition.

(Arindam Mukherjee, J.)