

17.12.2021
Item Nos.10&14
Court No.6.
S. De

Through Video Conference

**M.A.T. 587 of 2021
I.A. No. CAN/1/2021
I.A. No. CAN/2/2021**

Rabin Mandal & Ors.

Vs

The State of West Bengal & Ors.

with

**M.A.T. 1234 of 2021
I.A. No. CAN/1/2021
I.A. No. CAN/2/2021**

Panditpur Samabay Krishi Unnayan

Samity Ltd. & Anr.

Vs

The State of West Bengal & Ors.

Mr. Subrata Mukhopadhyay,
Mr. Anirban Majumder,
Mr. Somnath De,

...for the appellants/petitioners.
(in MAT 587 of 2021).

Mr. Shamit Sanyal,
Ms. Priyakshi Banerjee,

...for the respondents/Co-
operative societies
(in MAT 587 of 2021)

&

...for the appellants.
(in MAT 1234 of 2021)

Mr. Raja Saha,
Mr. Amit Kr. Ghosh,

...for the State.

By consent of the parties, the appeals and the applications are taken up for hearing together and are being disposed of by a common order.

In re : MAT 587 of 2021

MAT 587 of 2021 is an appeal preferred against the learned Single Judge's order dated March 16, 2021, by persons who were not parties to the writ petition. They have filed an application praying for leave to appeal being CAN 2 of 2021.

Having heard learned counsel for the parties, we allow the application and grant leave to the appellants to prefer this appeal.

In re : MAT 1234 of 2021

MAT 1234 of 2021 is an appeal preferred by the Co-operative Society against the same order. The Co-operative Society was a respondent in the writ petition before the learned Single Judge.

The writ petitioners had challenged the appointment of the Chairman and the Secretary of the Co-operative Society. The learned Single Judge held that the life of the Board was three years. The Chairman and the Secretary were elected in 2017. Their tenure would have expired by efflux of time. Hence, the challenge to their appointment has become an academic issue. The learned Single Judge directed fresh election to be held not later than 31st July 2021.

The appellants in the two appeals have challenged the order on different grounds. We need not go into the same. We find that there was an

amendment to the West Bengal Co-operative Societies Act, 2006 whereby the tenure of an elected Board has been increased from three years to five years. This amendment may not have been brought to the attention of the learned Single Judge. The tenure of the Board that is functioning is yet to expire. Since the challenge to the appointment of the Secretary and the Chairman of the Board was not decided by the learned Single Judge on the erroneous premises that the life of the Board had expired, we deem it appropriate to remand the matter back to the learned Single Judge for fresh consideration.

The order under appeal is set aside. The learned Single Judge having determination to hear the writ petition is requested to decide the writ application on affidavits. The respondents in the writ petition shall be at liberty to file their affidavits-in-opposition within two weeks after Christmas Vacation. Reply, if any, be filed within two weeks thereafter. The parties will be at liberty to mention the matter before the learned Single Judge after affidavits are exchanged or after the time for filing affidavits expires.

We have seen from the affidavit-of-service in MAT 587 of 2021 that the writ petitioners have been served. However, they are not represented.

Accordingly, MAT 587 of 2021 and MAT 1234 of 2021 are disposed of along within the connected

applications being I.A. CAN 1 of 2021, I.A. CAN 2 of 2021, I.A. CAN 1 of 2021.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)