

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 641 of 2021

Vasudev Jotwani S/o Late Khanchand Jotwani, Aged About 58 Years
Member of C.G. Chemist and Druggist Association, Address- 129,
Medical Complex, Raipur District : Raipur, Chhattisgarh --- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Commerce and Industries, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.
2. The Registrar, Firms and Societies, State of Chhattisgarh, Indravati Bhawan, Block 1, 3rd Floor, Atal Nagar, District Raipur Chhattisgarh,
3. Chhattisgarh Chemist And Druggist Association, Through General Secretary, Address 35 New Medical Complex, Rajbandha Maidan, Raipur, District Raipur Chhattisgarh.
4. President Subhash Chandra Agrawal Chhattisgarh Chemist and Druggist Association, 35 New Medical Complex, Rajbandha Maidan, Raipur, District Raipur Chhattisgarh.
5. General Secretary, Avinash Agrawal Chhattisgarh Chemist and Druggist Association, 35 New Medical Complex, Rajbandha Maidan, Raipur, District Raipur Chhattisgarh. --- **Respondents**

For the applicant	: Mr. Vipin Punjabi, Advocate
For the State	: Mr. Amrito Das, Addl. Advocate General

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

12.02.2021

1. The writ has been sought for by a private individual which is a Society registered under the Societies Registration Act, 1973 on the ground that the petitioner has been unilaterally expelled from the membership, therefore, the enquiry be directed under section 32 of the Act of 1973.
2. In para 10, the following relief(s) has been claimed :

"10.1 That because respondent No.2 has failed to perform his duties by not deciding the complaints expeditiously, therefore, it would be just and proper to issue a writ of mandamus to perform his duties under the

above said provisions of law and Constitution of India to decide the complaints dated 22.05.2019, 27.09.2019 and 26.02.2020, 25.02.2020 expeditiously submitted by petitioner and also to take appropriate action against the culprit office bearers of the association and to set aside the impugned decision dated 24.03.2019 (Annexure P.1).

10.2 That, the respondent No.2 has acted against the principles of law that it is settled legal position that the bureaucracy is accountable for the act done in accordance with the rules when judicial review is called to be exercised by the Court.

10.3 That, this Hon'ble Court may kindly be pleased to restore the right of voting of the petitioner as a member and till the decision of the petitioner's complaint if, next election of association is held then, petitioner may be allowed to cast his vote as a member of the association.

10.4 That, during the final arguments of the instant matter, the petitioner reserves his right to raise other grounds which would be available to him.

10.5 That this Hon'ble Court may kindly be pleased to call for the records of the complaints dated 22.05.2019, 27.09.2019 and 26.02.2020 made by the petitioner.

10.6 That the Hon'ble Court may kindly be pleased to grant any other ancillary relief, as it may deem fit and proper in the facts and circumstances of the case”.

3. Section 32 of the Madhya Pradesh (Chhattisgarh) Registrarikarn Adhiniyam, 1973 reads as under :

“32. Enquiry and settlement of disputes,- (1) The Registrar may, on his own motion or on an application made under sub-section(2) either by himself or by a person authorised by him, by order in writing, hold an enquiry into the constitution, working and financial conditions of a Society.

(2) An enquiry of the nature referred to in sub-section (1) shall be held on the application together with an affidavit in support of its contents of ---

(a)	A majority of the members of the governing body of the society; or
(b)	Not less than one-third of the total number of members of the Society.

(3) The Registrar or the person authorized by him under sub-section (1) shall for the purpose of an enquiry under this section have the following powers, namely :--

(a)	He shall at all times have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the Society and may summon any person in possession, or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, if they relate to the head office of the society at any place at the headquarter thereof and if they relate to any branch of the society, at any place in the town wherein such branch thereof is located or in his own office;
(b)	He may summon any person who he has reason to believe has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof or in his own office and may examine such person on oath; and
(c)	(i) he may notwithstanding any regulation or bye-laws specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting of the society at such time at the head office of the society or at any other place at the headquarter of the society and to determine such matters as may be directed by him and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself; (ii) any meeting called under sub-clause (I) shall have all the powers of a general meeting called under the regulations or bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(4) When an enquiry is made under this section the Registrar shall communicate the result of the enquiry to the society and may issue appropriate directions to the society, which shall be binding on all parties concerned.

4. Reading of section 32 shows that it does not give individual power to invoke unless the conditions are fulfilled. Therefore, the mandamus of the like nature cannot be issued by this Court which will over ride all the provisions of section 32. The petitioner, if so advised, may seek remedy available under the common law. The petition sans merit and is dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**

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