

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 4729 of 2021

Kuber Grih Nirman Sahkari Samiti Maryadit (Through President), C-295, First Floor, Rohinipuram, Raipur, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Office of Deputy Registrar (Through - Deputy Registrar) Cooperative Societies, First Floor, Vivekanand Complex, Vivekanand Nagar, Pension Bada, Raipur, District Raipur, Chhattisgarh.
2. Registrar, Cooperative Societies, Block-3, 2nd and 3rd Floor, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Kishore Bhaduri, Sr. Advocate with
Mr. Pankaj Singh, Advocate

For State-Respondents : Mr. Amrito Das, Additional A.G. with
Mr. Ashish Tiwari, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/11/2021

1. The petitioner is before this Court against the show cause notice dated 09.11.2021 (Annexure P-1), issued by the respondent No.1.
2. It is submitted by the learned Senior Counsel appearing on behalf of the petitioner that show cause notice (Annexure P-1) has been issued making allegation of financial irregularities against the petitioner to show cause as to why the liquidation proceeding should not be imitated under Section 69 (2) of the C.G. Cooperative Societies Act, 1960 (Hereinafter referred to as 'the Act, 1960').

3. It is submitted that in the issuance of show cause notice, the procedure as required under Section 59 of the Act, 1960 has not been followed. The ingredients of Section 69 (1) of the Act, 1960 are not present at all as there was no enquiry made under Section 59 and no inspection was made under Section 60 of the Act, 1960 and neither there is representation of 3/4 members of the society. Therefore, the action initiated is illegal. Reliance has been placed on the judgment of Division Bench of Madhya Pradesh High Court in case of **Panna Multipurpose Cooperative Society Ltd. Vs. Government of Madhya Pradesh, Bhopal & Ors.**, reported in **1965 MPLJ 968**. It is prayed that the interim relief be granted.
4. Learned State counsel opposes the petition and the submissions made in this respect. It is submitted that the proceeding for liquidation of the petitioner society has been suo-motu initiated under Section 69 (2) of the Act, 1960, which is not dependent upon the provision under Section 69 (1) of the Act, 1960, therefore, there is no requirement that there should be any enquiry, inspection or representation by not less than 3/4 members of the of the society. The petitioner has replied to show cause notice, which shows the submission to the proceeding initiated. Final order has been passed and liquidator has been appointed. Therefore, the proceeding, which has been initiated, has been completed. It is submitted that the petitioner has remedy available to file an appeal under Section 78 of the Act, 1960. Copy of the order dated 24.11.2021 has been presented for perusal of this Court. It is submitted that the grant of interim relief in such case would amount to grant of final relief. Relying on the judgment of Karnataka High Court in case of **Muslim Co-operative Bank Ltd. Vs. Assistant Registrar of Co-operative Societies**, reported in **I.L.R. 1990 KAR 3705**. It is submitted that the Registrar has the authority under Section 69 (2) of the Act to suo-motu

initiate proceeding of liquidation of the society. Reliance has also been placed on the judgment of this Court in **Writ Appeal No. 264 of 2021 between Sushil Kumar Agrawal & Anr. Vs. State of C.G. & Ors., decided on 09.09.2021** and the judgment of Single Bench of this Court in **W.P.(C) No.2071 of 2011 between Galib Memorial Education Soceity Vs. State of C.G. & Ors., decided on 26.07.2018**. Hence, the prayer for interim relief be rejected.

5. In reply, it is submitted by the learned Sr. Counsel for the petitioner that Section 69 (2) of the Act, 1960 does not empower Registrar to appoint liquidator. It is submitted that the petition has been brought on the ground that the whole procedure drawn by the respondent No.1 is in clear violation of the Act, 1960, therefore, the interim protection be granted to the petitioner.
6. I have heard the learned counsel for the parties and perused the documents placed on record.
7. Section 78 of the Act, 1960 provides for remedy of filing appeal against such order passed, before the Tribunal. The Tribunal is empowered to exercise the powers of Civil Court under Section 77.-B of the Act, 1960. Therefore, the petitioner has the remedy available to file appeal against the order dated 24.11.2021 and make prayer for grant of interim relief.
8. The appointment of the liquidator has been ordered by the respondent No.1 by order dated 24.11.2021, under the provisions of Section 70 (1) of the Act, 1960. The liquidator has authority to exercise the provisions under Section 70 of the Act, 1960. Hence, this Court is of the view that for the reasons that there is statutory remedy available to the petitioner, there is no reason to keep this petition pending. Accordingly, this petition is disposed off at the motion stage. The petitioner is granted opportunity to file appeal under Section 78 of the Act, 1960, before the State

Cooperative Tribunal. Such an appeal be filed within a time limit of 15 day from today. Until the filing of appeal and on the decision of the application for grant of interim relief, by the learned Tribunal, in case the order dated 24.11.2021 has not been acted upon, the same shall remain stayed for a period of 21 days form today.

9. With these observations, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram