

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14067 of 2017

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Rajesh Kumar Singh Kashyap Son of Late Sabhu Saran Singh, Resident of
Village- Amnour Sultan, P.S. Amnor, District- Saran.

... .. Petitioner

Versus

1. The State Of Bihar, through the Secretary of Co-operative Societies,
Government of Bihar, Patna.
2. The Registrar, the Co-operative Societies, Government of Bihar, Patna.
3. The District Magistrate, Saran.
4. The District- Co-operative Officer, Saran.
5. The Block Development Officer-cum-Election officer, Amnour, Saran.
6. The Block Co-operative Officer, Amnour, Saran.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Mrityunjay Kumar Tiwary, Advocate
For the Respondent-State: Mr.Amit Prakash - GA-13

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 22-09-2022

The instant writ petition has been filed by the petitioner for quashing the order dated 09.08.2017 as contained in Annexure-4 to the writ petition passed by the Election Officer, Amnour, Saran whereby and whereunder he has rejected the objection filed by the petitioner and others and the petitioner and others have not been allowed to cast their votes in the election of 'Vyapar Mandal' as their names were not included in the voter list of 2017 of Amnour Vyapar Mandal Sahyog Samittee Ltd, Saran. The petitioner has further prayed to direct



the respondents to allow the petitioner and others to cast vote in the election of 'Vyapar Mandal' with any other relief to which the petitioner may be entitled to in the facts and circumstances of the case.

2. Apparently, the dispute relates to a registered society under the Bihar Co-operative Societies Act, 1935. Section 48 of the aforesaid Act deals with the disputes touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its managing committee against a paid servant of the society).

3. It reads as under :

“Section 48. Disputes. - (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its managing committee against a paid servant of the society) arises-

(a) amongst members, past members, persons claiming through members, past members or deceased members, and sureties of members, past members or deceased members, whether such sureties are members or non-members; or

(b) between a member, past member, persons claiming through a member,



past member or deceased member, or sureties of members, past members or deceased member, whether such sureties are members or non-members and the society, its managing committee or any officer, agent or servant of the society; or

(c) between the society or its managing committee and any past or present officer, agent or servant of the society; or

(d) between the society and any other registered society; [or]

[(e) between a financing bank authorised under the provisions of sub-section (1) of Section 16 and a person who is not a member of a registered society;]

such dispute shall be referred to the Registrar:

Provided that no claim against a past member or the estate of a deceased member shall be treated as a dispute if the liability of the past member or of the estate of the deceased member has been extinguished by virtue of Section 32 or Section 63.

Explanation. - (1) A claim by a registered society for any debt or demand due to it from a member, [non-member], past member or the nominee, heir or legal representative of a deceased member or [non-



member] or from sureties or members, past members or deceased members, whether such sureties are members or non-members, shall be a dispute touching the business of the society within the meaning of this sub-section even in case such debt or demand is admitted and the only point at issue is the ability to pay or the manner of enforcement of payment.

Explanation.- (2) The question whether a person is or was a member of a registered society or not shall be a dispute within the meaning of this sub-section.

(2) The Registrar may on receipt of such reference -

- (a) decide the dispute himself; or
- (b) transfer it for disposal to any person exercising the powers of a Registrar in this behalf; or
- (c) subject to any rules refer it for disposal to an arbitrator or arbitrators.

(3) Subject to any rules, the Registrar may withdraw any reference transferred under clause (b) of sub-section (2) or referred under clause (c) of the said sub-section and deal with it in the manner provided in the said sub-section.

(4) The appointment of an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrators shall be regulated by rule.



(5) In the case of dispute involving property which is given as collateral security, it shall be competent to the person deciding such dispute to issue mortgage award which shall have the same force as a mortgage decree of a competent Civil Court.

(6) Any person aggrieved by any decision given in dispute transferred or referred under clause (b) or (c) of sub-section (2) may, within three months from the date of such decision, appeal to the Registrar.

(7) The Registrar, in the case of dispute under this section, shall have the power of review vested in a Civil Court under Section 144 and under Order XLVII, Rule 1 of the Code of Civil Procedure, 1908, and shall also have the inherent jurisdiction specified in Section 151 of the said Code.

(8) The Registrar may where it appears to him advisable, either on application or of his own motion, state a case and refer it to the District Judge for decision, and the decision of the District Judge shall be final.

(9) Save as expressly provided in this section, a decision of the Registrar under this section, and subject to the orders of the Registrar on appeal or review, a decision given in a dispute transferred or referred under clause (b) or (c) of subsection (2) shall



be final.”

4. In view of an equally efficacious statutory remedy available to the petitioner for the redressal of his grievance, we are not inclined to entertain this application in extra-ordinary writ jurisdiction. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

(Shailendra Singh, J)

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AFR/NAFR	NA
CAV DATE	NA
Uploading Date	23.09.2022
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