

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL REVIEW No.134 of 2021**

**In**  
**Civil Writ Jurisdiction Case No.1181 of 2021**

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Jaswant Kumar Jyoti @ Jashwant Kumar Jyoti Son of Devanand Singh  
Resident of Village - Raghapur West, P.S. - Jurawanpur, Distt- Vaishali  
(Hazipur).

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Department of Co-operation, Govt. of Bihar, Patna.
2. The Principal Secretry, Department of Co-operation, Govt. of Bihar, Patna.
3. The Registrar Co- operative Societies, Bihar, Patna.
4. The District Co-operative Officer, Vaishali at Hazipur.
5. The Block Co-operative Extension Officer, Block - Raghapur, Vaishali at Hazipur.
6. The Bihar State election Authority through its Chairman, 32, Harding Road, Patna - 800001.
7. The Chairman, Bihar State Election Authority, 32 Harding Road, Patna-800001.
8. Birendra Kumar Singh Son of Ram Bahadur Singh Resident of Village - Raghapur West, P.S. - Jurawanpur, District- Vaishali, Hazipur.

... .. Opposite Party/s

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**Appearance :**

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|--------------------------|---|------------------------------------|
| For the Petitioner/s     | : | Ms. Mahasweta Chatterjee, Advocate |
|                          |   | Mr. Ram Nibash Prasad, Advocate    |
| For the State            | : | Mr. Jitendra Kumar AC to AAG-11    |
| For the Respondent No.8: |   | Mr. Raja Ram Rai, Advocate         |

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

11    06-07-2022                      Heard Ms. Mahasweta Chatterjee, learned counsel  
  
for the review petitioner and Mr. Raja Ram Rai for the writ  
  
petitioner.

2. The present review application has been filed on  
  
behalf of the petitioner, who was elected member of the Board  
  
of Director, for review of order dated 19.07.2021, passed by this



Court whereby respondent No.4, District Cooperative Officer, Vaishali at Hajipur, has been directed to recommend the proposal in accordance with law for filling up the six vacancies to the Bihar State Election Authority and further the Bihar State Election Authority has been directed to take necessary steps for holding the election in order to fill up the six vacancies in the concerned PACS.

3. Learned counsel for the petitioner submits that the writ petitioner has concealed the material fact before this Court and has obtained the order for holding election for filling up six vacancies inasmuch as out of 13 members of the Managing Committee of the PACS, seven posts are vacant and as per Section 41(5) of the Bihar Cooperative Societies Act, if half of the total number of seats of the Managing Committee of the registered society becomes vacant, for any reason whatsoever, the Registrar may dissolve the Managing Committee of the Society. Referring to Annexure-4, learned counsel submits that the show cause has already been issued in this regard to the society and its members by the D.C.O. Vaishali at Hajipur under Section 41(5) of the Cooperative Societies Act, calling upon them to submit their explanation as to why the society may not be dissolved in terms of Section



41(5) of the Act and administrator be appointed. In support of her arguments, learned counsel referred to a Division Bench Judgment of this Court in a case of *Ashok Kumar Sinha Vs. State of Bihar* reported in **2017(1) PLJR 319** . Learned counsel further submits that Dharmendra Kumar Singh was never appointed as Manager of the Society. Therefore, the Manager cannot be said to be ex-officio member of the Managing Committee. As such, after six vacancies which has admittedly been taken place out of thirteen members and Dharmendra Kumar Singh cannot be said to be the Manager of the Managing Committee, accordingly, seven posts fell vacant in the Society and as per the Division Bench Judgment, the Society is dissolved automatically.

4. Learned counsel for the writ-petitioner however, submits that the Manager was appointed by the previous Managing Committee and this fact would be evident from the report of the District Co-operative Officer, Vaishai at Hajipur which was submitted before the Registrar, Cooperative Societies, Bihar, Patna, vide letter No. 420 dated 7.5.2018. He next submits that from perusal of the Minutes of the Meeting dated 16.11.2014 of the previous Managing Committee, it would be evident that Dharmendra Kumar Singh was given the



responsibility of the Society as its Officer, and accordingly was treated to be the Manager of the Society. Thus, the submission is that if the Manager is already there and as per Rules 2(5) of the bye-laws of the PACS, the Manager is also member of the Managing Committee, therefore, there is no concealment on the part of the writ petitioner to submit that only six members of the Managing Committee had vacated the office. Accordingly, the writ petition was filed seeking direction to the concerned authority/election authority to fill up the remaining six vacancies, because, if the Manager is already there as a member of the Managing Committee, it cannot be said that half of the members of the Managing Committee had vacated the office and the Society got dissolved under Section 41 (5) of the Co-operative Societies Act.

5. Having heard learned counsel for the parties and after taking into consideration the fact and the materials available on record, I come to the conclusion that the Manager was appointed by the previous committee in the year 2014 and the Manager is ex-officio member of the Managing Committee, accordingly, in my opinion, the writ-petitioner has not obtained the order by concealment of material fact.

6. Accordingly, the order dated 19.07.2021 passed in



CWJC No. 1181 of 2021 needs no interference under review jurisdiction.

7. This review application, is accordingly, dismissed.

(Anil Kumar Sinha, J)

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