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06.04.2022
TN

WPA No.755 of 2022

Nadia District Process Server & Office Peon
Cooperative Credit Society Ltd.

Vs.

State of West Bengal and others

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty

.... for the petitioner

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

.... for the State

Mr. P.K. Roy,
Mr. Biplab Das,
Mr. Ankit Sureka

.... for the respondent nos.2 and 3

Mr. Soumyadeep Biswas

.... for the respondent nos.4 and 5

Learned counsel for the petitioner contends that, without giving adequate opportunity of representation and/or hearing to the petitioner, the petitioner-Board was superseded by appointment of an Inspector of Co-operative Societies. Upon coming to know of such appointment, as borne out by Annexure – P-7 at page-26 of the writ petition, which contains instructions sent to the appointed Inspector dated December 27,

2021, the petitioner has approached this court, since it came to know thereupon that on December 17, 2021, there was an internal communication between the Deputy Registrar of Co-operative Societies and the Registrar of Co-operative Societies with regard to supersession of the Board.

It is argued that without giving an adequate opportunity of representation to the petitioner, such decision was taken behind the back of the Board.

Learned counsel appearing for the respondent-authorities specifically contends that the materials annexed to the writ petition themselves bear out that several opportunities were given to the petitioner to produce necessary documents and accounts. However, the petitioner-Board has been avoiding such production on the plea of the then prevailing pandemic situation.

Ultimately, a show-cause notice was issued, which has also been annexed to the writ petition, to which a reply (Annexure – P-5 at page-19 of the writ petition) was given by the accused Board Members.

As such, there is no scope of reopening the issue, it is contended.

The petitioner has made several allegations, including that the appointment of the Inspector of Co-operative Societies was without proper approval from

the State Government and that the materials with the petitioner would substantiate that no mismanagement was committed by the superseded Board.

However, since Item 4 of the Third Schedule of the West Bengal Co-operative Societies Act, 2006 (hereinafter referred to as “the said Act”), framed under Section 147 of the said Act specifically provides a forum in the Co-operative Tribunal for preferring a challenge against an order of dissolution or supersession of a Board, it would be imprudent for the writ court, within its limited scope, to undertake a detailed inquiry into the factual merits of the allegations and counter-allegations between the parties, which may include the appreciation of evidence.

However, since the right of the petitioner to prefer such challenge may be termed to have been inchoate till now in view of the pendency of the present writ petition, WPA No.755 of 2022 is disposed of by granting liberty to the petitioner to prefer a challenge, as contemplated under the Third Schedule (Item 4 of the said Act), before the Co-operative Tribunal, treating today as the date of commencement of the limitation of two months as contemplated under the said Item of the Third Schedule.

If such an appeal is preferred, the Co-operative Tribunal shall decide the same in accordance with law and upon giving adequate opportunity of hearing to all concerned, without being influenced in any manner by any of the observations made herein.

All issues contended by the parties in the present writ petition shall be kept open for being urged before the Tribunal if and when a challenge is preferred by the petitioner.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)