

157
29.04.2022
TN

WPA No.841 of 2022

Shyam Chand Manna
Vs.
Srirampur Nityananda Samabay Krishi
Unnayan Samiti Ltd. and others

Mr. Sankar Prasad Dalapati,
Mr. Satyajit Mahata,
Ms. Tanusree Ghosh

.... for the petitioner

Mr. P.K. Roy,
Mr. Joydeep Roy

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

The grievance of the petitioner is that the Srirampur Nityananda Samabay Krishi Unnayan Samiti Ltd., a Co-operative Society, has given appointments to Group-D staff in utter contravention of Rule 105 of the West Bengal Co-operative Societies Rules, 2011 (hereinafter referred to as “the 2011 Rules”). Representations in that regard were given but apparently to no effect.

Learned counsel appearing for the respondent nos. 2 and 3 takes a preliminary objection as to maintainability of the writ petition, since the Co-operative Society is not a ‘State’ within the

contemplation of Article 12 of the Constitution of India.

However, learned counsel for the petitioner argues that since the Society is discharging the functions of the State, the same comes within the wider ambit of interpretation of the term 'State' as envisaged in Article 12 of the Constitution.

Apart from the said contention, it is also seen from the Scheme of the West Bengal Co-operative Societies Act, 2006 (hereinafter referred to as "the 2006 Act") as well as the 2011 Rules, that the Registrar of Co-operative Societies and the A.R.C.S., Purba Medinipur Range, are State appointments and they have an important role to play in the functioning of the Co-operative Societies. As such, inaction, if any, on the part of any of the authorities may also furnish a scope to a litigant to come up before this court under Article 226 of the Constitution of India.

In the present case, although no specific inaction on the part of the respondent nos.2 and 3 is borne out from the materials on record, but they have a role to play in mitigating the grievance raised in the writ petition.

Since the other respondents apart from the respondent nos. 2 and 3 have been continuously evading service, as evident from the affidavits-of-

service kept on record, there is no other option but to decide the matter in the absence of the said Co-operative Society.

Since this court is handicapped in terms of adequate documents/materials, as the Co-operative Society and its office bearers have chosen not to represent themselves and place any material before the court regarding the compliance of Rule 105 of the 2011 Rules, WPA No.841 of 2022 is disposed of by directing the respondent no.3, that is, the A.R.C.S. Medinipur Range-I, District: Purba Medinipur, to inquire into the irregularities as complained of by the petitioner within the ambit of Section 100 of the 2006 Act and to take appropriate steps accordingly.

Such inquiry shall be completed by the respondent no.3 as expeditiously as possible, preferably within four weeks from date, in accordance with law and upon giving adequate opportunity of hearing to all concerned. Thereafter, depending on the outcome of the report of such inquiry, the respondent no.3 shall take adequate and immediate steps consequentially.

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.)