

15.07.2022
Sl.No.118(ML)
srm

W.P.A. No. 11600 of 2022

Nitai Chandra Paul

Versus

The State of West Bengal & Ors.

Mr. Gunjan Shah
Mr. Chitra Bhanu Gupta
... for the Petitioner.

Ms. Munmun Tewary
...for the State-respondents.

Mr. Srijan Nayak,
Mr. Ankit Sureka,
Mr. Biplab Das
...for the Respondent No.5.

Mr. Ambu Bindu Chakraborty,
Ms. Mrinmoyee Roy Chowdhury
...for the Respondent No.9.

Mr. Pinaki Ranjan Mitra
...for the Respondent Nos.7 & 8.

Mr. Rajdeep Manta,
Mr. Shashwat Nayak
...for the Respondent No.12.

Affidavit-of-service is taken on record.

The contentions of the writ petitioner, who is a member of the Salt View Co-operative Housing Society Ltd. (hereinafter referred to as the said Society), are 'disputes' covered by the provisions of Section 102 of the West Bengal Co-operative Societies Act, 2006.

The petitioner alleges that the order of the OSD & Ex. Officio Joint Secretary to the Government of West Bengal, Co-operation Directorate, New Secretariat Building dated May 6, 2022, appointing one Shri Subham Guhjathakurta, ARCS of the Co-operation Department as the special officer of the said Society, has not been implemented by the other members. It is submitted that since 2012 the said Society is functioning without a properly elected board.

As a member of the said Society, the petitioner prays that the special officer who was appointed on May 6, 2022 must be handed over charge of the affairs of the said Society, by the respondent.

The writ petition filed earlier and the communication of the Additional Registrar of the Co-operative Societies (Housing Cell), West Bengal dated September 17, 2015 were not with regard to handing over charge to a special officer appointed under Section 36 of the West Bengal Co-operative Societies Act, 2006. According to the petitioner, the issues are distinct and separate. The present nominated board continues to control the affairs of the said Society and such control had led to further management and chaos.

Mr. Mitra and Mr. Chakraborty, learned Advocates appearing on behalf of the said Society and the Chairman of the said Society respectively, submit that the nominated board was constituted as per law. The Additional Registrar of Co-operative Societies (Housing Cell), West Bengal, by a communication dated September 17, 2015 informed the Chairman/Secretary of the said Society that until the disputes raised in W.P. No.13833 (W) of 2012 and other irregularities with regard to membership, etc. were resolved, the question of holding the election of the board of directors of the said Society, would not arise.

Mr. Nayak, learned Advocate appearing on behalf of the Co-operative Election Commission/respondent No.5, submits that admittedly the affairs of the said Society were suffering as there was no properly elected board, since 2012.

The State-respondents submit that the OSD & Ex. Officio Joint Secretary to the Government of West Bengal, by a letter dated June 24, 2022 was informed by the special officer, that on three occasions when the special officer went to take charge of the said Society, the existing members, who were at the helm of affairs, refused to hand over charge. The authority was requested by the special officer to take immediate steps in this regard.

Mr. Mantha, learned Advocate represents the respondent No.12 and supports the contentions of the petitioner. According to Mr. Mitra and Mr. Chakraborty, his membership had been cancelled.

The petitioner alleges that the alleged nominated board and/or some of its members were constantly resisting the special officer from taking charge, despite the directions of the Additional Registrar of the Co-operative Societies (Housing Cell), West Bengal.

This writ petition is not being entertained as there is an alternative remedy. As the dispute is between a member and some of the members and/or an alleged nominated board, this Court directs the petitioner must file a dispute case before the concerned ARCS, who shall dispose of the said case in accordance with law, upon taking into consideration all the issues, which have been raised in the writ petition. As two months have already lapsed from the appointment of the special officer, this Court is of the view that the concerned ARCS must dispose of the dispute case within a period of one month from the date of receipt.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy
of this order.

(Shampa Sarkar, J.)