

01.08.2022
Item No. 13.
Court No.6.
AB

**M.A.T. 1018 of 2022
With
I A CAN 1 of 2022**

**Chaipat Samabay Krishi Unnayan
Samity Limited & Others
Vs
Goutam Maity & Others**

Mr. Milan Chandra Bhattacharya, Sr. Adv,
Ms. Sulagna Bhattacharya ...for the Appellants.

Mr. Pradip Kumar Roy,
Mr. Joydeep Roy ...for the State.

Mr. Srijan Nayek,
Ms. Rituparna Maitra
....for the Respondent Nos.3 and 4.

Mr. Subhajit Panja....for the Respondent No.1.

By consent of the parties, the appeal and the application are taken up for hearing together.

An order of suspension pending initiation and completion of a disciplinary proceeding was under challenge before the learned Single Judge at the instance of the writ petitioner, who was the Manager of the Cooperative Society in question. The only effective prayer in the writ petition was as follows:

“a) A Writ in the nature of Mandamus commanding the respondents to set aside and/or quash the order passed on 25.06.2021 under Ref. No. CH/10/2021 being annexure “P/5” to this application.”

The learned Judge did not interfere with the suspension order but passed certain directions regarding the manner in which the disciplinary proceedings will be held. The learned Judge also permitted the writ petitioner to be represented by a person of his choice. There was further direction that the venue of the proceedings would be the office premises of the Cooperative Society.

The Society has come up in appeal. The grievance of the Society is that all the directions in the impugned order are beyond the scope of the writ petition. The only challenge in the writ petition was to the suspension order. The suspension order has not been touched. Indeed, such order cannot be interfered with as the same has been passed strictly adhering to Clause 16 of Rule 106 of the West Bengal Cooperative Society Rules, 2011.

We have heard learned Counsel for the parties.

Mr. Bhattacharya, learned Senior Counsel representing the Society says that initially decision was taken to conduct the disciplinary proceedings at the office of the Society. However, on the very first day, some associates of the writ petitioner assembled at the venue and created a ruckus. Accordingly, the Authority had no choice but to approach the Assistant Registrar of Cooperative Societies and obtained his permission to conduct the disciplinary proceedings at his office.

The writ petitioner says that the venue of the disciplinary proceedings, i.e., the office of the Assistant Registrar of Cooperative Societies is about 78 kilometers from his residence. He is facing great hardship in attending the proceedings at such a distance.

We see some reason in the grievance of the writ petitioner. We direct that henceforth, the disciplinary proceedings will be held at the office of the Cooperative Society in question. We further make it clear that if in future the associates of the writ petitioner try to disrupt the disciplinary proceedings in any manner, the Society would be at liberty to approach this Court for modification of this order as regards the venue of the disciplinary proceedings.

The writ petitioner will be at liberty to be represented or assisted by a person of his choice, who will not be a lawyer. The time for completion of the disciplinary proceedings is extended by three months from date. The writ petitioner shall be paid subsistence allowance during the continuance of his suspension strictly in accordance with the applicable Rules.

Except as aforesaid, the order under appeal stands set aside. Needless to say, the disciplinary proceedings shall be held strictly in accordance with the principles of natural justice.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

MAT No.1018 of 2022 stands disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)