

6th April,
2022
(AK)
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W.P.A 17196 of 2021

Mizanur Rahaman Mandal
Vs.
The State of West Bengal and others

Mr. Mohinoor Rahaman
Ms. Maria Rahaman
...for the petitioner.

Mr. P.K. Roy
Mr. Biplab Das
...for the respondent nos.3 & 4.

Mr. Ankit Sureka
Mr. Partha Sarathi Pal
...for the respondent no.2.

Mr. Srijan Nayak
Mrs. Rituparna Maitra
...for the State.

Affidavit-of-service filed in court today be kept on record.

The contention of the petitioner is that, in violation of Section 29(7) as well as Section 36 of the West Bengal Cooperative Societies Act, 2006, a Special Officer as contemplated under sub-Section (2) of Section 36 was sought to be appointed despite the pendency of a prior recommendation to constitute a Board of Directors by the Registrar.

Learned counsel appearing for the respondent authorities contends that the appointment of Special Officer precedes the constitution of a Board of Directors by the Registrar, if at all.

Section 29(7) of the 2006 Act is very specific in its language insofar as it stipulates that an appointment under Section 36(2) of the Act has to precede the constitution of a Board of Directors by the Registrar.

Only if the Special Officer appointed under Section 36(2) fails to ensure that an election is held, the question of constitution of a Board of Directors by the Registrar comes in.

In the present case, as it appears, the recommendation for the Registrar to constitute a Board of Directors, which preceded the appointment of a Special Officer under Section 36(2), was itself bad in law *ab initio*.

Thereafter, the respondent authorities apparently sought to rectify such error by taking steps for appointment of a Special Officer.

Under the statute, that is, the 2006 Act, particularly in view of the specific stipulations of Sections 29(7) and 36(2) thereof, the correct chronology of appointments has been adhered to by seeking to appoint a Special Officer first.

As such, there is no scope of interference in the matter.

Accordingly, WPA 17196 of 2021 is dismissed without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)