

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 10848 OF 2022

Sumanta Kumar Moharana ***Petitioner***

Mr. Satyanarayan Mishra, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

08.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for a direction to the Registrar, Co-operative Societies, Odisha, Bhubaneswar to dispose of his representation under Annexure-2 and also prays for a direction not to implement the instructions imparted under the letter dated 7th June, 2021 under Annexure-4.
3. Mr. Mishra, learned counsel submits that the Petitioner is a member of Belabahali SCS. The authorities without convening a general body meeting as provided under Rule 14 (A) of the Orissa Co-operative Societies Rules, 1965 amended the bye-laws of Belabahali and Panchupali SCS and thereby reorganized the area of their operation. The Petitioner being a member of Belabahali SCS made representation under Annexure-2, but without considering the same, the authorities are proceeding to implement the instructions under Annexure-4. Hence, the Petitioner is seriously prejudiced by such action/inaction and has filed this writ petition.

4. Counter affidavit has been filed by Assistant Registrar Co-operative Societies, Anandpur Circle, Anandpur-Opposite Party No.4 stating as under:

“That apart the O.P. No.3 vide his Notice No.2490 dated 18.11.2021 has also served notice on the above cited two Societies calling upon to state their objections and suggestions, if any, of the members, the depositors and to appear before the O.P. No.3 on 30.11.2021 in his office chamber at 3.00 P.M. As per the notice dt. 18.01.2020 of O.P. No.2 and as per notice dt. 18.11.2021 of O.P. No.3, none appeared either before the O.P. No.2 or before the O.P. No.3 as fixed for hearing of any objection or suggestion, if any, the Petitioner/(s) had for which it has been construed that the Petitioner/(s) had nothing to say and to raise the present question having no importance, relevance and pertinence in the matter of re-organization and re-defining the area of operation of the above cited two SCS. Accordingly, the re-organization of area of operation of Belabahali SCS has statutorily been considered and amendment of bye-laws re-defining the area of operation registered on the persistent default of the Petitioner/(s) in their appearance.”

5. Mr. Mishra, learned Additional Standing Counsel submits that if the Petitioner has any grievance with regard to amendment of bye-laws and reorganization of area of operation of Belabahali SCS, he has a remedy under the Co-operative Societies Act. As such, the writ petition is not maintainable.

6. Mr. Mishra, learned counsel for the Petitioner vehemently object to the same and submits that no notice as alleged in the counter affidavit is served on the Petitioner, who is a member of Belabahali SCS. The amendment of bye-laws, if any, was not inconsonance with law. Hence, the writ petition is maintainable.

7. Taking into consideration the contentions raised by learned counsel for the parties and rival pleadings made in the writ petition as well as counter affidavit, it appears that the matter involves serious disputed questions of fact, which cannot be adjudicated in a writ petition.

8. This writ petition is, therefore, disposed of with an observation that the Petitioner, if so advised, may work out his remedy in accordance with law.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

