

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15177 of 2022

Ranjan Kumar Das

.....

Petitioner

Mr. Subrat Satpathy, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Hamohan Dhal, Advocate
(For Opposite Party No.2)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

22.06.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for a direction to quash the notification dated 22nd April, 2022 (Annexure-1) issued for election of office bearers of Barundei Primary Agriculture Cooperative Society, Khajurinalua in the district of Jajpur.
3. Mr. Satpathy, learned counsel for the Petitioner submits that assailing the illegalities committed by the Chief Executive of the Barundei Primary Agriculture Cooperative Society earlier W.P.(C) No.5065 of 2021 was filed. After publication of the notification for the ensuing cooperative election, the Petitioner along with others made an objection before the State Cooperative Election Commission on 28th April, 2022 (Annexure-5) with prayer to restrain Sri Kahnu Charan Behera, Chief Executive of the Barundei PACS, Jajpur from

participating in the election of the Society. On the allegation made by the Petitioner along with others, an enquiry was directed to be conducted vide order dated 17th May, 2022 (Annexure-7). Although the enquiry was scheduled to be held on 19th May, 2022 at 11.00 AM and the Petitioner along with others participated in the proceeding, no report of the enquiry has yet been submitted. The Petitioner along with others have also objected to the nomination of the intending candidates. But no action has yet been taken on the same. Hence, he prays for setting aside the notification for election under Annexure-1.

4. Mr. Dhal, learned counsel for the State Cooperative Election Commission submits that since the copy of the writ petition is served on him in Court today he is unable to take instruction in the matter. However, the writ petition is not maintainable in view of provision of Section 28-B of the Orissa Cooperative Societies Act, 1962 (for short, 'the Act'). Allegations made in the writ petition requires factual adjudication and cannot be entertained in this writ petition, more particularly when the notification for election has already been published and the election is scheduled to be held on 26th June, 2022.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court finds that the allegations made in the writ petition require factual adjudication and cannot be entertained in the writ petition. It further reveals that the Petitioner under Annexure-10 seeks to assail the validity of the nomination filed by the intending candidates.

The same cannot be considered in this writ petition in view of the bar under Section 28B of the Act.

6. Accordingly, the Court is not inclined to entertain this writ petition, which is accordingly dismissed. However, this order shall not be a bar for the Petitioner to work out his remedy in accordance with law.

Issue urgent certified copy of the order on proper application.



s.s.satapathy