

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17007 OF 2022

Nirakar Sahu

Petitioner

Mr. Santosh Kumar Mahanty, Advocate

-versus-

***State Cooperative Election
Commission, Odisha and others***

.... Opp. Parties

Mr. H.M. Dhal, Advocate
(For Election Commission)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
12.07.2022**

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Mr. H.M. Dhal, learned counsel and his associates have entered appearance by filing Vakalatnama in Court today on behalf of the State Cooperative Election Commission, Odisha- Opposite Party No.1.
3. The Petitioner in this writ petition seeks for a direction to the Election Officer to cause an inquiry into the matter pursuant to the notice dated 28th June, 2022 prior to holding the election for the post of President of the management of Jagannath Prasad Service Co-operative Societies Ltd. scheduled to be held on 14th July, 2022.
4. Mr. Mahanty, learned counsel submits that the Petitioner is an elected member of the aforesaid Cooperative Society from Zone No.9. The Opposite Party Nos.6 and 7 have been elected from Zone No.14 and 15 respectively of the said Cooperative Society. He further submits that in view of the illegal acceptance of their nomination papers, they were allowed to contest the

election. They may contest the election for the post of President. The Petitioner is also interested to contest the post of President for the aforesaid Society. In the event, the Opposite Party Nos.6 and 7 filed their nomination papers for the post of President, it may affect the election process. In that regard, he has made a representation to the Election Officer on 29th June, 2022 praying inter alia to declare the election of Opposite Party Nos.6 and 7 as members of Zone Nos.14 and 15 to be illegal. But, no action has yet been taken on the said representation and on the other hand, the Election Officer is proceeding ahead to conduct the election to the post of President. Hence, this writ petition has been filed for the aforesaid relief.

5. Mr. Dhal, learned counsel for the State Cooperative Election Commission, Odisha-Opposite Party No.1 refuting the submission of learned counsel for the Petitioner contends that the writ petition is neither maintainable at the instance of the Petitioner nor there is any cause of action to file such writ petition. The Petitioner being an elected member of Zone No.9 of the aforesaid Cooperative Society has no *locus standi* to raise any objection with regard to acceptance of nomination papers of Opposite Party Nos.6 and 7 for Zone Nos.14 and 15. Further, the Election Officer is not authorized to entertain an application to declare any election to be illegal, null and void. As such, the writ petition merits no consideration and is liable to be dismissed.

6. Taking into consideration the rival contentions of the parties, it is apparent that the Petitioner has been elected as a committee member from Zone No.9. He apprehends that if the Opposite Party Nos.6 and 7 file their nominations for the post of

President, he may face difficulty in getting elected. Such a plea cannot be considered for entertaining this writ petition. Further there is nothing on record to show that either the Petitioner or the Opposite Party Nos.6 and 7 have filed their nomination for the post of President in the ensuing election for the aforesaid Cooperative Society. The issue with regard to acceptance of nomination of Opposite Party Nos.6 and 7 and their consequential election as member of Zone Nos.14 and 15 can only be considered by filing a properly constituted election dispute.

7. In that view of the matter, this Court is of the considered opinion that the writ petition is not maintainable.

8. Accordingly, this writ petition stands dismissed.

(K.R. Mohapatra)
Judge

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