

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31963 of 2022

1. Naresh Swain
2. Sridhar Behera
3. Debaprasad @
Debendra Barik
4. Gobind Ch. Sahoo Petitioners

Mr. B. Mohanty, Advocate

-versus-

The Principal Secretary to
Govt. Cooperation,
Department,
Bhubaneswar and others Opp. Parties

Mr. R.N. Mishra,
Addl. Govt. Advocate

CORAM:
JUSTICE S.K. SAHOO

ORDER
14.12.2022

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

The petitioners have filed this writ petition with a prayer to quash the result of the election held on 19.06.2022 for the Board of Directors and the President of Biswanathpur Primary Agriculture Co-operative Society on the ground that the opposite parties have not included some of the valid and eligible members in the

voter list during such election and for a direction to hold fresh selection after due correction of the voter list as per the Rules.

Learned counsel for the State drew the attention of this Court to Rule 57 of the Orissa Co-operative Societies (Elections to the Committees) Rules, 1992 (hereafter in short, '1992 Rules') which provides that subject to the provision of Section 28-B, disputes regarding any matter relating to election of the President or members of the committee of a society may be raised before any authority competent in that regard under the Act and in that case the provisions of the Rules under Chapter-VII of the Orissa Co-operative Societies Rules, 1965 (hereafter in short, '1965 Rules') shall mutatis mutandis apply in respect of such disputes. Section 67-B of the Orissa Co-operative Societies Act, 1962 (hereafter in short, '1962 Act') provides that any dispute arising in connection with election of any office-bearer of a Society, inter alia, shall be referred to the Tribunal and if any question arises as to whether a dispute referred to the Tribunal under Clause (i) is a dispute within the meaning of that clause, the decision of the Tribunal thereon shall be final and shall not be called in question in any Court. Learned counsel for the State further submitted that since the Cooperative Tribunal is there to deal with the relief sought for in this writ petition and alternative and efficacious remedy is available to the petitioners, this

writ petition is not maintainable. He further submitted that Rule 74 of the 1965 Rules provides that a dispute relating to election of a member or an office of the Committee of a Society shall be referred to the Registrar within two months from the date on which the election, with reference to which the dispute arose, was held.

Learned counsel for the petitioners, on the other hand, submitted that the learned Presiding Officer of the Co-operative Tribunal is not there since last few months and therefore, the writ petition may be entertained. He further submitted that since the election was held on 19.06.2022 and in the meantime, the prescribed period of limitation has expired, this Court may permit the petitioner, if the writ petition is not entertained, to approach the learned Co-operative Tribunal by raising appropriate dispute before it and the learned Tribunal may be directed to consider the application for condonation of delay and adjudicate the dispute on merit.

Considering the submissions made by the learned counsel for the respective parties, in view of availability of alternative remedy, this writ petition is disposed of granting liberty to the petitioner to approach the learned Co-operative Tribunal, Bhubaneswar and in case any dispute is raised and an application for condonation of delay is filed, the same shall be considered by the learned Tribunal in accordance with law after giving

opportunity of hearing to the parties within a stipulated period.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

