

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2926 of 2023

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Rakesh Kumar Mishra Son of Shiv Narayan Prasad Mishra, Resident of Village and P.O. Chandsarai, Ward No. 9, P.S. Mahua, District-Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Cooperative Department, Government of Bihar, Patna.
3. The Registrar, Cooperative Societies, Bihar, Patna.
4. The District Magistrate-cum-District Election Officer (Cooperative), Vaishali at Hajipur, District-Vaishali at Hajipur.
5. The District Cooperative Officer, Vaishali at Hajipur, District-Vaishali at Hajipur.
6. The Sub-Divisional Officer, Hajipur-cum-Returning Officer, District-Vaishali at Hajipur.
7. The State Election Authority, Bihar, Patna through the Chief Election Officer.
8. The Chief Election Officer, The State Election Authority, Bihar, Patna.
9. The Secretary, The State Election Authority, Bihar, Patna.
10. The Vaishali District Central Cooperative Bank Ltd. Vaishali at Hajipur, District-Vaishali at Hajipur through the Managing Director.
11. The Managing Director, The Vaishali District Central Cooperative Bank Ltd. Vaishali at Hajipur, District-Vaishali at Hajipur.
12. Dighi West Nagar Panchayat Primary Agriculture Credit Cooperative Society, P.O. Dighi Kala, P.S. Hajipur Sadar, District-Vaishali at Hajipur through its Chairman.
13. The Chairman, Dighi West Nagar Panchayat Primary Agriculture Credit Cooperative Society, P.O. Dighi Kala, P.S. Hajipur Sadar, District-Vaishali at Hajipur.
14. Dighi East Nagar Panchayat Primary Agriculture Credit Cooperative Society, P.O. Dighi Kala, P.S. Hajipur Sadar, District-Vaishali at Hajipur through its Chairman.
15. The Chairman, Dighi East Nagar Panchayat Primary Agriculture Credit Cooperative Society, P.O. Dighi Kala, P.S. Hajipur Sadar, District-Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Advocate Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Rakesh Ranjan, AC to GP-22 Mr. Raja Ram Rai, Advocate Mr. Mukesh Kumar Thakur, Advocate



Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 16-03-2023 Heard learned counsel for the petitioner, Mr. Mukesh Kumar Thakur, learned counsel for the State Election Authority, Mr. Sanjay Kumar, learned counsel for the respondent nos. 10 and 11 and the learned counsel for the State.

Mr. Raja Ram Rai, the learned Advocate appears on behalf of respondent no. 14 and 15.

The present writ application has been filed seeking a writ of mandamus commanding the respondent nos. 2 to 11 to delete the name of the respondent nos. 12 and 14 from the final voter list of Vaishali District Central Co-operative Bank Limited, Hajipur on the ground that respondent nos. 12 and 14 were members of Dighi East and Dighi West PACS which now stands included in the area of Hajipur Nagar Parishad and thus the PACS has lost its identity after being incorporated in the municipal area.

The learned counsel for the petitioner next submits that the election of the bank for electing its Board of Directors is going to be held, it is further submitted that respondent nos. 12 and 14 cannot be part of the final voter list as they no longer remain member of the PACS, which is an essential condition for



being a voter and contestant in terms of the bye-laws framed by the Vaishali District Central Co-operative Bank Limited, Hajipur, Vaishali.

Learned Counsel for the petitioner further draws the attention of the Court to Section-2 (gggg) of the Bihar Co-operative Societies Act, 1935, which defines Primary Agricultural Credit Society, to mean a Co-operative Society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers and includes farmers service, society and multi purpose co-operative society.

The learned counsel thus submits that since the PACS, of which respondent nos. 12 and 14 are members, now stands included within the Hajipur Municipal Area by a notification dated 12.03.2021, as such they no longer remain in the realm of PACS as defined under Section-2 (gggg) of Bihar Co-operative Societies Act, 1935, it is next submitted that the Bihar Co-operative Societies Act, 1935 does not define urban PACS rather there is no concept of any urban PACS within the definition as incorporated in the Bihar Co-operative Societies Act, 1935. It is thus submitted that when bye-laws 29 of the Bank clearly incorporates that Chairman, Honorary Secretary are to be



elected by the General Body from amongst the representatives/delegates of affiliated PACS/ LAMPS then how the respondent nos. 12 and 14 be part of the voter list when they no longer are part of the PACS, as defined under Section 2 (gggg) of the Bihar Cooperative Societies Act 1935.

The learned counsel for the petitioner next submits that State Election Authority has the power, authority and jurisdiction for exercising superintendence, direction and control of the preparation of electoral rolls for, and conduct of all elections to bodies such as Co-operative Societies, Siksha Samiti or any other institution, organization establishment, which may be entrusted to it by the State Government. It is thus submitted that under Section 4 of the Bihar State Election Authority Act, 2008 the Election Authority has the aforesaid power which also includes superintendence and control over preparation of electoral rolls with respect to elections to be conducted with respect to such societies, Samiti or institution which have been entrusted to it by the State Government.

The learned counsel thus submits that he had filed an application before the State Election Authority bringing to its notice about the said infirmity but then he is not aware what has happened.

The learned counsel appearing for respondent No. 10



and 11 submits that the Elections have been notified and the Court should not interfere at this stage and in the event if the petitioner will be aggrieved by the result of the election he will have his remedies available in law, the petitioner would file an election petition before the Court of Competent Jurisdiction or can even move before the prescribed authority.

The learned counsel further fairly submits that issue which has been raised in the present writ application requires consideration also as to whether when PACS has lost its identity after being incorporated within the limits of Municipal area whether such members of PACS can now be included in the voter list for ensuing election.

The learned counsel for the State Election Authority submits that no doubt the aforesaid 2 PACS have been included within the municipal limits of Hajipur but then till date the bye-laws of the PACS have not been amended in view of Letter No. 7477 dated 24.11.2009 issued by the Registrar, Co-operative Society, as such, the aforesaid 2 PACS still retain the identity of the PACS, to which the learned counsel for the petitioner seriously disputes and submits that if the bye-laws of the erstwhile PACS has not been amended after they being included within the municipal limits of Hajipur, the fault lies with the authority and not with the petitioner.



The learned counsel appearing for respondent No. 14 and 15 submits that petitioner has also raised the dispute before the returning officer with regard to the inclusion of the name of respondent no. 12 and 14 in the final voter list but his grievance was rejected on the ground that till date the aforesaid 2 PACS which have been included within the municipal limits of Hajipur, they still retain the identity of the PACS as they till date have not been re-organized nor their bye-laws have been amended.

Learned counsel appearing for the State Election Authority, at this stage, submits that the matter surely requires consideration at the highest level and thus the matter be sent to the Principal Secretary, Co-operative Department, Government of Bihar as presently the post of Registrar, Co-operative Society is vacant, for adjudicating the grievance raised in the present writ application.

After hearing the learned counsel for the parties and in the nature of grievance as raised in the present writ application, the matter, thus, requires consideration at the highest level and since the Court has been informed that presently the office of the Registrar Co-operative Society is vacant and the elections have been notified though nominations have not started, as such the matter is remanded to the Principal Secretary Co-operative Department to the Government of Bihar to adjudicate the issue



raised in the present writ application for which the petitioner shall file an application before the Principal Secretary, Co-operative Department detailing the facts and his grievance which would be adjudicated after hearing all the stakeholders and the Principal Secretary, Co-operative Society, Government of Bihar shall try to decide the issue raised expeditiously.

Since the parties to the dispute are present before this Court as such it is directed that the petitioner shall file his application before the Principal Secretary, Co-operative Department, Government of Bihar latest by 18.03.2023 and the Court expects that the petitioner before filing the application shall make endeavors to serve the copies of the application to all the learned counsels who are present before this Court.

It is made clear that the matter has been remanded back without expressing any opinion on merits of the case.

Accordingly, the present writ application stands disposed off.

(Satyavrat Verma, J)

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