

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8346 of 2023

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Sri Ram Nagri Sahkarigrih Nirman Samittee Ltd. Patna having its Office at Magistrate Colony, Road No. 4/A, Sundar Sadan, Ashiana Nagar, Patna- 25, through its Secretary Harendra Prasad, (Male), Aged about 70 Years, Son of Late Ram Dutta Ray, Resident of Village- Sikandarpur, Danapur Cantt, Nasariganj, Police Station- Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Government of Bihar, Patna.
2. The Registrar, Co-operative Societies, Government of Bihar, Patna.
3. The District Co-operative Officer, Patna, District- Patna.
4. The Assistant Registrar, Co-operative Societies, Patna Anchal, Patna.
5. Satendra Kumar Singh, Co-Operative Extension Officer-cum-Observer, Sri Ram Nagri Sahkari Grih Nirman Co-operative Society Ltd., Patna, posted in office of Assistant Registrar, Co-operative Societies, Patna Anchal, Patna.
6. The Bihar State Election Authority, Patna through its Secretary having its office at 32, Harding Road, Patna.
7. The Chief Election Commissioner, Bihar State Election Authority, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate.
For the State ;; Md. Zeeshan Kalim, AC to SC-20.
For the State Election Authority: Mr. Mukesh Kumar Thakur, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 18-12-2023

Heard Mr. Arun Kumar, learned counsel appearing

on behalf of the petitioner; Mr. Zeeshan Kalim, learned AC to

SC-20 for the State and Mr. Mukesh Kumar Thakur, learned

counsel for the State Election Authority.

2. The petitioner has filed the writ petition for the

following reliefs:

“ A writ in the nature of certiorari setting



aside the impugned Office order bearing Memo No. 1004 dated 28.04.2023 issued under the signature of Respondent No. 3 whereby and where under in one hand despite having communicated about the Resolution on 09.10.2022 taken by the petitioner-Society for taking steps by way of sending proposal for conducting the election of Managing Committee of the Petitioner-Society before the Respondent No. 6 i.e. Bihar State Election Authority, Patna the same was kept pending and in another hand on continuous persuasion by the petitioner-Society before Respondent No. 1 and 2 scarcely vide Office order bearing Memo No. 3 itself Observer (Respondent No. 5) was appointed to attend the meeting of Managing Committee of Petitioner-Society and ensure to all the formalities for sending proposal for conducting election and in pursuant to that on 15.03.2023 meeting of Managing Committee was held in which Respondent No. 5 Observer himself attended and received copy of Voter List and other documents and so-called delay has caused at his instance with malafide intention and did not submit the report in time before Respondent No. 4 Assistant Registrar, Patna Anchal as tenure of elected body of Managing Committee of the Petitioner-Society was to be completed on 23.03.2023 and in that pretext the present impugned order has been issued for constitute of Ad-hoc Committee in pursuant to Section 14 (10) of Bihar Co-operative Societies Act, 1935, and authorised some other authorities for holding Special Aam Sabha of the Petitioner Society for submitting fresh proposal before Bihar State Election Authority for holding election of the Managing Committee of the Society which is actuated with malice and malafide intention to debar the outgoing Managing Committee from its statutory duty.

(ii) For direction upon the Respondent concerned to send the proposal for holding election of the Managing Committee of the petitioner-Society in view of Resolution dated 15.03.2023 of the Managing Committee of the petitioner-Society in which Respondent No. 5 as Observer had attended and received all the required documents for the proposal of sending proposal in the Office of Respondent District Co- operative Officer as well as Assistant Registrar, Co-operative Society, Patna and for sending proposal before the Bihar State Election Authority so that election of Managing Committee of the Petitioner-Society be held as per norms.

(iii) To restrain the Respondent District Co-operative Officer Respondent No. 3) from giving effect to the impugned order bearing Memo No. 1004 dated 28.04.2023 and not to constitute Ad-hoc Committee as the same is actuated with malafide intention and contrary to decision taken by the elected body of the Managing Committee of the petitioner-Society.

(iv) Any other order / orders for granting any other relief /



reliefs for which the petitioner – Society is found entitled to in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner – Society submits that the Board of Directors of the petitioner – Society has resolved vide resolution dated 09.10.2022 and vide letter dated 11.10.2022 has communicated to the District Cooperative Officer, Patna – respondent no.3 for holding a fresh election of the Board of Directors of the petitioner – Society namely Sri Ram Nagri Sahkari Grih Nirman Samittee Limited. The District Cooperative Officer, Patna instead of sending the proposal to the State Election Authority, he found certain irregularities to have been committed by the Board of Directors / Managing Committee without jurisdiction, even though such action with respect to any irregularity has to be communicated to the Registrar, Cooperative Department for such mal practice having been committed by the Board of Directors and for the said reason, he has not sent the proposal for holding of fresh election for fresh constitution of Board of Directors.

4. Mr. Mukesh Kumar Thakur, learned counsel appearing on behalf of the State Election Authority submitted that the State Election Authority has informed the District Cooperative Officer, Patna for sending the proposal vide



various letters and lastly vide letter dated 19.06.2023. Instead of sending requisition, the District Cooperative Officer submitted irregularity report to the Office of the Registrar, as well as, the State Election Authority for taking action against the Board of Directors / Managing Committee which jurisdiction rests with the Registrar.

5. Mr. Md. Zeeshan Kalim, learned AC to SC-20 submits that due action has been taken by the District Cooperative Officer, who has already sent the information relating to the alleged irregularity and of course some laches has been committed by him by not sending the requisition for holding of a fresh election.

6. Having heard the rival submissions made on behalf of the parties, the admitted fact is that the Board of Directors / Managing Committee of the petitioner - Society namely Sri Ram Nagri Sahkari Grih Nirman Samittee Limited, Patna had resolved on 09.10.2022 for holding of a fresh election of Board of Directors and a communication was made to the District Cooperative Officer vide letter dated 11.10.2022. The District Cooperative Officer though had informed the Registrar as well as the State Election Authority for taking appropriate action against the Board of Directors of the Society



but for the reason best known to him he has not immediately sent the requisition for holding of election to the State Election Authority in spite of the fact that the State Election Authority has made several requests for sending requisition, but the District Cooperative Officer for the reason best known to him has not made requisition by sitting tight over the resolution of the Board of Directors dated 09.10.2022. The District Cooperative Officer was again communicated vide letter dated 04.03.2023 (Annexure-4) by the petitioner – Society informing that meeting of Managing Committee is scheduled to be held on 15.03.2023 in the office of petitioner – Society. Thereafter, in the presence of Satyendra Prasad Singh, representative on behalf of the District Cooperative Officer, meeting was convened on 15.03.2023 and in his presence it was again resolved that the election be conducted for the Samittee.

7. After the meeting convened on 15.03.2023 in the presence of the representative on behalf of the District Cooperative Officer, the District Cooperative Officer did not take steps immediately to send proposal to the Bihar State Election Authority. The action of the District Cooperative Officer is condemnable and appropriate action is required to be taken against him by the State Government for not sending the



requisition for holding of fresh election in time, even though the District Cooperative Officer was first communicated vide Letter dated 11.10.2022 (Annexure-1) and then vide letter dated 04.03.2023 (Annexure-4) by the Board of Directors of petitioner – Society, namely, Sri Ram Nagri Sahkari Grih Nirman Samittee Limited and the District Cooperative Officer has deliberately allowed the committee to function against whom he has found irregularity to have been committed by the Board of Directors.

8. The Principal Secretary, Cooperative Department is directed to ensure that the District Cooperative Officer, Patna sends a requisition to the State Election Authority within a period of one week and thereafter he must seek show cause from him as to why he has deliberately not taken any action even though he has admitted that the Society is functioning in improper manner and there are allegation of irregularities to have been committed by the Board of Directors of the Society.

9. The writ application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	20.12.2023
Transmission Date	N.A.

