

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17146 of 2019

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Rahul Kumar Son of Satyendra Yadav Resident of Village-
Ghutaiya/Kathautiya, P.S.- Magadh Medical, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Cooperative, Government of Bihar, Patna.
2. The Bihar State Election Authority Through its Secretary, 42, Harding Road, Patna.
3. The Registrar Cooperative Society, Bihar, Patna.
4. The Assistant Registrar Cooperative Secretary, Gaya.
5. Nikash Kumar District Co-operative Officer, Gaya.
6. Dilip Kumar Joshi Block Co-operative Extension Officer, Sadar Block, District- Gaya.
7. The Block Development Officer Sadar Block, Chandauti, District- Gaya.
8. The Bihar State Co-operative Bank Ashok Rajpath, through its Managing Director, Patna.
9. Magadh Central Co-operative Bank Gaya, through its Managing Director.
10. Primary Agriculture Co-operative Society Having its office at Ghutaiya/Kathautiya, P.S.- Magadh Medical, District- Gaya, through its Adhyaksh Sushil Kumar Joshi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar
For the Respondent/s : Mr.Chitrangan Sinha (Paag2)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 22-06-2023 Heard the parties.

The prayer is for commanding the respondent nos.4 to 7 to enroll the petitioner and 384 others as members of the society declaring them its valid members as also commanding the respondent to deposit the admission fee of Rs.1/- each head in the account of the society by the respondent Magadh Central Co-operative Bank Ltd. Gaya as well as commanding the



respondent 1st & 7th party to include the name of the petitioner and 271 others in the voter list prepared for ensuring election 2019.

It has been contented by the learned counsel for the petitioner that in terms 44AQ(6) of the Bihar Co-operative Societies Act, 1935 member of every family residing in the local limits of the society has to be a member of the society. A perusal of 44AQ(6) read as follows:

“(6) Every family residing within the local limits of the new Society determined under sub-section (2) shall be represented by at least one adult member of the family who shall be a normal or associate member of the Society and shall be entitled to a right of voting if he pays a membership fee and may become a full-fledged member of the Society if he purchases at least one share of the Society and he shall be entitled to receive loan therefrom and shall also be eligible to hold any elective post of



the Society.”

He submits that in terms of Annexure-1 issued by the Registrar, Cooperative Society, Bihar, Patna, letter no.8017 dated 21.09.2016 by which online application was allowed, the petitioner as well as other locals submitted their online application which is Annexure-2. He submits that till date the same has not been disposed of and which dis-entitled them in the 2019 election.

Learned counsel appearing on behalf of the respondent cooperative society on the other hand took this Court to Section 7 of the Bihar Cooperative Societies Rules, 1959 which read as follows:

“7. Admission to Membership. – [(1)

*(a) Every person desiring admission to membership of a registered society shall apply in **Form V**.*

(b) The Secretary of the Society or any person duly authorised by him in this behalf shall immediately grant a receipt for the application in the form at the foot of form V

(c) In case the Secretary of the Society or any such person as aforesaid does not receive the application or grant a receipt for it, the applicant may submit his



application to the Block Development Officer or the Assistant Registrar or Cooperative Societies or the District Cooperative Officer, who shall immediately grant him a receipt for the application in the prescribed form, and shall at once send the same to the society concerned.

(d) The application shall be considered by a Managing Committee of the Society and the decision of the Committee thereon shall be communicated to the applicant within 15 days of receipt of the application and, where the application is rejected, with reasons therefore.

(e) If no decision is communicated to the applicant within the period specified above. It shall be deemed that the application has been accepted and the applicant has been admitted to the membership of the Society.]

(2) A person whose application for admission to membership has been rejected by the managing committee may, within sixty days of the communication of the decision to him appeal to the Registrar whose decision shall be



final.

(3) On payment of the admission fee and share money as prescribed in the bye-laws, a member shall be entitled to all the rights and shall be subject to all the liabilities of a member.”

He as such submits that the petitioner never made any application in Form-5 and if such application would have been there, only then the same could have been disposed of.

To this, learned counsel for the petitioner submits that in view of the Annexure-1 letter no.8017 dated 21.09.2016 facilitating online application, the same was done and as such the contention of the learned counsel for the respondent is unfounded.

This Court has gone through the rival submissions put forward by the parties as also the Annexure-2 and a bare perusal of the same would show that under no circumstance it can be said that a proper application has been preferred before the cooperative society.

In view of the fact that no such proper application was there, before the Cooperative Society, naturally no decision could be taken on his so-called application.



The present writ petition is bereft of merit but in view of prayer made by the petitioner the same is disposed of with the observation that if the petitioner make an application for his membership either offline or online, the same be decided in accordance with law.

The writ petition stands disposed of.

(Rajiv Roy, J)

Prakash Narayan /-

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