

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20233 of 2021

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Anil Bhushan, S/o Late Ram Chandra Singh, Resident of Kankarbagh Colony
More, P.O.- Lohiya Nagar, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Hon'ble's Minister, Department of Cooperative, Govt. of Bihar, Patna
through Nodal Officer Hon'ble's Minister's Court Cooperative Department
New Secretariat, Patna.
3. The Registrar, Cooperative Societies, Bihar, Patna.
4. District Magistrate, Patna.
5. Additional District Magistrate Cum Certificate Officer, Patna.
6. District Cooperative Officer, Patna
7. Bihar State Housing Cooperative Federation Limited, Lalit Bhawan, Nehru
Marg, Patna- 1 through its Managing Director.
8. Managing Director, Bihar State Housing Board, Mangals Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y. V. Giri, Sr. Advocate Mr. Shyama Kant Singh, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar, AC to GA-13
For Respondents No. 7 & 8:	:	Mr. Rajesh Prasad Chaudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 03-10-2023

Heard Mr. Y. V. Giri, learned senior counsel, duly
assisted by Mr. Shyama Kant Singh, learned counsel for the
petitioner, Mr. Sanjay Kumar, learned counsel for the State and
Mr. Rajesh Prasad Chaudhary, learned counsel appearing on
behalf of respondents no. 7 and 8.

2. The petitioner claims to be the Chairman of
Abhinav Krishak Sarkari Samiti Ltd., Kankarbagh Colony



More, Patna, which is a society affiliated with the Bihar State Housing Cooperative Federation Ltd. (respondent no.7), filed the present writ application seeking quashing of the order dated 02.11.2021 passed in Misc. Appeal Case No. 01 of 2020 by Hon'ble Minister, Department of Cooperative, Government of Bihar whereby the appeal has been dismissed as not maintainable and the order dated 18.02.2020 passed in Misc. Appeal Case No. 01 of 2020 passed by the Hon'ble Minister, Department of Cooperative, Government of Bihar, has been cancelled.

3. The submission of the learned senior counsel confines only to the legality of the impugned order, having been passed behind the back of the petitioner after reviewing the earlier order, dismissing the Misc. Appeal Case No. 01 of 2020 holding it to be not maintainable. Learned senior counsel straightway has taken this Court to the order dated 21.01.2020 and made his submission that the Misc. Appeal Case No. 01 of 2020 preferred by the petitioner was admitted by the Hon'ble Minister, Department of Cooperative, Government of Bihar and directed the parties to place their respective cases on 18.02.2020. The appeal was again heard on 18.02.2020 and with the consent of the parties directed to call for a list of Retired



Judges, from the Government Pleader, Patna for appointment of Arbitrator to resolve the dispute by making determination of liability. He further submits that thereafter the matter was never heard and all of a sudden the petitioner came to know about the impugned order dated 02.11.2021 whereby the Hon'ble Minister, Department of Cooperative, Government of Bihar taking note of the opinion rendered by the Legal Department has held the Misc. Appeal Case No. 01 of 2020 not maintainable.

4. It is submitted that had the Misc. Appeal Case not maintainable, the petitioner would have been given at least a notice or opportunity so that he can contest the issue, but the same has been passed behind his back. That apart, the impugned order cancelling all the earlier order, highlighted hereinabove would amount to review of its earlier order contrary to all the principles of law.

5. On the other hand, learned counsel for the State, drawing the attention of this Court to the averments made in the counter affidavit filed on behalf of respondent no.2, submits that since the remedy of the petitioner lies before the Bihar Cooperative Tribunal and thus the Hon'ble Minister has rightly passed the order that the Misc. Appeal Case is not maintainable. He further submits that the aforesaid order has been passed on



the basis of the opinion rendered by the Legal Department and, as such, the same is done in accordance with law.

6. Learned counsel for the respondent nos. 7 and 8, while supporting the submissions made on behalf of the learned senior counsel for the petitioner, submits that be that as it may, the order impugned must be passed in presence of the parties concerned so that they can get opportunity to place their submissions before the Hon'ble Minister.

7. Having heard the parties and taking note of the limited submissions made on behalf of the learned senior counsel for the petitioner, this Court is, *prima faice*, of the view that once the Misc. Appeal Case No. 01 of 2020 was admitted by the Hon'ble Minister after having found merit in the case, any order causing prejudice to the right and entitlement of the petitioner, even if based on law, the same shall be passed in presence of the petitioner, all the more when substantive order was passed for appointment of Arbitrator vide order dated 18.02.2020.

8. It is needless to observe that even a Tribunal or a quasi judicial authority can not review its own order, unless the power of review is expressly conferred, barring there is a procedural defect, vitiating the procedure. However, in any



circumstances, the opportunity to the affected parties of being heard cannot be denied.

9. In that view of the matter, this Court has no hesitation in setting aside the order dated 02.11.2021, passed in Misc. Appeal Case No. 01 of 2020 and accordingly, the order dated 02.11.2021, passed in Misc. Appeal Case No. 01 of 2020 is set aside and the matter is remitted to the Hon’ble Minister, Department of Cooperative, Government of Bihar to pass order after giving opportunity of hearing to all the stake holders, including the petitioner, on the point of maintainability or the issue raised before this Court.

10. The writ application stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2023
Transmission Date	NA

