

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10161 of 2023

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Ravindra Kumar S/o Ramchandra Singh Resident of -Ward No 16,
Korbaddha, Lagunia Surajkanth, P.S.-Samastipur Muffasil, Distirct-
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative department Bihar, Patna.
2. The Secretary, Bihar State Election Authority, BIhar, Patna.
3. Managing Director, Samastipur District Central Cooperative Vabk Limited, Samastipur.
4. The Sub Divisional Magistrate, Cum Election Officer, Sadar, Samastipur.
5. The Chairman through its Managing Committee, (Samastipur Central Co-operative Bank Llimited), Vinod Kumar Rai S/o-Braj Kishor Rai R/o Vill Bejha Dih, P.S.-Samastipur Muffasil, District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Baidya Nath Thakur, Adv
For the Respondent/s	:	Mr. Uday Shankar Sharan Singh (Gp 19)
		Mr. Bindhyachal Rai, Adv
		Mr. R.K. Chandram, Adv (AC to GP-19)
		Mr. Mukesh Thakur, Adv

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 05-08-2024 Heard the parties.

2. The present writ petition has been preferred for the
following relief(s):

*(i) for quashing the letter dated
30.11.2022 issued by the Managing Director,
Samastipur, District Central Cooperative Bank
Limited, Samastipur whereby a meeting of the
Board of Directors of the bank for recommendation
of the voter list for election of its Managing
Committee, was convened on 01.12.2022 itself as it*



is in violation of the statutory provision. Further, a writ of Mandamus be issued;

(ii) to declare the present election as null and void as it was held in defiance of the statutory provisions.

Further any other order(s) may be passed, direction(s) given or reliefs granted to the petitioner which he is entitled to in the facts and circumstances of the case.

3. This Court is of the view that the petitioner should have preferred an election petition in terms of under Section 48 of the Bihar Co-operative Society Act, 1935 which read as follows:

“48. Disputes. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its managing committee against a paid servant of the society) arises-

(a) amongst members, past members, persons claiming through members, past members or deceased members, and sureties of members, past members or deceased members, whether such sureties are members or non-members; or



(b) between a member, past member, persons claiming through a member, past member or deceased member, or sureties of members, past members or deceased member, whether such sureties are members or non-members and the society, its managing committee or any officer, agent or servant of the society; or

(c) between the society or its managing committee and any past or present officer, agent or servant of the society; or

(d) between the society and any other registered society;

(e) between a financing bank authorised under the provisions of section (1) of section 16 and a person who is not a member registered society;

such dispute shall be referred to the Registrar:

Provided that no claim against a past member or the estate of a deceased member shall be treated as a dispute if the liability of the past member or of the estate of the deceased member has been extinguished by virtue of section 32 or section 63.

Explanation. (1) A claim by a registered society for any debt or demand due to it from a member, 2[non-member],



past member or the nominee, heir or legal representative of a deceased member or 2[non-member] or from sureties or members, past members or deceased members, whether such sureties are members or non- members, shall be a dispute touching the business of the society within the meaning of this sub-section even in case such debt or demand is admitted and the only point at issue is the ability to pay or the manner of enforcement of payment.

Explanation.-(1) The question whether a person is or was a member of a registered society or not shall be a dispute within the meaning of this sub-section.

(2) The Registrar may on receipt of such reference.-

(a) decide the dispute himself; or

(b) transfer it for disposal to any person exercising the powers of a Registrar in this behalf; or

(c) subject to any rules refer it for disposal to an arbitrator or arbitrators.

(3) Subject to any rules, the Registrar may withdraw any reference transferred under clause (b) of sub-section (2) or referred under clause (c) of the said sub- section and deal with it in the manner provided in the said sub-section.

(4) The appointment of an



arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrators shall be regulated by rule.

(5) In the case of dispute involving property which is given as collateral security, it shall be competent to the person deciding such dispute to issue mortgage award which shall have the same force as a mortgage decree of a competent Civil Court.

(6) Any person aggrieved by any decision given in dispute transferred or referred under clause (b) or (c) of subsection (2) may, within three months from the date of such decision, appeal to the Registrar.

(7) The Registrar, in the case of dispute under this section, shall have the power of review vested in a Civil Court under Section 144 and under Order XLVII, Rule 1 of the Code of Civil Procedure, 1908, and shall also have the inherent jurisdiction specified in section 151 of the said Code.

(8) The Registrar may where it appears to him advisable, either on application or of his own motion, state a case and refer it to the District Judge for decision, and the decision of the District Judge shall be final.

(9) Save as expressly provided in



this section, a decision of the Registrar under this section, and subject to the orders of the Registrar on appeal or review, a decision given in a dispute transferred or referred under clause (b) or (c) of sub-section (2) shall be final.”

4. Learned counsel for the petitioner, in that background, submits that he may be granted liberty to prefer an appropriate petition.

5. Granting such liberty and without commenting anything on the merit of the case, the writ petition stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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