

29.08.2024
Sl. 08
Suman
Ct.No.15

WPA 16285 of 1996

**Bimalendu Chatterjee (Since Deceased) through his
legal heirs.**

Vs.

**A. C. Kol., Secretary, Government of West
Bengal,
Department of Co-operation and Ors.**

Mr. Debanik Banerjee
Mr. Sayak Chakraborti
Mr. Wrickbrata Roy
..for the petitioners

Mr. Debashis Banerjee
Mr. Subrata Saha
Mr. Rakesh Jana
..for respondent no.4

The original writ petitioner, Bimalendu Chatterjee, since deceased, filed this writ petition challenging an expulsion order removing him from membership in the Neelachal Housing Co-operative Society.

This petition has been pending before this Court for approximately 25 years. The original writ petitioner passed away on December 13, 2022.

By an order dated September 18, 2023, of this Court, the legal heirs of the original writ petitioner were allowed to proceed with the writ petition. An appeal against the said order was dismissed on May 20, 2024, by a Division Bench of this Court.

It appears that the original writ petitioner served as the Chairman of the Neelachal Housing Co-operative Society. After the expiration of his tenure, the Society expelled him by letter dated March 30, 1994, as a member of the Society.

Initially, the Society intended to allocate different plots of lands to its members. However, this scheme was later revised, and the Society decided to allocate flats in lieu of the plots to its members.

After his expulsion, the Society issued a letter dated March 12, 1996, proposing to refund Rs. 16,263 as the value of his share in the Society. The original writ petitioner disputed this amount, asserting that the value of his share should be at least Rs. 6,65,000.

The validity of the expulsion order cannot be adjudicated at this stage, given that the original writ petitioner has passed away during the pendency of the petition. Nevertheless, the substituted writ petitioners, as the legal heirs, are entitled to inherit the share of the original writ petitioner pursuant to Section 80(b) of the West Bengal Co-operative Societies Act, 1983.

The learned advocate for the petitioners has correctly referred to Section 81 of the 1983 Act, arguing that upon the expulsion of the original writ petitioner, the Society should have transferred his share or interest to the substituted writ petitioners.

In light of this, I find that the substituted writ petitioners, as legal heirs of the original writ petitioner, are entitled to the value of the original writ petitioner's share in the Society.

Given that the value of the share remains disputed, I am not inclined to issue any orders in this writ petition. I grant the substituted writ petitioners the liberty to approach respondent No. 3 to claim the value of the share in accordance with Section 81 of the West Bengal Co-operative Societies Act, 1983. If the petitioners approach respondent No. 3 within two weeks from the date of this order, respondent No. 3 shall decide their claims in accordance with the law within three months thereafter.

Respondent No. 3 shall consider the claims of both the substituted writ petitioners and the representatives of the Society in reaching a decision.

Accordingly, **WPA 16285 of 1996** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)