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24.04.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 11323 of 2024

**Smt. Sonali Ghosh & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Srinjoy Das,
Mr. Saroj Banerjee,
Ms. Jui Jana.
...For the Petitioners.**

**Mr. Srijan Nayak,
Ms. Rituparna Maitra,
Mr. Biplob Das.
...For the Registrar of
Co-operative Societies.**

**Mr. Srijan Nayak,
Ms. Rituparna Maitra,
Mr. Jayanta Samanta,
Ms. Dipanwita Ghosh Chowdhury.
...For the State.**

The petitioners, four in number, are members of a Cooperative Society consisting a total of eight members.

They allege defalcation of funds and mismanagement of the Society by the present Secretary who is hand in glove with the Chairman.

The petitioners have annexed the statement of accounts of the bank account maintained by the Society in the State Bank of India to show that the Secretary is making personal transaction from the account of the Society.

It has been submitted that a 'No Confidence Motion' has been put in motion by fifty percent of its members but the Board is not proceeding with the same. The Board is taking important decisions without the confidence of the members.

Prayer has been made for conducting an audit of the account of the Cooperative Society.

Learned advocate appearing for the petitioners relies upon Section 31 of the West Bengal Cooperative Societies Act, 2006 regarding the provision for conducting Special General Meeting.

It has been submitted that 50% members of the Society have sought to place before the Board a requisition in writing for discussion and decision on a specific object but the Board is deliberately refusing to accept such requisition and continuing taking important decisions relating to the running of the Society.

The proviso to Section 31(2) of the Act mentions that if the Board fails to call the Special General Meeting, the Registrar shall call such meeting.

According to Section 102 of the Act, the Registrar is the authority to decide the disputes concerning the management or business of affairs of the Cooperative Society.

In the instant case, the 'No Confidence Motion' against the Board is required to be sorted out by conducting a Special General Meeting. A request for conducting the Special General Meeting was sought to

be served upon the Board of Directors but the Board deliberately refused to accept the same.

In view of the above, the petitioners have approached the Court by filing the instant writ petition.

As it appears that there is a provision in the Act under Section 31(2) proviso for conducting the meeting by the Registrar in the absence of the Board calling for the Special General Meeting, accordingly, leave is granted to the petitioners to make a request before the respondent no.4 so that steps may be taken for conducting the Special General Meeting to decide the 'No Confidence' issue.

The aforesaid respondent shall also take a decision with regard to the prayer of the petitioners for conducting financial audit of the Cooperative Society to resolve the issue of defalcation of funds of the Society.

The respondent no. 4 is directed to take urgent steps in the matter at the earliest, but positively within a period of two weeks from the date of communication of this order.

Be it recorded that there is no proof of service upon the respondent nos. 5 and 6 but the matter has been taken up for consideration by the Court considering the urgency of the same.

The order passed hereinabove will not prejudice the non-appearing respondents in any manner, as the respondent no. 4 shall take a decision only after giving a reasonable opportunity of hearing to all the necessary parties.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)