

07 24.01.2024
KC Ct.15

W.P.A. 15853 of 2017
Atiullah Shaikh

-vs-

The State of West Bengal & Ors.

Md. Salahuddin,
Md. Ahsanuzzaman,
Md. Raziuddin

....for the petitioner.

Mr. Ankit Sureka,
Mr. Biplab Das

....for the respondent nos. 2 to 4.

Mr. Pradip Kumar Ray,
Mr. Asis Dutta

....for the State.

Affidavit-in-opposition filed on behalf of the respondent nos. 2 to 4 and affidavit-in-reply filed on behalf of the petitioner today are taken on record.

In the writ petition, the order dated 31st May, 2017 passed by the Assistant Registrar of Cooperative Societies, Birbhum Range is under challenge.

The learned advocate representing the petitioner while advancing argument submits that, the decision has been taken by the concerned Assistant Registrar of Cooperative Society pursuant to the order dated 12th April, 2017 passed by a Coordinate Bench on writ petition being WPA 10711 of 2017. According to the petitioner, the Assistant Registrar of Cooperative Society being respondent no. 3 in terms of the said order dated 12th April, 2017 was required to consider the

complaint dated 15th March, 2017 while taking decision but the respondent no. 3 failed to take into consideration the said complaint dated 15th March, 2017, therefore, the impugned order dated 31st May, 2017 needs to be set aside.

Mr. Sureka, learned advocate representing respondent no. 3 has filed affidavit and during course of hearing has made submission to defend decision of the respondent no. 3 dated 31st May, 2017. It is also submitted that the respondent no. 3 initiated the proceeding on the basis of the complaint of the petitioner dated 15th March, 2017. Therefore, the contention of the petitioner that the complaint was not taken into consideration while taking decision on 31st May, 2017 is erroneous submission.

Having considered the submissions made on behalf of the parties and on perusal of the impugned order dated 31st May, 2017, it appears that on finding several irregularities of the petitioner being the Chairman of the Cooperative Society order was passed giving certain directions including direction upon the Secretary of the said Society to furnish account to the Deputy Director, Cooperative Audit with special request to assess actual amount of cash in hand with the petitioner within a particular time. It was also directed that

the petitioner would deposit Rs.1,00,000/- within ten days from the date of passing order by the respondent no. 3 in savings account of the society, which was lying in Murarai Branch of Birbhum District Central Cooperative Bank Limited. It was also directed upon the concerned authorities to audit the accounts of the said Society for the year 2016 and 2017 within a specified time. Liberty was given to the Cooperative Society to file a dispute case under the relevant provisions of the West Bengal Cooperative Societies Act, 2006 read with West Bengal cooperative Societies Rules, 2011 or to file money suit in the Civil Court for recovery of the amount from the petitioner if the petitioner fails to deposit Rs.1,00,000/- in the aforesaid savings account of the Cooperative Society.

During course of hearing, it also transpires that petitioner is no more the Chairman of the Cooperative Society since he was elected as Chairman of the Cooperative Society in 2012 and statutory life of the Chairman ended after expiry of five years.

Only question, which remains to be decided in the backdrop of the submissions made on behalf of the petitioner that Rs.1,00,000/- was not deposited by the petitioner pursuant to the order dated 31st May, 2017 of the respondent no. 3,

whether the said amount needs to be deposited by the petitioner or not.

It is already recorded in the impugned order of the respondent no. 3 that in the event petitioner fails to deposit the amount of Rs.1,00,000/-, the Society shall be at liberty to initiate proceedings for recovery under the provisions of the West Bengal Cooperative Societies Act, 2006 or to institute money suit before the Civil Court. There is nothing on record from which it can be ascertained that the steps have been taken by the Society for recovery of the amount as directed by the respondent no. 3. If proceeding is initiated by the Society pursuant to the leave granted by the respondent no. 3 to recover of the amount as stipulated in the order of the respondent no. 3, in that event petitioner shall be at liberty to take steps in accordance with law and it is open to the petitioner to take all points available to him in order to substantiate his case before the appropriate forum.

In view of the expiry of the tenure of the petitioner as Chairman of the Society, other points need not be delved into at this stage.

With the above observations, the writ petition stands disposed of without any order as to costs.

Urgent photostat certified copy of this

order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)