

Court No. 2
26.6.2024
(Item No. 8)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 15958 of 2024

Debdas Datta
VS
The State of West Bengal & Ors.

Mr. Sourav Prasanna Mukherjee
Mr. Arka Mondal
.... For the petitioner
Mr. Srijan Nayak
Ms. Rituparna Maitra
.... For respondent No. 1
Mr. P. K. Roy
Mr. Ankit Sureka
Mr. Asis Dutta
.... For respondent Nos. 2 to 4

Affidavit of service filed in Court today, is
taken on record.

Mr. Sourav Prasanna Mukherjee, learned
advocate appears for the petitioner.

Mr. P. K. Roy, learned State advocate appears
for respondent Nos. 2 to 4.

Mr. Srijan Nayak, learned advocate appears for
respondent No. 1.

None appears for the concerned Co-operative
Society, despite notice.

The petitioner claims to be the Manager of the
concerned Credit Co-operative Society. On diverse
counts of alleged mismanagement of the affairs of the
concerned Co-operative Society the respondent No. 3
has served its order **dated May 29, 2024, annexure**
P-4 at **page 18** to the writ petition upon the petitioner

calling upon the petitioner to participate in a hearing which was scheduled on **June 6, 2024**.

Learned counsel for the petitioner submits that, he has participated in the hearing on **June 6, 2024**, still he is aggrieved as the said order impugned was passed allegedly in violation of several statutory provisions and therefore the petitioner claims that, this order is nonest in the eye of law and should be set aside and the enquiry proceeding initiated against the petitioner by the respondent No. 3 shall be set aside.

Learned counsel appearing for respondent No. 1 submits that, this is the fourth round of writ litigation by the petitioner to stall the enquiry proceeding against the petitioner including stalling further election of the Co-operative Society. He submits that, the petitioner at present is about 70 years old as would be evident from the verification of the writ petition. The petitioner cannot come as a selected Manager of the Co-operative Society after the age limit of about 62 years. He submits that, this writ petition is totally *mala fide* and harassive. He further submits that, this writ petition has been filed by the petitioner in his personal capacity and as such the same is not maintainable. He submits that there is a serious allegation of defalcation of fund against the petitioner.

Learned counsel appearing for respondent Nos. 2 to 4 adopts the submissions made on behalf of the respondent No. 1. In addition Mr. Roy submits that, this is at the enquiry stage and no interference can be made by a writ Court.

Per contra, Mr. Mukherjee, learned counsel for the petitioner denies and disputes the submissions made on behalf of the respondents. He submits that, all the allegations raised by the respondents are false and frivolous and without any material.

After considering the rival contentions of the parties and upon perusal of the records it appears to this Court that, the petitioner claims in **prayer (b)** to the writ petitioner recalling and withdrawal of the said impugned order dated **May 29, 2024** and the consequential withdrawal of any further enquiry proceeding in terms thereof. **Prayer (a)** to the writ petition is a general prayer.

On a close scrutiny of the impugned order dated **May 29, 2024**, it appears to this Court that, on the basis of some allegations of misconduct and mismanagement relating to the affairs of the concerned Co-operative Society, basically a hearing notice was issued to the petitioner. The petitioner has already admitted that he has participated in the hearing on **June 6, 2024** and thereby has acted upon the said impugned order dated **May 29, 2024**.

This Court is of the firm view that, no adverse decision has been taken yet against the petitioner under the said impugned order dated **May 29, 2024**, which would affect any right of the petitioner. There is no reason why the petitioner shall not participate and co-operate with the respondent No. 3 to conclude the enquiry proceeding logically and in accordance with law.

In view of the foregoing reasons and discussions, the said order impugned dated **May 29, 2024 is not interfered with.**

By consent of the parties the next date of hearing shall be on **July 10, 2024** at the same venue where the hearing took place on **June 6, 2024** and the hearing shall commence at **12.00 noon**. Thereafter, the respondent No. 3 shall further fix the date of hearing, if necessary, at its own discretion and liberty.

It is made clear that, the respondent No. 3 shall proceed with the hearing and shall come to its logical conclusion by passing a reasoned order after affording an opportunity of hearing to the petitioner and the relevant Co-operative Society including any other relevant and interested persons positively within a period of **two months** from **July 10, 2024**.

It is made clear that, this Court has not gone into the merits of the rival contentions of the parties

as recorded above. The petitioner and such other relevant interested party/parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent No. 3. The petitioner and such other relevant and interested party/parties shall also produce whatever documents and records they are required to be produced as per the direction of the respondent No. 3.

On the next day *i.e.* on **July 10, 2024** the respondent No. 3 in its minute of hearing shall formulate the issues serially on which the hearing shall take place and the petitioner will have to reply. Every day after conclusion of the hearing a minute shall be prepared and shall be signed by the petitioner, respondent No. 3 and such other parties who shall attend the hearing.

The respondent No. 3 then shall communicate its reasoned decision to the petitioner and such other parties who shall attend the hearing positively within a period of **two weeks** from the date of the said reasoned decision to be taken.

The respondent No. 3 shall also serve notice of hearing along with a copy of today's order upon such other relevant and interested party/parties informing that the next hearing shall take place on **July 10, 2024**.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition **W.P.A 15958 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)