

03.11.2025.
Court No.13
Item No. 8
ap

M.A.T No. 1374 of 2025
With
I.A. No. CAN 1 of 2025

Shyamal Kumar Singha & Ors.
Versus
Registrar, Co-operative Societies, West Bengal & Ors.

Mr. Ritzu Ghosal, ld. Sr. Advocate,
Mr. Mrinmoy Mohan Barat,
Mr. Aurin Chakraborty.

...For the appellants.

Mr. Srijan Nayak,
Mrs. Rituparna Moitra.

...For the Co-operative Election Commission.

Mr. Ankit Sureka,
Mr. Biplob Das,
Mr. Partha Sarathi Pal.

...For the respondent nos.1 & 4.

Mr. Debajyoti Datta, ld. Sr. Advocate,
Mr. Soumyadeep Biswas.

...For the respondent no.3.

Mr. Shamit Sanyal,
Ms. Priyakshi Banerjee.

...For the respondent no.5.

1. The question that has arisen for consideration in the instant appeal is two fold. Firstly, whether the Registrar, Co-operative Societies under the West Bengal Co-operative Societies Act, 2006 in terms of the power conferred on him under Section 64 read with Section 102 of the Act of 2006 and 3(35(i) of the West Bengal Co-operative Societies Regulations of 2012, could decide as to whether a member's nomination from a Primary Society for participation in an election process in District Central Co-operative Bank.

2. The learned Single Judge of this Court went on to hold that a dispute between the members and as to

whether a person was or was not a member to empower him to nominate a Member to the District Central Co-operative Bank falls within the exclusive domain of the Co-operative Election Commission.

3. For the purpose of assessing the propriety of the aforesaid part of the decision, it is necessary to set out Section 64, Section 102 of the Act of 2006 and Regulation 3(35)(i) of the Co-operative Election Regulations.

64. Admission as member.- (1) Any person eligible for membership under sub-section (1) of section 63 may apply to the Co-operative society for admission as a member thereof in the form and manner as prescribed. (2) Every application for membership shall be disposed of by the Co-operative society within a period of forty-five days from the date of receipt of application. The decision of the Cooperative society on such application shall be communicated to the applicant within fifteen days from the date of such decision. If no such communication is received, the application shall be deemed to have been accepted on the expiry of sixty days from the date of receipt of the application by the Co-operative society.

(3) No Co-operative society shall, without sufficient cause refuse admission to any person duly qualified for membership under this Act and the by-laws of the Co-operative society. Where the application is so refused, the decision with reason shall be communicated by registered post or by hand delivery to such person within fifteen days from the date of decision. Any person whose application for membership has been refused by the Co-operative society may appeal to the

Registrar within thirty days from the date of receipt of the decision communicated to him.

(4) The Registrar shall dispose of the appeal within sixty days from the date of receipt of the appeal and pass such order, as he thinks fit and such order shall be final.

102. Disputes to be filed before Registrar.- (1) Any dispute concerning the management or business or affairs of a Co-operative society **other than the dispute relating to election in a Cooperative society as and when such election is conducted by the Co-operative Election Commission** and disciplinary action taken by Co-operative society against its paid employees regarding the terms and conditions of the service shall be filed before the Registrar for settlement if it arises- West Bengal Co-operative Societies Act, 2006 (with all two amendments highlighted) Page 68 of 110

(a) among members, past members and persons claiming through members and deceased members or then sureties: or

(b) between member, past member or a person claiming through a member, past member or deceased member representing through heirs or legal representatives and the Cooperative society, its board or any officer, agent or employees of the Co-operative society or liquidator, past or present; or

(c) between the Co-operative society or its board and any past board, any officer, agent or employee or any past officer, past agent; or past employee or the nominee, heirs or legal representatives of any deceased officer or deceased employee of the Co-operative society; or

(d) between two Co-operative society or between a Co-operative society and a liquidator of another Co-operative or between liquidator of two different Co-operative or between a Co-operative society and any person having transaction with it or between a Cooperative society and its financing bank.

(2) Any dispute mentioned in sub-section (1) other than a dispute relating to recovery of money shall be filed before the Registrar within three months from the date on which the cause of action arises.

(3) Notwithstanding anything contained in this section or in any other law for the time being in force, the Registrar may admit any dispute after the expiry of the period of limitation provided in sub-section (2), if the applicant can show sufficient cause for not filing the dispute within such period of limitation and the dispute so admitted shall not

be barred by limitation. (4) Any Civil court or any consumers' Dispute Redressal Forum shall not have any jurisdiction to try any dispute as mentioned in sub-section (1),

(5) Any dispute to be filed before the Registrar shall be made in writing to be called the plaint and it shall be filed in such manner and form as may be prescribed.

3. REGULATION REGARDING CONDUCT OF ELECTION OF DELEGATES OF THE CO-OPERATIVE SOCIETIES:-

(35)(i) Any dispute relating to election of delegates in any co-operative society shall be referred to the Co-operative Election Commission within 30 days from the date of arising of such dispute.

4. The process of election to a District Central Co-operative Bank involves the following:

- (a) Members are nominated from the Primary Co-operative Societies to represent such Societies in the District Central Co-operative Bank;
- (b) These members will elect Directors;
- (c) The Directors thereafter elect Office Bearers, namely, Chairman, Vice Chairman and Secretary in the District Central Co-operative Bank.

5. The dispute in the instant case was that three members of three different Primary Societies and particularly the appellant no.1 were nominated by the Chairman of the said Primary Societies after expiry of such Chairman's term. As such, the nomination of the members by the Primary Society to the District Central Co-operative Bank was illegal and de hors authority of law.

6. A plain reading of Section 64, Section 102 and Regulation 3(35)(i) of the Regulation set out hereinabove clearly indicates that the Registrar is the

only person entrusted with the powers to decide all disputes amongst the members, between the members and past members etc. Section 102 of the West Bengal Co-operative Societies Act, 2006 bars the Registrar's jurisdiction to deal with disputes relating to the election of a Co-operative Society, i.e. the formation of an individual Co-operative Society. The nomination is stated to be made by a Chairman whose term as an Officer expired before the date of the said nomination. Therefore, under Section 102, the Registrar has to decide the present dispute, which has no relation to an election to a Co-operative Society.

7. Therefore, only the Registrar is empowered, inter alia, under Section 102 of the West Bengal Co-operative Societies Act, 2006 was, therefore, restricting to ascertain whether the three appellants have been duly nominated by valid Office Bearing Chairman of the Primary Society. He has done so.

8. In the first two writ petitions that occurred, as a pre-cursor to the writ petition before the learned Single Judge of this Court an order was carried to the Division Bench of this Court that asked him to decide as to whether the Registrar possesses jurisdiction under the West Bengal Co-operative Societies Act, 2006 and its Rules and Regulations to decide the validity of the nominated members. Consequently therefor a Chairman of a Society, who did not hold the post any further could not nominate any member to

participate in an election of the District Central Co-operative Bank.

9. The arguments of Mr. Ritzu Ghosal, learned Senior Advocate appearing for the appellants is that while the Division Bench has asked him to decide his jurisdiction to entertain the dispute, the Registrar did not record a sentence in this regard but went on to decide the disputes. The Registrar has thereby impliedly decided that he had jurisdiction.

10. This Court is of the view that not every technicality in an administrative order can be sat in an appeal by the Writ Court. The Writ Court is empowered, if necessary to look into the applicable Laws and decide as to whether there is substantial compliance of the order of a Co-ordinate Bench of this Court. The arguments of Mr. Ghosal are, therefore, not acceptable to this Court.

11. The answer to the question provided hereinabove by us, substantially reduces the scope of the answer to the next question. The Co-operative Election Commission which is required to decide the Election disputes cannot therefore decide a dispute between the members and non-members or whether a member has been validly nominated from a Primary Society.

12. The writ and the authority conferred under the Co-operative Election Commission is specified under the West Bengal Co-operative Societies Regulations of

2012 and under Section 96 of the West Bengal Co-operative Societies Act, 2006. It is empowered to decide all steps taken after the appointment of the A.R.O. and the election process as stipulated in the aforesaid Regulation of 2012. The Election Commission can only decide whether a valid member has cast his vote in the election to the District Central Co-operative Bank.

13. Mr. Ghosal, learned Senior Advocate appearing on behalf of the appellants lastly argued by reference to the decision of the Hon'ble Supreme Court of India in the case of ***Assistant Commissioner (CT) LTU, Kakinada & Others - Vs. - Glaxo Smith Kline Consumer Health Care Limited*** reported in **(2020) 19 Supreme Court Cases 681** particularly paragraphs 14 to 16 thereof. It was held that that even assuming for the sake of argument that the election disputes could have been raised by the concerned aggrieved party, the same had to be raised within 30 days from the date of arising of such disputes.

14. This Court firstly notes that it is only in the process of three writ petitions filed before this Court that ineligibility consequent upon the illegality of nomination of three appellants as members of three Primary Societies in the election process to the District Central Co-operative bank arose.

15. While it is true that the decision of the Registrar, which is a pre-cursor to the proceedings before the Co-

operative Election Commission is dated 26th June, 2025, the same is subject to the decision of this Court. Since the learned Single Judge of this Court has upset the said decision and this Court has restored the same, the election disputes must be deemed to have arisen very recently, if not today itself.

16. There is yet another distinguishable facts that this Court notices in the case of **Glaxo (supra)** cited by Mr. Ghosal. In all the cases referred to paragraphs 14, 15 and 16, the statutory appeal therein was preferred by the litigant beyond the statutory period. In the instant case, the statutory period even assuming it had expired, did so while the learned Single Judge of this Court and the Division Bench were in seisin of the matter.

17. This is a fine distinction that cannot be ignored to deprive an illegality in an election process from being examined by an Election Commission.

18. Having regard to the discussions made hereinabove, this Court is of the view that the Election Commission shall consider and dispose of the decision already pending with it based on the findings of the Registrar dated 26th June, 2025, preferably within a period of ten weeks from date.

19. The impugned order shall stand modified accordingly. M.A.T. 1374 of 2025 shall stand disposed of.

20. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 shall also stand disposed of.

21. There will be no order as to costs.

22. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)