

M/L1138
22.04.2025
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21093 of 2024

Sk. Basiruddin & Anr.
Versus
State of West Bengal & Ors.

Mr. Pabitra Charan Bhattacharjee
Mr. Sovan Nayak
... For the petitioners.

Mr. Santanu Kumar Mitra
Mr. Amartya Pal
... For the State.

Mr. Ankit Sureka
Mr. Biplab Das
Mr. Partha Sarathi Pal
... For the respondent no.2.

1. Affidavit of service filed in Court today is taken on record.
2. The instant writ petition has been filed inter alia praying for a writ in the nature of mandamus commanding the respondent no.2 to immediately hold an enquiry and pass an order for removal of the respondent nos. 4 and 5.
3. Mr. Bhattacharjee, learned advocate appearing on behalf of the petitioners would submit that the petitioners are the members of a primary cooperative society, being the respondent no.3. It is the petitioners' case that the Chairman of the society though being otherwise disqualified

has been retained as Chairman. In support of his aforesaid contention he has placed reliance on the provisions contained in Section 32(2) of the West Bengal Cooperative Societies Act, 2006 (hereinafter referred to as the “said Act”), which inter alia provides that no person shall be elected, nominated or co-opted as a director under sub-section (1), if he is a defaulter in repayment of any loan granted by or in repaying price of any commodity purchased on credit from a cooperative society, Government and other statutory authority or has been convicted by any competent Court of law for criminal offence or moral turpitude or of any offence under this Act and sentenced to fine or imprisonment or both. By drawing attention to page 49 of the writ petition he would submit that it would transpire therefrom that the respondent no.4 is a defaulter of the loan advanced to him and as such not competent to continue as the Chairman of the respondent no.3.

4. Notwithstanding the petitioners having from time to time made diverse representations, no steps have been taken by the Registrar of the Cooperative Societies. Having regard thereto, it is submitted on behalf of the petitioners that for

the time being, this Court may direct the Deputy Registrar of the Cooperative Societies to decide the petitioners' representation. This apart, there are allegations against the Secretary which also needs to be enquired into.

5. Mr. Sureka, learned advocate appears on behalf of the respondent no.2. He submits that the West Bengal Cooperative Societies Act, 2006, in itself, provides for a remedy in relation to the disposal of dispute by the Registrar. The petitioners have not invoked such remedy. In this context he has placed reliance on Section 102 of the said Act.
6. Heard the learned advocates appearing for the respective parties and considered the materials on record. As would appear that the petitioners' primary grievance is with regard to and concerning the management and business or affairs of the cooperative society. Having regard thereto, I am of the view that since an alternative remedy in the form of settlement of dispute under Section 102 of the said Act has been provided for, the instant writ petition cannot be entertained on such ground.
7. Be that as it may, since a remedy in the form of reference under Section 102 of the said Act is

provided for, I am of the view, in the event the petitioners invoke such remedy the Registrar shall be obliged to consider the same in accordance with law.

8. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)