

M/L 1068
10.06.2025
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27294 of 2024

Surajit Banerjee
Versus
The State of West Bengal & Ors.

Mr. Anindya Lahiri, Sr. Advocate
Mr. Samrat Dey Paul
Mr. Anish Chakraborty
Mr. Subhomay Paul
... For the petitioner.

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

Mr. Srijan Nayak
Ms. Rituparna Maitra
... For the Cooperative Election
Commission.

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 direction upon the respondents to appoint a full-fledged Chief Executive Officer (in short, CEO) of the Alipore Sub-Division Central Fishermen's Co-operative Society Ltd., South 24 Parganas, (hereinafter referred to as the "said Society") prior to the declaration of election of the said Society.
3. The petitioner has also sought for a direction upon the respondents, especially the respondent

no.5 to submit an action taken report in compliance with the letter dated 29th May, 2024, forming Annexure P-10 to the writ petition, before the ensuing election of the Society.

4. It is the petitioner's case that the previous CEO of the said Society had been transferred on promotion and consequent thereupon the Assistant Director of Fisheries, South 24 Parganas by an office order dated 28th February, 2022 on the basis of the guidelines provided in first proviso of Rule 57(viii) of the West Bengal Cooperative Societies Rules, 2011 had appointed the petitioner who was the manager and the highest designated employee of the said Society to take over charge and hold the same until appointment of a new CEO, as an interim arrangement in the interest of the society. Since then, by an office order dated 12th May, 2022 a new CEO was proposed, unfortunately, he did not take charge. Records would reveal that the Assistant Director of Fisheries & Ex-Officio ARCS, South 24 Parganas by office order dated 8th August, 2022 had reconstituted the Board of Directors of the said Society on *ad hoc* basis. Subsequently, after expiry of the term of the aforesaid *ad hoc* directors, the Board of Directors

of the said Society had once again been reconstituted by an office order dated 18th December, 2023 on *ad hoc* basis.

5. In the interregnum and during the pendency of the writ petition the election of Board of Directors of the said Society was held on 8th January, 2025 and consequent thereupon, the results were published by the Assistant Returning Officer. Such fact would corroborate from a communication dated 8th January, 2025 issued by the Assistant Returning Officer, Alipore Sub-Division CFCS Ltd., a copy whereof as placed before this Court by Mr. Nayak, learned advocate representing the Cooperative Election Commission, West Bengal, is taken on record. Mr. Nayak would also by placing before this Court a Notification dated 22nd January, 2025, issued by the Assistant Returning Officer, submit that the office bearers election has been held on 22nd January, 2025 and new Board of Directors has taken charge. Although, the petitioner would insist for appointment of CEO even after the newly elected Board taking over, I find that the provisions for appointment of Chief Executive as defined in Section 4(22) of the said Act is provided under Section 33 of the West

Bengal Cooperative Societies Act, 2006 (hereinafter referred to as the “said Act”). To morefully appreciate the same, Sections 4(22) and 33 of the said Act are extracted hereinbelow:

4(22) “chief executive” means a person, by whatever designation he may be called, who being appointed by the board, manages the affairs of the co-operative, subject to the superintendence, control and direction of the board and includes Chief Executive Officer appointed by the State Government or the Registrar of co-operative societies under section 33.

33. Deputation of Government officers to manage the affairs of Cooperative society.

(1)The State Government may, on the application of a Cooperative society supported by a resolution of the board or the general body of its members, depute on such conditions and in such manner as may be prescribed, a Government officer to the service of the Cooperative society, to manage its affairs. Such Government officer shall exercise such powers and perform such duties as may be prescribed:

Provided that if there is a condition by the financing agency that the State

Government should depute a Government officer to manage the affairs of the Cooperative society for which assistance from the agency is give or the State Government has given financial assistance directly to the Cooperative society, the State Government shall, on the recommendation of the Registrar, appoint such officer, on such conditions and in such manner as may be prescribed. Such Government officer shall exercise such powers as may be prescribed.

(2) The Registrar may, on the application of a Cooperative society supported by a resolution of the board or the general body of the members of the Cooperative society, depute on such conditions and in such manner as may be prescribed, a Government officer in respect of whom he is the appointing authority or recommended to the State Government for deputation of a Government officer to the service of the Cooperative society to manage its affairs. The Government officer so deputed shall exercise such powers and perform such duties as may be prescribed.

6. Section 32 of the said Act would, however, highlight that the management of the Cooperative Society vests in the Board of

Directors who are empowered to manage its affairs. Since, a new Board of Directors has already taken charge and since primarily no request in writing supported by any resolution of the board or the general body of its members in the manner prescribed, has been made to the State Government, as would appear from the submissions made by the learned advocate for the State, and since it is also not the case of the petitioner that the case of the petitioner falls within the exception provided for in the proviso to Section 33(1) of the said Act, I am of the view that there is no legal right of the petitioner to pray for appointment of any CEO, on the reconstitution of the Board. The right of the petitioner, if any, to the post of CEO, on the newly reconstituted Board taking charge automatically comes to an end. The petitioner cannot have any independent right in the office of the CEO nor can he press for appointment of permanent CEO. Such a prayer is utterly misconceived.

7. Insofar as the prayer made by the petitioner for a direction upon the respondent no.5 to submit an action taken report is concerned, I am of the view, having regard to the scheme of the said Act as regards the powers of the Board of Directors who are entrusted with the management of the

cooperative society, all steps in this regard may be taken by them.

8. If the petitioner has any grievance insofar as payment of salary is concerned, the petitioner shall be entitled to ventilate the same before the appropriate forum.

9. With the above observations and direction, 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.)

