



HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE ASHISH NAITHANI

27TH FEBRUARY, 2025

SPECIAL APPEAL NO. 16 OF 2025

Uttarakhand Cooperative Election Tribunal. ...Appellant

Versus

Mange Ram Sirohi & another ...Respondents

Counsel for the Appellant: Mr. Sandeep Kothari, learned counsel.

Counsel for the respondent no. 1: Mr. Shobhit Saharia, learned counsel.

Counsel for respondent no. 2: Mr. S.N. Babulkar, learned Advocate General with Mr. C.S. Rawat, learned Chief Standing Counsel and Mr. Ganesh Dutt Kandpal, learned Deputy Advocate General for the State of Uttarakhand.

JUDGMENT : (per Sri Manoj Kumar Tiwari, J.)

Uttarakhand Cooperative Election Tribunal
has challenged the interim order dated 21.02.2025,
passed by learned Single Judge in Writ Petition(M/S)
No. 3273 of 2024. Relevant extract of the said order is
reproduced below:-



“11. When the changed Rules were notified on 12.12.2024, the petitioner has filed an amendment application seeking mandamus declaring the proviso to Rule 12(b) of 2018 Rules as illegal, irregular and unconstitutional amounting to interference in the election process, once the same has already been commenced.

12. A bare perusal of above Rule 12(b) of 2018 Rules makes it abundantly clear that initially the voter rights were limited to such members by whom transactions have been done with the society 45 days before the date of election, at least in any year during the previous three cooperative years. But, by adding proviso to it, it has been tried to be diluted. The voter list is expanded by adding the proviso and this expansion of voters list was not done before commencement of the election, but after notification of the election on 12.09.2024, when the process was already underway.

13. It is true that the election process should not be interfered with in midway in normal circumstances, but here, the respondents have interfered with the election process midway and the interference is not on any small issue, but by such amendment the voters have been expanded.

14. Earlier also apprehension was raised by the petitioner in the first petition. At that stage, it was observed that the Cooperative Election Guidelines, 2024 issued by the respondents shall be governed by its explanation and Rule 12(b) of 2018 Rules shall have an overriding effect.

15. The respondents did not stop. Strangely, the Chairman of the Cooperative Election Authority deferred the election by forwarding a proposal for amendment in Rule 12(b) of 2018 Rules. The operation of the impugned communication dated 04.11.2024 was stayed by the Court on 13.12.2024. On that date, it was not told by the State that any amendment has already been carried out.

16. The apprehension which the petitioner had raised in the first petition has turned out to be true. After commencement of the election process, the respondents had interfered in it and tried to widen the horizon of voters by amending Rule 12(b) of 2018 Rules. Therefore, under such



exceptional circumstances, this Court has no other option, but to pass an interim order. This is a situation which warrants interference of the Court.

17. The respondents may conduct election in accordance with all the existing Rules except the amendment that has been incorporated in Rule 12(b) of 2018 Rules as notified in the official Gazette on 12.12.2024.”

2. Learned Counsel for the appellant contends that impugned order is unsustainable. He relies upon proviso to Rule 441 of Co-operative Societies Rules, 2004 and contends that once election process is notified, nominations are finalized and symbols are allotted, the process of election cannot be suspended or postponed. Rule 441 along with proviso with Rules is extracted below:-

“441. Where the State Government is satisfied that circumstances exist which render it difficult to hold the election on the date fixed by the Registrar, it may direct the Registrar to postpone the election and thereupon the Registrar shall postpone the election and all proceedings with reference to election shall be commenced afresh in all respects:

Provided that if nominations have been finalized and symbols have been allotted, the process of election shall continue and poll shall be held on such date as the Registrar may fix.”

Rule 441 & proviso to said Rule restrict the power of the authorities of Co-operative Department , but not of a constitutional Court. Thus, the contention based on Rule 441 is not tenable in the eyes of law.

3. Learned counsel for the appellant further submits that (i) writ-petitioner had no *locus standi*, as he was not affected by the communication dated 04.11.2024, impugned in the writ petition or the



amendments carried out in the Rules after 04.11.2024;
(ii) the interim order passed by learned Single Judge amounts to final relief, as the entire election process would be derailed if that order is permitted to stand; and (iii) Members to 93% of the Co-operative Societies are elected unopposed upto 18.02.2025 in the election held, as per the proviso to Rule 12(b) of Uttarakhand Cooperative Societies Election Rules, 2018, but for the remaining 7% societies, proviso to Rule 12(b) would not be applicable.

4. Per contra, learned counsel for the respondent no. 1 submits that his client has locus to file the writ petition, inasmuch as, he is a Member of Primary Agricultural Society, Susada, Tehsil Bhagwanpur, District Haridwar and he held the Office of Director and also the Chairman of the aforesaid society; because of the order dated 04.11.2024, issued by the Chairman, State Co-operative Election Authority, election process was deferred on wholly untenable grounds to enable the State Government to relax the eligibility conditions for inclusion of name in the voter list. He further submits that the timeline fixed by



learned Single Judge of this Court in Writ Petition (M/S) No. 1999 of 2023 was also breached, as the deadline for concluding election process was already over on 15.06.2024.

5. Learned counsel for the respondent no. 1 submits that as per provision contained in Section 29(3) of the Uttarakhand Co-operative Societies Act, 2003, election to the Committee of Management has to be conducted before expiry of the term of the outgoing Committee; the term of the earlier Committee expired on 22.07.2022 and the election process was notified by the Uttarakhand State Co-operative Election Authority only on 12.09.2024. He further submits that once election process is notified as per the then prevailing statutory provisions, then no change can be brought about in the statutory provisions by way of amendment or repeal, so as to change the complexion/composition of voter list. He submits that election process commenced on 12.09.2024 but, the authority responsible for holding election, suspended the election process vide communication dated 04.11.2024, and State



Government thereafter amended the Uttarakhand Co-operative Societies Election Rules, 2018, by adding proviso to Rule 12(b). He submits that persons, who were inducted as Member, by the Administrator, after expiry of term of earlier Committee of Management, were not eligible to vote, as they had not made any transaction with the Society during the last three co-operative years, however by virtue of proviso added to Rule 12(b), such persons also became eligible to vote, thus, composition of voter list was completely changed. He submits that Rules of the game cannot be changed after commencement of election process, and amendment, if any, made in the Rules, which has the effect of altering conditions of eligibility of a voter can apply only to future elections and not to the ongoing election process, which was initiated much before amendment of Uttarakhand Co-operative Societies Election Rules, 2018. Thus, he submits that there is no infirmity in the interim order passed by learned Single Judge, and the Co-operative Election Tribunal is obliged to hold election as per the Rules, which were in vogue at the time of commencement of election process. He



further submits that the contention that final relief has been granted in the garb of interim order is also not correct and having regard to the facts and circumstances of the case, interference in the matter was called for and there is no infirmity in the order passed by learned Single Judge. He submits that learned Single Judge has not stayed the election process and has directed that election may go on as per the Rules in vogue, at the time of commencement of election process.

6. As regards the third and fourth submissions made on behalf of the appellant, learned counsel for respondent no. 1 submits that persons, who were not eligible, were made eligible by adding proviso to Rule 12(b) of Uttarakhand Co-operative Societies Election Rules, 2018, and such persons got elected unopposed. Thus, he submits that this fact in itself reveals that proviso to Rule 12(b) was added with a purpose and that purpose was achieved when office bearers were elected unopposed to 93% of the Co-operative Societies.



7. State Government, in exercise of its Rule making power under Section 128 of Uttarakhand State Co-operative Societies Act, 2003 has framed the Uttarakhand State Co-operative Societies Election Rules, 2018. Rule 12, 34, 35 & 36 of the said Rules, on which reliance is placed by the parties, are extracted below:-

“12. Preparation of voter list. (a) The Secretary or the Managing Director of the society shall in accordance with the directions given by the Authority from time to time or the provisions for the time being in force, prepare a list of all the voters against whose name the disqualifications, if any, as described in the Act, these rules or bye-laws shall be mentioned in the list and the members, ordinary members or sympathizers, duly enrolled 45 days before the date of election shall only be included.

(b) in case of Agricultural Credit Society, only those members shall be included in the voters list by whom transactions have been done with the society 45 days before the date of Election at least in any year during the previous three Co-operative years:

Provided that in case of the societies, whose general body is constituted by individual members and the delegates of the societies, or only by the delegates of the societies, the voters list shall be prepared under rule 85 under Cooperative rules and the voters list so prepared shall be called the provisional voter list which shall bear the signature and seal of the Secretary or the Managing Director:

Provided further that the delegates of such societies which are under winding up or which have been suspended or superseded due to non-election of the Committee of Management, shall not be included in the Voters list.



34. Preparation of Provisional voter list. The Secretary/Managing Director of the society related with the election shall prepare a provisional voters' list subject to rule 12 on the following basis:-

(i) In case of societies having individual members in their general bodies or of societies of which general bodies consists of delegates of individual members;

(ii) In case of general bodies which consists of individual members and society members shall prepare a list in 03 copies indicating such date as may be specified by the Authority the name, father's name, address noted in the books of society, disqualification, if any hereinafter referred to as provisional voters' list and it shall be prepare in Following manner:-

(a) Gram Panchayat wise/revenue village wise in case of primary agricultural credit Co-operative societies, primary Sugercane societies and Primary milk Societies;

(b) Mhalla-wise/ward-wise in primary co-operative societies including consumer co-operative societies situated in urban areas and in areas other than urban, gram-panchayat wise;

(c) In case of other committee in constituency-wise or proportionate serial-wise of all members/constituency-wise or any other rational basis as maybe decided by Authority in case of any other society.

Provided that in case of a Co-operative society having other societies as its members or society covered under clause (ii) such list shall be submitted to Election Officer along with the names of the elected delegates of the society or of the existing delegates if names of elected delegates are not received before the publication of voters' list.

Provided further that in case of branches of Uttarakhand State Co-operative Bank Ltd., Haldwani or extends sub-offices of societies of which area of operation exte to more than one revenue district and the membership of which consists of individual members, such lists shall be prepared by the branch manager of the concerned branch or in charge of sub-offices, as the case



maybe, and shall be submitted to the Election Officer;

(iii) Provisional voters' list shall be made available at the proper time to the Election Officer by the Secretary/Managing Director of the society, as the case maybe after signing and putting seal on it.

35. Display of Provisional voter list. The Election Officer shall display the said provisional voters' list at the headquarters of the society or sub-office or branches of society at the date and time fixed in the election programme.

36. Disposal off objection. Objections if any shall be heard by the election officer and the date, time and place fixed by him and final voters' list shall be prepared disposing off the objections."

8. Perusal of Rule 12 of the Election Rules, 2018 indicates that the Secretary/Managing Director of the Society has to prepare a list of all the voters and disqualification, if any, suffered by such voters, shall be clearly indicated against the name of such voters. Rule 12(b) further provides that in case of Agricultural Credit Society, only such members shall be included in the voter list, who have made a transaction with the society, at least in any one year during the previous three cooperative years, 45 days before the date of election. A conjoint reading of Rule 12(a) & 12 (b) of the aforesaid Rules indicate that as per the Rules in vogue at the time of the commencement of election process i.e. 12.09.2024, persons who had not done



even a single transaction, 45 days before the date of election, during the last three years were ineligible. However, by the first proviso added to Rule 12 (b) vide notification dated 12.12.2024, the requirement of having minimum one transaction during the last three years has been done away with. This, according to the writ petitioner, could not have been done, as persons, who were not qualified to be part of the voter list, were included in the voter list by relaxing the disqualification mentioned in Rule 12(b).

9. This Court finds substance in the submission made by learned counsel appearing for respondent no. 1 that proviso to Rule 12(b) added vide notification dated 12.12.2024 can apply only to future elections and it cannot have any application to the election process, which commenced on 12.09.2024. Law is settled that rules of the game cannot be changed midway after commencement of election process.

10. Mr. Sandeep Kothari, learned counsel for the appellant submitted that election process initiated vide notification dated 12.09.2024 was scrapped and



thereafter fresh election process was initiated on 25.01.2025. He was granted time to get the notification, whereby election process was scrapped. He has produced Order No. 435-45/2024-25 dated 02.12.2024 issued by Chairman, Co-operative Election Tribunal Uttarakhand, which is taken on record. Perusal of the said order reveals that election process initiated earlier was suspended and not cancelled. The expression used, in the said order about ongoing process is '*sthaagit*' and not '*nirast*', therefore, this Court does not find any substance in the submission made by Mr. Kothari that the election process initiated earlier was cancelled vide order dated 02.12.2024.

11. This Court finds substance in the submission made by learned counsel for respondent no. 1 that since purity of election process was defiled due to change in the composition of voter list based on an amendment in the Rules, made after commencement of election process, therefore, the interference made by learned Single Judge



cannot be faulted. Thus, this Court does not find any reason to interfere with the interim order dated 21.02.2025 passed by learned Single Judge in Writ Petition (M/S) No. 3273 of 2024.

12. Accordingly, Special Appeal fails and is dismissed.

MANOJ KUMAR TIWARI J.

ASHISH NAITHANI, J.

Dt: 27.02.2025
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