

(2006) 01 JH CK 0026
In the Jharkhand High Court
Case No : L.P.A. No. 101 of 2004

A.G. Office Employees Co-operative House Construction
Society Ltd. and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-01-2006

Acts Referred:

Co-operative Societies Act, 1912 — Section 41

Citation : (2006) 2 JCR 72

Hon'ble Judges : N. Dhinakar, C.J;S.J. Mukhopadhaya, J

Bench : Division Bench

Advocate : A.R. Choudhary, Delip Jerath, Manoj Tandon, S.N. Prasad and Shiv Shankar Kumar, for the Appellant; A.K. Sinha, A.G. and I. Sen Choudhary, S.C.-III, for the Respondent

Judgement

1. The Managing Committee of A.G, Office Employees Cooperative House Construction Society Limited, Ranchi (Appellant No. 2) was suspended by the Secretary, Department of Cooperative, Government of Jharkhand, Ranchi, vide order dated 15th December, 2003 and the Circle Officer, Sadar, Ranchi, was made Special Officer for managing the affairs of the society till further orders, pending the enquiry. It was challenged by the appellants in W.P. (C) No. 6302 of 2003. In the meantime, new Managing Committee was elected by the order of the Court. The learned Single Judge while disposing of the writ petition vide order dated 22nd January, 2004, directed the Circle Officer, Sadar, Ranchi, to take charge of the Society. The Government was directed to proceed with the enquiry and to conclude the same after hearing the parties. It was observed that till a decision is taken by the Government, on completion of the enquiry, the Managing Committee, elected under the Orders of the Court, shall remain suspended. The case was disposed of without going into the merits of the claim and counter claim.

2. The present Letters Patent Appeal was heard and disposed of by a Bench of this Court vide judgment dated 18th May, 2004. While the Division Bench did not

choose to interfere with the direction, issued by the learned Single Judge, proceeded to decide as to who should conduct the enquiry. While the suggestion for enquiry through Central Bureau of Investigation was not accepted, the Court thought it proper to direct the Registrar, Co-operative Societies, to make enquiry. It was ordered that after the enquiry, the enquiry report should be placed before the Court and, if justified, action u/s 41 of the Act and the other related provisions of the Co-operative Societies Act and the nullification of the some of the allotments made requires to be taken, appropriate steps in that behalf may have to be taken by the Registrar.

3. The Registrar, Co-operative Societies, submitted its report, pointing out certain illegalities, committed by the Society. This was opposed by the counsel for the appellants. On 2nd September, 2005, after hearing the counsel of the respective parties as also learned Advocated General, the Division Bench was of the view that a fresh enquiry should be conducted by a retired High Court Judge at the expense of the appellants, Mr. Justice (Retd.) Vikramaditya Prasad, a former Judge of this Court, was appointed to hold enquiry into the allegations, made against the Managing Committee, and the irregularities, said to have been committed even during holding of election and was directed to submit report.

4. Mr. Justice (Retd.) Vikramaditya Prasad submitted a report, copy of which has been handed over to the counsel for the parties. We have also perused the same.

5. Having heard the parties, we are of the view that this Court having become functus officio, after disposal of the appeal, is not required to decide any question in the present appeal, but only with a view to decide the competent authority to pass order u/s 41 of the Co-operative Societies Act and the other related provisions of the said Act and to find out whether nullification of some of the allotments is to be made or any appropriate steps in that behalf will have to be taken, the case is remitted to the competent authority Le. Registrar, Co-operative Societies, Government of Jharkhand, Ranchi, who will not rely on the earlier report, submitted by the Registrar, Co-operative Societies, Govt. of Jharkhand, Ranchi, having been superseded by the report, submitted by Mr. Justice (Retd.) Vikramaditya Prasad. The Registrar, Co-operative Societies, Ranchi, will look into the enquiry report and after giving opportunity to the appellants and other necessary parties, will determine the question as to what action, if any, is required to be taken in accordance with law, preferably within four months from the date of receipt/production of a copy of this order. It will be open to the appellants to point out the defect, if any, in the enquiry report, submitted by Mr. Justice (Retd.) Vikramaditya Prasad. The Registrar, Cooperative Societies, will apply its independent mind and will determine as to whether he will differ with the enquiry report or will accept the same or part thereof and what action is required to be taken under the law. No further order is required to be passed in the present case.

6. Let a copy of this order be handed over to the learned Advocate General and the counsel for the parties.