
(2013) 09 MP CK 0024

In the Madhya Pradesh High Court

Case No : Writ Petition (PIL) No. 15526 of 2013

Ajay Dubey

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 13-09-2013

Acts Referred:

Madhya Pradesh Co-operative Societies Act, 1960 — Section 57C

Citation : (2013) 5 MPHT 283 : (2014) 1 MPLJ 330

Hon'ble Judges : Krishn Kumar Lahoti, Acting C.J.; Rohit Arya, J

Bench : Division Bench

Advocate : S.K. Dwivedi and Mr. Rajesh Chand, for the Appellant; P.K. Kaurav, A.A.G., for the Respondent

Judgement

1. The petitioner has sought a writ of quo warranto against the respondent No. 3, who has been appointed as M.P. State Co-operative Election Authority as provided u/s 57-C of the M.P. Co-operative Societies Act. The appointment of respondent No. 3 has been challenged by the petitioner on the ground that his name was not recommended by the General Administration Department, on his application, his case was screened by the Screening Committee and thereafter he was appointed. It was submitted that the aforesaid process of recommending the name by the GAD could not have been by-passed by the respondent. It is also submitted that no vigilance report of respondent No. 3 was called before his appointment. We have gone through the record and find that as per the proceedings which are at Page 41 of the paper book, the name of the respondent No. 3 was duly recommended by a Screening Committee. A panel of three officers had recommended him for appointment on the post of aforesaid Authority. Thereafter, the respondent No. 3 was appointed. Section 57-C of the Act read thus:--

57-C. State Co-operative Election Authority.--(1) The State Government shall, by notification, in the Gazette, appoint a person as the Madhya Pradesh State Co-operative Election Authority, hereinafter called the Authority.

(2) The Authority shall be appointed by the State Government on recommendation of a Screening Committee consisting of--

- (i) Chief Secretary who shall be the Chairperson of the Committee;
- (ii) Principal Secretary, Law and Legislative Affairs Department as a member;
- (iii) Principal Secretary, Co-operation Department as a Member Secretary;

(3)(a) Only such a person who has served in a post not below the rank of Secretary to State Government shall be eligible for appointment as the Authority.

(b) The person so appointed as Authority shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no person shall hold the office of Authority after he has attained the age of sixty-five years.

(4)(a) The person appointed as Authority may, at any time, by writing under his hand addressed to the State Government, resign his office.

(b) The person so appointed as Authority shall be removed from his office by order of the State Government on the ground of proven misconduct or incompetence or if the person,--

- (i) is adjudged an insolvent; or
- (ii) has been convicted of an offence, which in the opinion of the Government, involves moral turpitude; or
- (iii) engages during his term of office in any paid employment outside the duties of his office; or
- (iv) is, in the opinion of the Government, unfit to continue in office by reason of infirmity of mind or body; or
- (v) has acquired such financial or other interest as is likely to affect prejudicially his function as the Authority.

(5) If any vacancy occurs in the office of Authority by death, resignation, expiry of the term of appointment, or for any other cause, whatsoever, such a vacancy shall be filled by appointment of a person qualified for appointment under this section.

(6) The headquarters of the Authority shall be at Bhopal.

(7) Salary, allowances and terms and conditions of service of the person appointed as Authority shall be such as prescribed by the State Government.

(8) The State Government shall provide the Authority with such officer and staff as may be necessary for the performance of his function.

(9) For the purpose of this Chapter, the Joint Registrar Co-operative Societies at Divisional Level and Deputy/Assistant Registrar Cooperative Societies at District Level shall act as Divisional Coordinator respectively and shall discharge such duties for the conduct of election as entrusted to them by the Authority.

2. The aforesaid provision provides that the State Govt., shall appoint a person as the M.P. State Co-operative Election Authority on the recommendation of a Screening Committee consisting of Chief Secretary who shall be the Chairperson of the Committee, Principal Secretary, Law and Legislative Affairs Department as a Member and Principal Secretary, Co-operation Department as a Member Secretary. There is no provision for recommendation of name by the GAD, in absence of which it cannot be said that any procedure prescribed under the law was not followed.

3. So far as vigilance report is concerned, though there is no provision in this regard in Section 57-C to seek vigilance report, but, from perusal of the minutes of the Screening Committee, which are at Page 43, it appears that the vigilance report was called in respect of the respondent No. 3. In view of the aforesaid, we do not find any infirmity in the appointment of the respondent No. 3 as M.P. State Co-operative Election Authority. This petition is found without merit and is dismissed at admission stage with no order as to cost.