
(2018) 01 CAL CK 0106
In the Calcutta High Court
Case No : 1253 of 2017

Arabindu Kumar Sikdar & Ors.

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 31-01-2018

Acts Referred:

Citation : (2018) 01 CAL CK 0106

Hon'ble Judges : Biswanath Somadder, Moushumi Bhattacharya

Bench : Division Bench

Advocate : Sadananda Ganguly, Samarendranath Biswas, Abdur Rakib, Srijan Nayak, Raja Saha, Arindam Mitra, Ashish Guha, Moloy Roy, Mousumi Mitra, Sarwar Jahan, Asraf Mondal

Final Decision : Dismissed

Judgement

In Re: CAN 11194 of 2017

1. Having heard the learned advocates for the parties and upon perusing the instant application seeking addition of parties, we are of the view that the prayer of the applicants is required to be allowed.
2. The application, therefore, is disposed of with a direction upon the learned advocate-on-record of the applicants to take steps to amend the cause title of the Memorandum of Appeal and the application for stay in terms of the prayer made in the application. In Re: MAT 1253 of 2017 With CAN 7174 of 2017
3. By consent of the parties, the appeal is treated as on day's list and taken up for consideration along with the application for stay.
4. The instant appeal arises out of a judgment and order dated 11th July, 2017, passed by the learned Single Judge in WP 17015 (W) of 2017 (Arabindu Kumar Sikdar & Ors. vs. The State of West Bengal & Ors.).
5. By the impugned judgment and order the learned Single Judge, after considering the submissions advanced by the learned advocates for the

respective parties and after perusing the records, dismissed the writ petition with the following observations:- "..... in my considered view, when it is admitted that the election of said Co-operative Society is due since August, 2015, therefore, at this belated stage when entire process has almost been completed and the date of election is fixed on 16th July, 2017, there is no scope to interfere with the writ petition."

6. Being dissatisfied with the impugned judgment and order of the learned Single Judge, the appellants/writ petitioners have preferred the instant appeal primarily on the ground that the learned Single Judge had passed the order without applying his mind. The other grounds which have been taken by the appellants include as follows: "VI. For that the Hon"ble Court failed to appreciate that since the year 2015, no election has been held of the said Co-operative Society and the tenure of the erstwhile Board has already been expired in the month of August, 2015.

VII. For that the Hon"ble Court failed to appreciate that the same person was appointed as the A.R.O. who was earlier appointed as the Administrator by the State Authority in the year 2015 for the said Co-operative Society.

VIII. For that the Hon"ble Court failed to appreciate that the A.R.O. who was earlier appointed as the Administrator by the State Authority for the said Co-operative Society has no power to conduct the election of the said Co-operative Society.

IX. For that the Hon"ble Court failed to appreciate that the A.R.O. without holding any general body meeting has started the process of election and the date of election has been fixed on 16th July, 2017 for the election of the said Co-operative Society which is totally contrary with the concerned Sections, Rules and Regulations of the West Bengal Co-operative Societies Act.

X. For that the Hon"ble Court has failed to appreciate the fact that since last 2 years no election of the said Co-operative Society was held and the A.R.O. in arbitrary manner without following the guidelines and relevant provisions of the West Bengal Co-operative Societies Act has declared the election on 16th July, 2017 and furthermore the A.R.O. has also declared the single place of booth for conducting the said election instead of the earlier nine place of booth for conducting the said election.

XI. For that the Hon"ble Court has failed to appreciate that the A.R.O. organized a general meeting for election without serving notice upon the every members of the said society as per the provisions of law and thereby the process of election is illegal and bad in law.

XII. For that the Hon"ble Court failed to appreciate that the concerned Respondents has done a gross illegality by violating the principle of natural justice by not giving any further opportunity of hearing to the petitioner before making refusal to accept selection of the Petitioner and/or before cancellation of

selection of the Petitioner.

XIII. For that the Hon"ble Court failed to appreciate the case of the Writ Petitioner/Appellant in his proper prospective.

7. In our view, none of the grounds as stated above are at all relevant in the facts of the instant case. The reason is, the concerned Co-operative Society, being Betai Union Large Size Primary Co-operative Agricultural Credit Society, had no election since August, 2015. The statutory mechanism for holding of elections of Co-operative Societies is provided under the West Bengal Co-operative Societies Act, 2006 and the Rules framed thereunder. Accordingly, the West Bengal Cooperative Election Commission initiated the process for holding of elections on 16th July, 2017, a relevant fact which has taken note of by the learned Single Judge in the impugned judgment and order. As of today, the election process is over and the report in the form of an affidavit filed earlier on behalf of the Cooperative Election Commission reveals that the delegate election was held on 16th July, 2017 at Dr. B.R. Ambedkar College, Betai, district - Nadia, and the result of such election was declared on the same date. The election schedule had been announced properly and the election was held peacefully and only the Board of Director of the concerned Co-operative Society is now required to be formed.

8. Considering this factual position from the categorical statement made on behalf of the West Bengal Co-operative Election Commission, we do not find any merit in the appeal since the primary object of any Co-operative Society is to ensure that it runs on democratic principles and in the instant case, election of delegates have already been taken place and only the Board of Director is required to be formed.

9. For reasons stated above, the appeal and the application for stay are liable to be dismissed and stand accordingly dismissed.