
(2017) 01 PAT CK 0069

In the Patna High Court

Case No : Letters Patent Appeal No. 1665 of 2015 in Civil Writ Jurisdiction Case No. 12455 of 2015

Ashok Kumar Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 18-01-2017

Acts Referred:

Bihar Co-operative Societies Act, 1935 — Section 41(5)

Citation : (2017) 1 BLJud 252 : (2017) 1 PLJR 919

Hon'ble Judges : Ajay Kumar Tripathi and Smt. Nilu Agrawal, JJ.

Bench : Division Bench

Advocate : Mr. Sanjeev Kumar, Mr. Priya Ranjan, Mr. Amit Kumar, Singh, Advocates, for the Appellant; Mr. Mritunjay Kumar, AC to GP-12, for the Respondents

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi(Oral)—A batch of writ applications, raising similar questions of law, were clubbed together and heard together by a learned single Judge.

2. The issue related to the status of a Primary Agriculture Credit Cooperative Society and the powers of the Registrar to dissolve the managing committee in exercise of power under Section 41(5) of the Bihar Co-operative Societies Act, 1935. Since Section 41(5) of the Act was the issue before the learned single Judge, the said provision is reproduced for ready reference :

"(5) The Registrar may dissolve the Managing Committee of a registered society in case where ?

(a) majority of the members and elected office bearers of the Managing Committee of a registered society resign from their respective membership of office: or

(b) half the total member of seats of the Managing Committee of a registered

society, becomes vacant for any reason whatsoever,

and shall appoint Administrator for the better management of the registered society.

Provided that if during the period of dissolution of the Managing Committee, the Registrar is satisfied that the affairs of a registered society have sufficiently improved and it is desirable to restore the management to a newly elected Managing Committee, he may by order direct that the Administrator shall take steps for the constitution of a new Managing Committee and on such Committee having been constituted in accordance with the provision of this Act and the Rules the Administrator shall hand over the management to such newly constituted Managing Committee forthwith."

3. The submission made before the learned single Judge, which is also urged by this appellant before this Court, is that the Registrar has to first dissolve the managing committee of the registered society if majority of the members resign and then only the question of appointment of an administrator would arise. The administrator cannot be appointed directly without the order of dissolution. The learned single Judge after considering the various submissions as well as the provisions of law opined as under :

"Although in some of the cases there have been arguments regarding no formal order of dissolution having been passed but in my opinion that is only a technicality for the moment more than half of the members of the society have resigned, the dissolution becomes automatic and the order passed by the Registrar is only a completion of such formality.

Before parting on the subject, I cannot restrain myself in observing that in some of the cases it is within months of constitution of the Managing Committee, that resignations have followed resulting in dissolution of the Managing Committee. I would wonder whether this mechanism would subserve the laudable object envisaged in the Co-operative movement. If a mere resignation of half of the members would result in dissolution of a Managing Committee, its life would always be at a threat and would be kept at tenterhooks by members with vested interest and the reasons may not realistically be for the well being of the society. When Chapter IX was incorporated in the Constitution under the 97th Amendment it was with a laudable object of promoting the Co-operative movement and for its democratic functioning at the grass root level. In my opinion, whereas clause (a) of Section 41(5) of "the Act" may be a circumstance leading to a dissolution but clause (b) is a handle in the hands of the disgruntled members of the Managing Committee to be used the moment the functioning of the Committee is not to their liking and the reasons may again not be strictly in the interest of the Cooperative."

4. After having given detailed consideration to the submission of the appellant, this Court is in agreement, taking into consideration the interpretation given to the provisions of Section 41(5) of the Act, that even if there is no formal order of

dissolution, the circumstances being such the appointment of an administrator will in no manner mar the decision to appoint an administrator.

5. The appeal, therefore, lacks merit. The learned single Judge has rightly interpreted the provisions in question to make it workable.

6. The appeal is dismissed.