

(2014) 08 CAL CK 0007
In the Calcutta High Court
Case No : W.P. No. 428 of 2012

Avis Island Coconut Plantation Cooperative Society Ltd.	APPELLANT
Vs	
Andaman and Nicobar Administration	RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Citation : (2015) 2 CHN 1

Hon'ble Judges : Subhro Kamal Mukherjee, J

Bench : Single Bench

Advocate : Anjili Nag, Advocate for the Appellant; Mohammed Tabraiz, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Subhro Kamal Mukherjee, J.

1. The petitioner is an agricultural co-operative society. It sought for permission for conversion of certain lands from agricultural to commercial and, also, prayed for amendment of the bye-laws to incorporate the concept of joint venture. The Registrar of Cooperative Societies, Andaman and Nicobar Islands, granted the permission to amend the bye-laws and permitted the co-operative society to formulate plans for promotion of tourism on the lands allotted to the society to improve the economic interest of the members.

2. The Registrar of Cooperative Societies, also, permitted the amendment of the bye-laws permitting the society to enter into agreements, deeds and contract, including joint venture agreements, for the development of lands allotted to the society for tourism purpose whenever necessary to attain the objects of the society.

3. After such permissions were obtained and bye-laws were amended, the co-operative society entered into a joint venture agreement with the private respondent.

4. When the attention of the Administration was drawn that the co-operative society has entered into a joint venture agreement not only for development of the land allotted to the society but, in fact, outsourced their activities, it issued a notice asking the co-operative society to show cause.
5. The co-operative society submitted its reply.
6. The Registrar of Co-operative Societies, by an order dated October 14, 2011, directed winding up of the society.
7. An appeal was taken before the Lieutenant Governor of these islands, but, the appeal was, also, proved abortive.
8. Mrs. Anjili Nag, learned advocate appearing for the petitioner submits that no opportunity of hearing was granted to the society before the order of winding up of the society was passed by the Registrar.
9. Mr. Mohammed Tabraiz, per contra, submits that the provision of the Andaman and Nicobar Islands Cooperative Societies Regulations, 1973, do not provide for giving personal hearing. Liberty was given to the society to show cause. They had submitted reply. Reply was considered by the Registrar.
10. By the order impugned, the Registrar of Co-operative Societies directed winding up of the co-operative society. The power of winding up should be taken recourse to as a last resort. The writ petitioner did not get a fair opportunity to present his case before the Registrar. The writ petitioner did not get reasonable opportunity for making representation on the penalty proposed in the background of factual position and legal implication arising thereunder.
11. Supreme Court of India in the case of Erusian Equipment and Chemicals Ltd. Vs. State of West Bengal and Another, held that fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.
12. The Supreme. Court of India in Raghunath Thakur Vs. State of Bihar and Others, held that blacklisting of any person in respect of business ventures has civil consequence (or the future business of the person concerned in any event, even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order.
13. I, therefore, set aside the order of the Registrar of Co-operative Societies directing winding up of co-operative society and direct the Registrar of Cooperative Societies to consider reply of the writ petitioner afresh, after giving its representative or representatives an opportunity of hearing, in accordance with law within six weeks from the date of communication of this order.
14. However, I clarify, by way of abandon caution, that I have not gone into the merits of the claim and the counter claim of the parties. All points are left open.

15. The writ petition stands disposed of. I make no order as to costs.