

(2021) 11 OHC CK 0016

In the Orissa High Court

Case No : Writ Petition (Civil) No. 32134 Of 2020

Bhabani Prasad Majhi

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 01-11-2021

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Odisha Cooperative Societies Act, 1962 — Section 2(i), 3(1), 6, 7, 8, 10(2), 12, 14, 14A, 16(2a) 17, 27, 28, 28A, 28(1b), 30, 30A, 32, 32(1), 33, 35(3), 59(1), 63, 64, 65, 66, 68, 70, 72, 73, 75, 76, 77, 90, 102, 103, 104, 105, 106 (1)(b), 108, 114, 116(3), 120, 123-A(2), 128(3)
Odisha Cooperative Societies Rules, 1965 — Rule 5
Odisha Cooperative Societies (Elections to the Committees) Rules, 1992 — Rule 3, 3(1), 3(1a), 4A

Citation : (2021) 11 OHC CK 0016

Hon'ble Judges : Biswajit Mohanty, J

Bench : Single Bench

Advocate : P.K. Rath, A. Behera, S.K. Behera, P. Nayak, S. Das, S. Rath, S.K. Samal, H.M. Dhal

Final Decision : Allowed

Judgement

B. Mohanty, J

1. This writ petition has been filed by the petitioner with prayer to quash order No.9253 dated 01.05.2020 under Annexure-3 issued by the Registrar, Cooperative Societies, Odisha (opposite party No.2) appointing opposite party No.3 to manage the affairs of Sundargarh District Central Co-operative Bank Ltd. for short, "the Bank" and with a further prayer to direct opposite party Nos.1 to 4 to complete the process of election in respect of Committee of "the Bank" and Primary Agricultural Co-operative Societies affiliated to it in the district of Sundargarh within a stipulate time.

2. The case of the petitioner is that, he is an Ex-President of "the Bank" and a member of Large-sized Adivasi Multipurpose Co-operative Societies (LAMPCS) at

Karamadihi in the district of Sundargarh. The petitioner in the capacity of member of the above noted LAMPCS was elected to the Committee of "the Bank". The tenure of Committee of which the petitioner was the President came to an end on 30.04.2020. Instead of holding election to constitute the new Committee, the Registrar, Cooperative Societies, Odisha passed the impugned order dated 01.05.2020 under Annexure-3 appointing the Collector & District Magistrate, Sundargarh as Administrator of "the Bank" to manage the affairs of the said bank in exercise of powers under Sub-Section (1) of Section 32 of Odisha Cooperative Societies Act, 1962, for short, "the Act". It is the case of the petitioner that in the background of the language used in Section 32 of "the Act", the Collector of the district cannot remain in charge of the management. His further case is that since the impugned order under Annexure-3 is legally unsustainable, the authorities should immediately hold elections to the Committee. Accordingly, the present writ petition has been filed with the above noted prayers.

3. The opposite party Nos.1 & 2 have filed their counter affidavit on 08.01.2021 taking stand that the impugned order has been passed properly taking into account the Explanation appended to Sub-Section-1 of Section 32 of "the Act" and accordingly, the management consequent upon supersession stood vested with the Registrar, who in turn has appointed the Collector of the district as Administrator in consonance with the provisions of "the Act" and the same cannot be faulted. The case of opposite party No.1 in its affidavit dated 09.08.2021 is that, vide notification dated 01.08.2017 under Annexure-B/1, the Government of Odisha in Cooperation Department in exercise of the powers conferred by Sub-Section (1) of Section 3 of "the Act" read with Rule-5 of the Odisha Cooperative Societies Rules, 1965, for short "the Rules" have appointed the Collectors of all the revenue district of the State as Additional Registrars of Co-operative Societies to assist the Registrar of Co-operative Societies, Odisha and as per Section 2(i) of "the Act", the Registrar has been defined to mean the person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar. Further, it is the case of the State that all the Additional Registrars have been conferred with powers of Registrar under Sections 6, 7, 8, 10(2), 12, 14, 14-A, 16(2-a) 17, 28, 30, 30A, 32, 33, 35(3), 59(1), 63, 64, 65, 66, 68, 70, 72, 73, 75, 76, 77, 90, 102 to 105, 106 (1)(b), 108, 114, 116(3), 120, 123-A(2), 128(3) of "the Act" by the State Government in the Co-operation Department in exercise of powers under Sub-Section(2) of Section 3 of "the Act" vide Order No.II-Legal-26/98-19992 dated 21.09.1999. Accordingly, for all practical purposes as the Collector has been appointed as Additional Registrar to assist the Registrar of Co-operative Societies and since the Additional Registrar exercises several powers of Registrar, Collector can clearly be treated to be a Registrar as per Section 2(i) of "the Act". Thus, no wrong has been committed by appointing the Collector as Administrator under Annexure-3 to manage the affairs of "the Bank"

as he is functioning as a Registrar.

With regard to the prayer of the petitioner for conducting election by quashing the impugned order under Annexure-3, it is the case of opposite party Nos.1 & 2 that due to spread of Covid-19 Pandemic, it has not been possible to conduct elections. Though lockdown has been lifted in the mean time and though there is decline in trend of infection however, the fear of Covid-19 still persists. This stand was taken by opposite party No.1 in their counter affidavit dated 08.01.2021. However, therein, it was made clear that the State Government is committed to formation of democratically elected Committees of the Co-operative Societies and accordingly, the State is committed to hold election no sooner the situation returns to normalcy. Further in their affidavit dated 09.08.2021 filed before this Court on 10.08.2021, the opposite party No.1 has made it clear that as per Section 28-AA of "the Act", the superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to a Co-operative Society vest in the State Co-operative Election Commission and as per Rule-3 (1-a) of the Odisha Co-operative Societies (Elections to the Committees) Rules, 1992, for short "1992 Rules" the State Co-operative Election Commission has to recommend the date to the Government for issuance of notification calling upon the Co-operative Societies to elect members of the committee of the society and on receipt of such recommendation, the Government is only to notify the same in the Odisha Gazette and on 24.04.2020, the State Co-operative Election Commission (opposite party No.4) has intimated the Commissioner-cum-Secretary, Co-operation Department that due to pandemic situation in the State, the Commissioner is not in a position to suggest the tentative date for holding of election. Further in the affidavit dated 07.09.2021 filed by the opposite party No.1, it reiterated that opposite party No.4 has to recommend the date to the Government for issuance of notification calling upon the Co-operative Societies to elect members and the Government is only to issue notification indicating the said date for election and Government has no power to suggest any date or to suggest for holding of election under the provisions of "the Act" and the Rules framed there under.

4. The stand of opposite party No.4 as per the counter affidavit dated 07.04.2021 is that the tenure of the Committee of "the Bank" came to an end on 30.04.2020. By that time, the entire State was under lockdown due to spread of Covid-19 Pandemic for which the Commission vide letter dated 01.07.2020 under Annexure-A/4 addressed to the opposite party No.1 sought for its views in the matter of holding of election and the response of the State Government is still awaited. It is their further case that, in the meantime, the opposite party No.4 has written to the Registrar, Co-operative Societies on 02.11.2020 under Annexure-B/4 requiring him to supply the requisite consolidated information in the enclosed prescribed format for assessment for the upcoming co-operative election. That apart vide letter dated 04.01.2021 under Annexure-C/4 series, the opposite party No.4 has written to all the Divisional DRCSs requesting them to

instruct the Chief Executive of the Societies under their control to take immediate steps for preparation of list of members of the Societies. Further on 25.02.2021 under Annexure-D/4, the opposite party No.4 had written to all the DRCs for supply of information on deployment of election officers during cooperative election 2015-16 for assessment of man power for the forthcoming election in the State.

5. Heard Mr. P.K. Rath, learned counsel for the petitioner, Mr. S.K. Samal, learned Additional Government Advocate and Mr. H.M. Dhal, learned counsel appearing for opposite party No.4.

6. Mr. Rath, learned counsel for the petitioner submitted that the impugned order under Annexure-3 appointing the Collector, Sundargarh as Administrator is bad in law because the pre-requisites for exercising power under Sub-Section (1) of Section 32 of "the Act" dealing with supersession of Committee did not exist in the present case. According to him, the four circumstances given at Clauses (i) (ii) (iii) & (iv) under Sub-Section 1 to Section 32 of "the Act" were non-existent in the present case. Secondly, even if help is taken of the Explanation to Sub-Section (1) of Section 32 to justify the impugned order, then also an illegality has been committed by appointing the Collector as Administrator as there exists no concept of Administrator in the Explanation. It speaks of vesting of Management only in Registrar. Thirdly, he submitted that even if appointment of District Collector as Administrator is accepted, then also his engagement cannot go beyond one year. In this context, he submitted that as per the language of Sub-Section (1) of Section 32 of "the Act", Committee of a Society carrying on the business of banking cannot be superseded for a period exceeding one year. Accordingly, he submitted that since one year period expired on 30.04.2021, therefore, the authorities are duty bound to hold election immediately. In this context, he also submitted that the direction in the impugned order under Annexure-3 that the Collector will act as an Administrator till constitution of new Committee or until further order is bad in law as this is not permitted under Sub-Section (1) of Section 32 of "the Act".

With regard to his second prayer i.e. for a direction to hold election, he submitted that as per Section 28(1-a) of "the Act", the tenure of the Committee is five years and as per Clause (b) of Sub-Section (1-b) of Section 28 of "the Act", an election to constitute a Committee shall be completed before expiration of a period of one year from the date of its supersession in case of society carrying on banking business. Since the present society is carrying on banking business, therefore, in case of action taken under Sub-Section (1) of Section 32 of "the Act", election is bound to be held before expiry of period of one year as per Clause (b) of Sub-Section (1-b) of Section 28 of "the Act". Here, though the period of one year expired on 30.04.2021, however, till date no election has been held for constituting a Committee. He further submitted that though vide Annexure-6 to the rejoinder, opposite party No.4 directed for preparatory arrangements for election to the Committee of Co-operative Societies in the

State for which the process was to begin from October, 2019 however, nothing was done. Relying on Sub-Rule (1-a) of Rule-3 of the "1992 Rules", he submitted that in such circumstance when the maximum time limit of supersession is over, the opposite party No.4 has gone wrong in not suggesting the date of election to the Government and accordingly submitted that a direction be issued to the opposite party No.4 to suggest the date to the Government for holding of election immediately. He also highlighted that in the meantime, many assembly elections have been held in the country and recently by-election has been held in Pipli Constituency to elect an M.L.A. for Odisha Legislative Assembly. Therefore, the authorities should be directed to hold election following Covid protocols, when epidemic has shown a declining trend. Lastly, Mr. Rath fairly submitted that since during pendency of this petition, major portion of Part IXB of the Constitution of India has been struck down as ultra vires by the Supreme Court, the pleadings relating to same in the writ petition and rejoinder be ignored. He also did not press the pleadings vis-à-vis Section 28(1-b) (ii) of "the Act". He further submitted that in view of the changed circumstances, he is no more relying on the decision of the Supreme Court as rendered in Rajkot District Co-operative Bank Limited Vrs. State of Gujrat and others reported in 2015 (13) SCC 401 and the decision of this Court dated 21.12.2011 in the case of Ranjita Kahali Vs. State of Orissa in W.P(C) No.23504 of 2011. He also made it clear that the documents filed along with memo dated 11.01.2021 have already been filed along with the rejoinder of the petitioner and that the term of Committee of Karamadihi LAMPCS has also expired.

7. Mr. S.K. Samal, learned Additional Government Advocate raised a preliminary objection relating to the locus standi of the petitioner to challenge the impugned order under Annexure-3 as according to him, he is in no way personally affected. In this context, he submitted that the petitioner has not explained anywhere in the writ petition as to what right of his, has been violated. In this context he relied on the decisions of the Supreme Court rendered in the case of State of Orissa Vrs. Madan Gopal Rungta, reported in AIR 1952 S.C. 12 and Ayaubkhan Noorkhan Pathan Vrs. State of Maharashtra and others reported in (2013) 4 S.C.C. 465. Accordingly, he prayed that the writ petition should be dismissed. On the impugned order under Annexure-3, he submitted that the same has been issued on expiry of the term of the Old Committee as per the Explanation to Sub-Section (1) of Section 32 of "the Act" as no election could be held to elect the new Committee. According to him since vide Annexure-B/1, the Collector has been appointed as Additional Registrar of Co-operative Societies to assist the Registrar of Co-operative Societies and since the word "Registrar" as per its definition under Section 2(i) of "the Act" includes any persons who has been appointed to assist the Registrar, therefore, it should be taken that though appointed as an Administrator, the Collector, Sundargarh is in fact functioning as the Registrar and thus there has been no violation of the Explanation. Accordingly, he submitted that the writ application is without any merit and should be dismissed.

8. Mr. H.M. Dhal, learned counsel appearing for opposite party No.4 confined his submission to the second prayer of the petitioner for a direction to the authorities to hold election. He submitted that as per Section 28-A of "the Act", if the election is to be held, it has to be held for all the Co-operative Societies functioning in the State and it is to be held simultaneously for connected Primary Societies, Central Societies & Apex Society. It cannot be held for one Society like "the Bank" and its affiliated societies and secondly, he submitted that for holding election, the State Government has to make available officers and staff to the Election Commission (opposite party No.4) for discharging its functions.

9. In reply to submissions made by Mr. Samal & Mr. Dhal, Mr. Rath submitted that the petitioner is a member of Karamadihi LAMPCS, which is affiliated to "the Bank". In the capacity as a member of LAMPCS, he was elected to the Committee of "the Bank". Later on, he was elected as President of "the Bank". During his tenure, he has performed and worked for the larger interest of the poor farmers of the district and for such work; he has been awarded successively at National Level as indicated under Annexure-2 series. Petitioner is aggrieved by the arbitrary State action particularly relating to non-holding of election of Committees of "the Bank" and its affiliated societies, one of which, he is a member. According to him appropriate averments have been made in paras-1, 5, 6 & 7 of the writ petition. He further submitted that since the petitioner is a member of a Primary Society, which is affiliated to "the Bank", any attempt to impose an Administrator to look after the management of "the Bank" instead of holding election to elect democratic Committees affects the petitioner's right to have an elected Committee within the time as prescribed under law and his right to elect such committees. Thus he has every right to challenge such action as he cannot be described as a stranger having no interest in the functioning of "the Bank" and its affiliated societies. He reiterated that the petitioner cannot be described as stranger vis-à-vis the issues involving blatant violation of Sub-Section (1) of Section 32 of "the Act" which speaks of supersession of Committee not exceeding one year of a Society carrying on business of banking and Clause (b) of Sub-Section (1-b) of Section 28 of "the Act" mandating completion of election to Committee before expiry of one year period from the date of supersession in case of such society carrying on business of banking. Here though one year period expired on 30.04.2021, since no election has been conducted, he as a member of Primary Society i.e. Karamadihi LAMPCS has every right to assail the same as his right to elect Committees has been affected by not holding elections and by continuing the illegal arrangement under Annexure-3 beyond the maximum period of supersession. In this context, he relied on a decision of the Allahabad High Court in the case of Committee of Management, District Co-operative Bank Limited and another Vrs. State of U.P. & others reported in (2005) SCC Online All 1554. With regard to the two decisions of the Supreme Court cited by Mr. Samal, he submitted that both the decisions are factually distinguishable and have no application to the case at hand. He reiterated that the petitioner cannot be described as total stranger to the issues

involved in the present case. With regard to other submission of Mr. Samal defending Annexure-3, while reiterating his earlier submissions, he again submitted that the arrangement under Annexure-3 cannot be continue beyond maximum period of one year.

With regard to submissions of Mr. Dhal, he submitted that language of Section 28-A of "the Act" nowhere requires that elections should be held simultaneously for all societies viz. Primary, Central and Apex or not at all. With regard to the second submission of Mr. Dhal on availability of officer of State, he submitted that State has nowhere taken a plea that it cannot spare its officials to opposite party No.4 for discharge of its function. He reiterated that direction be issued to the authorities to hold election immediately.

10. Before entering into the merits of this case, this Court wishes to take up the issue of locus standi of the petitioner to maintain the present writ petition as raised by Mr. Samal, learned Additional Government Advocate. As indicated above he submitted that there is nothing to show that the petitioner has been personally affected and there exists no explanation in the writ petition as to what right of the petitioner has been affected and in this context, he has relied on two decisions of the Supreme Court viz. Madan Gopal Rungta (Supra) and Ayaubkhan Noorkhan Patha (Supra).

In this context, it may be noted here that it is not disputed that the petitioner is a member of a Primary Society i.e. Large-sized Adivasi Multipurpose Co-operative Societies (LAMPCS) at Karamadihi. It is also not disputed that the said society is affiliated to "the Bank" and the petitioner was elected as President to the Committee of "the Bank". Since the petitioner happens to be a member of the LAMPCS affiliated to "the Bank", it cannot be said that the petitioner has no interest in the matter if "the Bank" as alleged is allowed to be managed by a person who is not authorized under law to be in-charge of "the Bank" or if such a person is allowed to continue beyond the maximum period of supersession as fixed under law expires or if the election is not held in due time as required under the provisions of "the Act", thereby affecting the petitioner's right to elect members of Committees of Societies and right to have democratically elected Committee.

In this context, it may be noted here that as per Section 27 of "the Act" final authority in a Co-operative Society vests in general body of members. As per Sub-Section (1) of Section 28, management of a Co-operative Society vests in a Committee as constituted in accordance with the provisions of "the Act" & Rules made there under and Bye-Laws. This Committee exercises a number of important functions and performs a number of duties as delineated in Sub-Section (1) of Section 28. Sub-Section (1-aa) of Section 28 makes it clear that every committee unless superseded shall have a tenure of five years. Clause (b) of Sub-Section (1-b) of Section 28 lays down that an election to constitute a committee shall be completed before expiry of its term or before expiry of a period of one year from the date of supersession in case of society carrying on

the business of banking. Relevant provisions of Section 28-A deals (Emphasis supplied) with election of members, President and Vice-President of the Committee. The said Section is quoted hereunder:

"28-A. ELECTION OF MEMBERS OF COMMITTEE - (1) (i) The President of the Committee of every Society shall be indirectly elected in the manner prescribed, by and from among the members of the Committee, and

(ii) Other members of the Committee of a (emphasis supplied) Primary Society shall be elected in such manner by and from among the General Body of members of the Society qualified for the purpose organized into such different constituencies as may be prescribed.

(ii-a) Other members of the Committee of a (emphasis supplied) Central Society and an Apex Society shall be (emphasis supplied) elected in such manner by and from among the qualified members of the Electoral College formed in such manner organized into such different constituencies as may be prescribed.

(iii) The Vice-President of the Committee shall be elected by and from among the elected members of the Committee in the prescribed manner.

Provided that where the President of the Committee of such a Society elected under this section is not a woman, the office of the Vice-President of the Committee shall be reserved for woman.

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Sub-Section (1) of Section 32 of "the Act" makes it clear that Committee of a Co-operative Society carrying on business of banking can be superseded for a maximum period of one year. (Emphasis supplied)

All the above discussions make it clear that an elected Committee plays an important role in a Co-operative Society and that maximum period of supersession of Committee of a society carrying on banking business cannot exceed more than one year and before such maximum period; election is bound to be held. Here, admittedly the maximum period of supersession of one year as provided under law has expired on 30.04.2021. In such background, continuing with the arrangement under Annexure-3 without holding election clearly violates statutory provisions and affects the democratic functioning of "the Bank" and its affiliated societies. Since the petitioner is a member of an affiliated society, it cannot be said that in no way he has been affected. Nobody can dispute that the petitioner has a vital interest in proper running of LAMPCS as well as "the Bank". He cannot be described as a stranger to the issues involved. Further his right to vote/elect and right to have a democratically elected Committees have been affected. In Madan Gopal Rungta case (Supra) the issues were different. There the Supreme Court laid down that Article 226 cannot be used for the purpose of giving interim relief as the only and final relief and an appeal to Supreme Court against such an order is maintainable. No doubt in the said case, the Supreme

Court has made it clear that existence of the right is the foundation for exercise of jurisdiction under Article 226 of the Constitution of India. In the present case as indicated above continuation of the arrangement under Annexure-3 beyond one year of its promulgation without election clearly affects the functioning of "the Bank" and its affiliated societies thereby making it arbitrary inviting the mischief of Article 14 of the Constitution of India. On account of such continuation, the petitioner's right to have a democratically elected Committees and his right to elect such Committees directly or indirectly as a member of Society is clearly affected.

With regard to Ayaubkhan Noorkhan Pathan case (Supra) it may be noted here that there the Supreme Court has made it clear that a stranger cannot be permitted to meddle in any proceeding under Articles 226 of the Constitution of India unless he falls within the category of aggrieved persons and a writ petition is maintainable either for the purpose of enforcing a statutory/legal right or when there is a breach of statutory duty on the part of the authorities. In the above noted case, the Supreme Court also referred to its own decision rendered in A. Subash babu Vs. State of Andhra Pradesh, reported in (2011) 7 S.C.C. 616, wherein it has also been made clear that expression "aggrieved person" denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which the contravention is alleged, the specific circumstances of the case, the nature and extent of complaint's interest and the nature and the extent of prejudice or injury suffered by the complainant. There also Supreme Court quoted with approval its own decision rendered in Ghulam Qadir Vrs. Special Tribunal reported in (2002)1 SCC 33, wherein it has been made clear that "The orthodox rule of interpretation regarding the locus standi of a person to reach the court has undergone a sea-change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dis-lodging the claim of a litigant merely on hyper-technical grounds. XXX XXX XXX In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi." Here as indicated earlier as a member of LAMPCS, the petitioner cannot be described as stranger to the issues involved. In fact his right to have a democratically elected Committee after expiry of maximum period of supersession and his right to elect such a Committee has been affected.

Moreover the Allahabad High Court in a Division Bench has clearly laid down in Committee of Management, District Co-operative bank Ltd. case (Supra) that outgoing Committee of its office bearer, or its member or members of general body of Co-operative Society are interested in the welfare of the Co-operative Society. They are aggrieved persons if there is any arbitrary or unreasonable exercise of power affecting the Co-operative Society. Therefore, it cannot be said that they don't have the standing to file the writ petitions, wherein the

appointment of private persons as Administrators or in the Committees were challenged. Here as indicated earlier, the petitioner has enough interest to maintain the present writ petition for proper management of "the Bank" as per law.

Keeping in mind the above discussions, this Court has no hesitation in rejecting the contention of Mr. Samal, learned Additional Government Advocate with regard to locus standi of the petitioner to maintain this writ petition. It may be noted here that in their counter affidavit filed by opposite party Nos.1 & 2 this point of locus has not been raised. Rather at para-9 of the counter affidavit, the State has admitted that it is committed for formation of democratically elected Committee of the Co-operative Societies and is also committed to hold election sooner the situation returns normalcy. In such background, this Court holds that the petitioner has locus standi to maintain this writ petition.

11. Now let us deal with various contentions raised by Mr. Rath, learned counsel for the petitioner on various points and the counter contentions.

Mr. Rath's first contention was that the impugned order under Sub-Section (1) of Section 32 of the Act in appointing District Collector as Administrator is illegal as the four circumstances given thereunder at Clauses (i) to (iv) to warrant such action were non-existent in the present case. In this regard, Mr. Samal's submission was that the impugned order has been passed as per Explanation to Sub-Section (1) of Section 32 of "the Act" as no election could be held to elect a new Committee after expiry of the term of the Old committee. In such background, contention of Mr. Rath cannot be accepted. A perusal of impugned order under Annexure-3 would show that the said order has been passed in view of the expiry of the term of Committee of "the Bank". Obviously, the said order was passed in tune with the Explanation appended to Sub-Section (1) of Section 32 of "the Act" as election could not be conducted to elect fresh Committee. Therefore first contention of Mr. Rath fails.

Mr. Rath's second contention was that even if help is taken of the Explanation attached to Sub-Section (1) of Section 32 of "the Act" to justify the impugned order, then also an illegality has been committed by appointing Collector as Administrator as there exists no concept of Administrator in the Explanation. Explanation only speaks of vesting of management in Registrar Co-operative Societies, Odisha and none else. This contention of Mr. Rath cannot be accepted for the following reasons. Section 2(i) of "the Act" makes it clear that Registrar includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar. As per Annexure-B/1, Collectors of revenue district of the State have been appointed as Additional Registrars of Co-operative Societies to assist Registrar of Co-operative Societies, Odisha. Further vide Order No.II/Legal-26/98-19992/Co-op dated 21.09.1999 issued by the Government of Odisha in Co-operation Department, the State Government in exercise of powers conferred under Sub-Section (2) of Section 3 of "the Act" have conferred on Additional Registrar Co-operative Societies, the powers of the Registrar under

Sections 6, 7, 8, 10(2), 12, 14, 14-A, 16(2-a) 17, 28, 30, 30A, 32, 33, 35(3), 59(1), 63 to 66, 68, 70, 72, 73, 75 to 77, 90, 102 to 105, 106 (1)(b), 108, 114, 116(3), 120, 123-A(2), 128(3) of "the Act". After issuance of the above order dated 21.09.1999; vide Office Order No.XLV-1/2012-12219/legal-4 dated 20.07.2012, the opposite party No.2 in exercise of powers conferred upon him under Sub-Section (2) of Section 3 of "the Act" has made it clear that the Additional Registrar can exercise his power for whole State of Odisha. A cumulative reading of all these notifications makes it clear that Collectors have been appointed as Additional Registrars of Co-operative Society to assist the Registrar of Co-operative Societies, Odisha and by virtue of order dated 21.09.1999 indicated above; the Additional Registrars have been conferred with jurisdictions to the exercise many powers of the opposite party No.2. Thus in the background of definition of Registrar given at Section 2(i) of "the Act", it can be safely said that the definition "Registrar" certainly includes Collectors of revenue district of Odisha. Therefore, vide impugned order Annexure-3 since the Collector has been appointed as Administrator to manage the affairs of "the Bank", it can be safely said that in a way Registrar, Co-operative Societies, Odisha is looking after the management of "the Bank". Therefore, the second contention of Mr. Rath also fails.

Third contention of Mr. Rath vis-à-vis the impugned order was that even if appointment of District Collector as Administrator is accepted then also he cannot continue beyond one year as the maximum period of supersession as per Sub-Section (1) of Section 32 of "the Act" under which the impugned order has been passed has already expired on 30.04.2021. According to him, as the Society was doing banking business, the maximum period of supersession is one year as per law. Therefore, the impugned order dated 01.05.2020 cannot continue beyond 30.04.2021, when one year period came to an end. In the opinion of this Court, this contention of the petitioner has got sufficient force. It is not disputed that the society involved in this case carries on business of banking. A perusal of impugned order under Annexure-3 shows that the same has been passed in exercise of power conferred under Sub-Section (1) of Section 32 of "the Act" which deals with supersession of committee. The same Sub-Section makes it clear that Committee of a society carrying on business of banking can be superseded for a maximum period of one year. Further Clause (b) of Sub-Section (1-b) of Section 28 of "the Act" makes it clear that in case of supersession of a Committee of Society carrying on business of banking, an election to constitute a Committee shall be completed before expiry of a period of one year from the date of its supersession. In such background since one year period vis-à-vis the impugned order dated 01.05.2020 under Annexure-3 has expired long back and since the society in question carries on banking business, the order under Annexure-3 passed under Sub-Section (1) of Section 32 of "the Act", dealing with supersession of the Committee cannot be allowed to continue beyond 30.04.2021 as the same has become legally vulnerable. Accordingly, the same is quashed.

Natural corollary of quashing of Annexure-3 would have been to direct the authorities to hold election to Committee of Societies affiliated to "the Bank", whose terms have already expired & thereafter for "the Bank" itself. But before that let us apply our mind to the contentions raised by Mr. Dhal, learned counsel representing opposite party No.4. Relying on Section 28-A of "the Act", Mr. Dhal has contended that if election is directed to be held, it has to be held for all the Co-operative Societies of the State and it is to be held simultaneously for connected Primary, Central and Apex Societies. A reading of Section 28-A does not support such a contention as it nowhere says that elections of all the Co-operative Societies operating in the State or election of the connected Primary, Central and Apex Society should be held simultaneously. Further Clause-(ii) of Sub-Section (1) of Section 28-A clearly permits election of members of the Committee of a Primary Society in such manner by and from (emphasis supplied) among the General Body of members of the society qualified for the purpose organized into such different constituencies as may be prescribed. Similarly clause-ii(a) of Section 28-A permits election of members of the committee of a Central Society and (emphasis supplied) an Apex Society in such manner by and from among the (emphasis supplied) qualified members of the Electoral College formed in such manner organized into such different constituencies as may be prescribed. "1992 Rules" lay down the procedure for election to the Committees of Societies. Sub Rule (1) of Rule 3 of "1992 Rules" permits election of Members, President & Vice-President of the Committee of a Society to be held in the manner specified (emphasis supplied) thereafter. Rule (1-a) of Rule 3 of "1992 rules" permits the State Government to issue one or more Gazette Notifications publishing the date or date as recommended by the State Co-operative Election Commission calling upon the Co-operative Societies to elect members of the Committee of Society as per the provision of "the Act" and Rules made thereunder. Rule 4A of "1992 rules" also permits an Electoral College to elect members of a Central or Apex Society. An analysis of the above (emphasis supplied) provisions would show that different provisions of Section 28-A as well as Rules (1) & (1-a) of Rule 3 of "1992 Rules" & Rule 4A of the above Rules permit election of Committee of a Society - be (emphasis supplied) it Primary, Central or Apex. Therefore, the contention of Mr. Dhal that if election is to be held, it should be held for all the Societies functioning in the State cannot be accepted. Further his submissions that if election is to be held it should be held simultaneously for connected Primary, Central & Apex Societies also can be not accepted as election of Committees of an Apex Society and Central Society are dependent upon election of Committees of Central Societies and Primary Affiliated Societies respectively forming respective Electoral Colleges. Further, Sub-Rule (1) of Rule 3 of "1992 Rules" also permits State Co-operative Election Commission to recommend date or date and on the basis of such recommendation State Government may publish such date or date in one or more Gazette Notifications. With Regard to phrase "date or date" used in Rule (1-a) of Rule 3 of "1992 Rules", it has to be interpreted to mean "date or dates" in the background of preceding phrase "one or more notifications" used therein.

Any other interpretation of the said phrase would lead to absurdity as otherwise the later word "date" in the phrase "date or date" would become meaningless. Such a consequence has to be avoided. It is well settled that where language of a statute in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words or even the structure of the sentence. (See *Tirath Singh Vs. Bachittar Singh and others*, AIR 1955 S.C. 830) Considering all these things, it is reiterated that there exists no such requirement of holding simultaneous election to all cooperative societies of State or the connected Primary, Central and Apex Societies. In fact the use of phrases "one or more notifications" Rule 3 of "1992 Rules" as referred above negatives the contention of Mr. Dhal, learned counsel for opposite party No.4 -Commission that election at all level to all Co-operative Societies should be held simultaneously. Had it been so, then the requirement of more than one notification and provision for recommending of more than one date would not have been there.

12. Mr. Dhal has also contended relying on Sub-Section (6) of Section 28-AA of "the Act" that the State Government should make available its officer and staff so that the State Co-operative Election Commission (opposite party No.4) can discharge its functions. But there exists no material on record to show that the State Government is reluctant to render such assistance. Rather in the counter affidavit dated 08.01.2021, it has made clear that the State Government is committed for formation of democratically elected Committee of the Co-operative Societies and it is committed to hold election no sooner the situation returns to normalcy. Further in its affidavit dated 10.08.2021 and 07.09.2021, the State has made it clear that as per Rule 3(1-a) of the "1992 Rules", the opposite party No.4 has to recommend the date to Government for issuance of notification calling upon the Co-operative Societies to elect the members of the Committee of the Society and Government is to only issue notification indicating the date. No argument has been made to the effect that Corona Pandemic still holds out a problem now for holding election to the Committees of "the Bank" and its affiliated societies.

13. Considering all these things, particularly when normalcy to a large extent has been restored and By-election has been held in the State in the recent past and keeping in mind the statutory requirements as discussed above, this Court directs the authorities to go ahead with electing Committees of "the Bank" as well as its affiliated societies where the terms of Committees have already expired. For the said purpose, the opposite party No.4 is directed to make the necessary recommendation as per provisions of Rule 3(1-a) of "1992 Rules" within a period of four weeks from the date of receipt of certified copy of this order and should complete the process of election to the above noted societies in accordance with law within a reasonable period. Opposite parties 1, 2 & 3 are directed to extend full cooperation to opposite party No.4.

Accordingly, writ petition is allowed. No cost.

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