

(2015) 10 RAJ CK 0015
In the Rajasthan High Court
Case No : Civil Writ Petition No. 15276 of 2015

Bhupendra Pratap Singh Rathore

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-10-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 10 RAJ CK 0015

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : R.P. Singh, Senior Advocate and Shashikant Saini, for the Appellant;
Anurag Sharma, A.A.G., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Alok Sharma, J—The present petition has been filed by the petitioner with following prayers:-

"It is, therefore, prayed that your lordships may very graciously be pleased to accept and allow this writ petition and by way of appropriate writ, order or directions the respondents may kindly be directed that the elections of remainder 5 marketing societies also before elections for the Director of Block-II are held"

2. Programme for the elections to the Board of Directors of the Ajmer Central Cooperative Bank Limited (hereinafter "the Bank") was first circulated on 19-6-2015. Whereunder the process was to commence 30-8-2015 and end on 9-9-2015. Vide order dated 25-8-2015 the programme was altered and new calendar was circulated whereunder elections were to commence 15-9-2015 and end on 19-9-2015. Then for reason of intervention by this court at its Principal Seat Jodhpur under its order dated 27-8-2015 in SBCWP No. 9315/2015 and 9316/2015, the programme was again altered vide order dated 7-9-2015, with the election process commencing 22-9-2015 and concluding 7-10-2015. They were then notified. But vide order dated 28-9-2015 owing to the order dated

28-9-2015 in SBCWP No. 14202/2015, the election was kept in abeyance. And now vide order dated 29-9-2015, the elections to the Ajmer Kraya Vikraya Sahakari Samiti and Kishangarh Kraya Vikraya Sahakari Samiti are to be first held between 1-10-2015 and 14-10-2015 while to the Ajmer Central Cooperative Bank remain to be kept in abeyance.

3. The case of the petitioner is that in ward No. 11 of the Ajmer Central Cooperative Bank, in seven Kraya Vikraya Sahakari Samitis administrators were appointed and only in respect of Sarwad Kraya Vikray Sahakari Samiti (hereinafter Sarward Samiti) he is the elected President in the elections held with the intervention by this court vide order dated 28-9-2015 in SBCWP No. 14202/2015. Senior Counsel for the petitioner submits that in the obtaining circumstances it was imminent that the petitioner would be elected to Board of Directors of the Ajmer Central Cooperative Bank in the election thereto underway. But to stymie his obvious chance of election as such director, the respondents have, on a second wind, arbitrarily chosen to conduct elections of only Ajmer Kraya Vikraya Sahakari Samiti and Kishangarh Kraya Vikraya Sahakari Samiti to which administrators were appointed to the exclusion of five other similarly placed Samitis in ward No. 11, where also administrators have been appointed. It has been submitted that elections to the similarly placed five remainder Samitis in Ward No. 11, ought to have also been conducted for a just and fair election to Board of Directors of the Cooperative Bank. Senior counsel has finally submitted that even otherwise final voter list was published on 28-9-2015 and in the circumstances no alteration thereof can be made by resort to elections in the Ajmer and Kishangarh Kraya Vikraya Sahakari Samitis. Therefore the prayer as set out in the writ petition be allowed and suitable directions issued.

4. Mr. Anurag Sharma, learned Additional Advocate General who appeared on behalf of the Government, as required by this court, has submitted that the writ petition is not maintainable. He submitted that it is trite that a writ petition, other than a public interest petition, which the present petition is not, can be laid only by one personally aggrieved of the contravention of his own legal and fundamental rights. The petitioner, a president of Sarwad Samiti, has no manner of interest in the elections in other Samitis of Ward No. 11. If at all any member/s of the said Samitis were aggrieved he/they ought to have approached this court. The petitioner's right is only to vote/contest in the election for the Board of Directors of the Ajmer Central Cooperative Bank. The said right is in no way threatened nor it is so alleged. Mr. Sharma has further pointed out that this writ petition is also liable to be dismissed on ground of laches. It is submitted that the election to the Ajmer Central Cooperative Bank was first made public on 19-6-2015, and if at all the petitioner had any purported right to seek election to all or any Kraya Vikraya Sahakari Samitis with administrators in Ward No. 11, he ought to have approached this court for such relief immediately. It has been submitted that election to the Ajmer Central Cooperative Bank has now been notified, albeit presently in abeyance, and the petitioner finding himself losing his

accidental monopoly of being the only one eligible to represent ward No. 11 on the Board of Directors of the Ajmer Central Cooperative Bank, cannot invoke the jurisdiction of this court under Article 226 of the Constitution of India at this belated stage. It has been further submitted that all Samitis of Ward No. 11 are on the electoral roll for the election to the Board of Directors of the Ajmer Central Cooperative Bank and mere absence of elected president/s would have entailed non-exercising their right to vote as the administrators appointed under Section 30C of the Act of 2001 cannot vote as directed by this court in another matter. It has been submitted that elections to the Ajmer Kraya Vikraya Sahakari Samiti and Kishangarh Kraya Vikraya Sahakari Samiti only entail in effect the election of a President entitled to vote for the respective Samitis in the election for the Director from Ward No. 11 to the Ajmer Central Cooperative Bank. Mr. Sharma has clarified that the reason for holding election to the post of President in Ajmer and Kishangarh Kraya Vikraya Sahakari Samitis lies in the directions of this court vide order dated 21-9-2015 in SBCWP No. 13726/2015, Ghisa Lal Vs. State of Rajasthan and direction dated 28-9-2015 in SBCWP No. 14202/2015, Bhupendra Pratap Singh Rathore Vs. State of Rajasthan.

5. Heard. Considered.

6. In my considered view, the petition is liable to fail both on the ground of the petitioner lacking locus standi, as also laches. The petitioner is the President of the Sarwad Kraya Vikraya Sahakari Samiti and obviously not a member of the five Samitis of Ward No. 11 to which he is seeking election to the post of President at this belated stage. Only members of the said five Samitis where administrators have been appointed could have approached this court seeking election in the Samitis. None of the petitioner's legal or fundamental right has been contravened as he is free to contest the election to the post of Director of the Ajmer Central Cooperative Bank. Aside of above, it is also on record that the programme for the post of Director in the Ajmer Central Cooperative Bank was first released on 19-6-2015 and has been postponed from time to time for one reason or the other. The petitioner, assuming that he has locus standi, (albeit contrary to that held hereinabove) he ought to have approached this court well in time. This was not done and no plausible explanation has been preferred. More so when the petitioner had earlier approached this court in SBCWP No. 14202/2015 decided on 28-9-2015 and was conscious of several of the Samitis having administrators. The object of the writ petition is thus apparently not the vindication of any legal or fundamental right but the petition is actuated by political motivation. The petitioner has now approached this court when elections to the post of Director of the Bank are in abeyance i.e. in the middle of the electoral process. The petition in the facts is thus hit by laches.

7. Dismissed.

8. Even though the petition has been dismissed, this court is quite dismayed with the working of the State Cooperative Election Authority. The facts of the present case are telling. Seven Kraya Vikraya Sahakari Samitis in Ward No. 11 had

administrators-with the cooperative monument, democracy, participation at the grass root level. Yet the elections for selection of the President of Sarwad Kraya Vikraya Sahakari Samiti, part of Ward No. 11 (where President had died in an accident) were announced but arbitrarily postponed for the fig-leaf reason of Municipal elections and then not held despite entreaties for about a month thereafter. The petitioner in SBCWP No. 14202/2015 approached this court and directions were issued vide order dated 28-9-2015 to hold elections to the post of President of Sarwad Kraya Vikraya Sahakari Samitis within two days. This direction appears to have triggered a relook by the supposedly independent State Cooperative Election Authority and a knee-jerk decision to hold elections in the Ajmer and Kishangarh Kraya Vikraya Sahakari Samitis where administrators were working for several months taken. There can be no quarrel with the decision but the timings are suspect. And the question is why not elections in all other five Kraya Vikraya Sahakari Samitis in Ward No. 11 where administrators are also working. The putative reason is the differentiation for reason of directions of this court in SBCWP No. 13276/2015 dated 21-9-2015 and SBCWP No. 14202/2015 dated 28-9-2015. But oddly the said directions of this court which required elections to Ajmer Kraya Vikraya Sahakari Samiti were brushed under the carpet when the elections to the Ajmer Central Cooperative Bank were notified. Then suddenly invoked. There appears to be no consistency and bona fides in the exercise of discretion and the application of law by the State Cooperative Election Authority. Its independence is prima facie questionable and it appears to be conducting itself as an instrument of patronage, a lever for manipulation by the powers that be. The time may have come for an independently Selected Rajasthan State Cooperative Election Authority in the fashion of the C.E.C.