

**(1992) 04 RAJ CK 0014**  
**In the Rajasthan High Court**  
**Case No : Civil Special Appeal No. 12 of 1992**

Chothu Ram

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 13-04-1992

**Acts Referred:**

Rajasthan Co-operative Societies Act, 1965 — Section 36(1A)

**Citation :** (1992) 1 RLW 467 : (1992) 3 WLC 69 : (1992) 1 WLN 568

**Hon'ble Judges :** Y.R. Meena, J; Jasraj Chopra, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

J.R. Chopra, J.—Heard.

The contention of Mr. Joshi is that in this case election of certain members of the Cooperative society was declared to be void. Consequently, the election of the President, Vice President and other Office bearers of the Cooperative society was also set aside. Against that order an appeal was preferred before the Cooperative Tribunal and the Cooperative Tribunal was pleased to stay the operation of the aforesaid order of the Senior Assistant Registrar, dated 28.10.91 vide his order dated 2.11.91. However, in the meanwhile on 29.10.91, the Senior Assistant Registrar feeling that the members whose election has not been set-aside cannot affectively function because they cannot for quorum, he superseded the committee and appointed an Administrator vide Annex. 2 and Shri Mahendra Singh Sharma has taken over his charge as Administration of the aforesaid Society Dhanasiya Gram Seva Sahkari Samiti Ltd. Dhanasiya. Against that order Annex. 2 an appeal was filed before the Hon''ble Minister and the Hon''ble Minister has stayed the operation of Annexure 2.

2. The contention of Mr. Joshi is that this order of the Minister is without jurisdiction, no appeal could lie to him. An appeal against setting-aside the election is already pending before the Tribunal and according to him the Tribunal

has issued no stay order. That contention of course, does not appear to be correct because the Tribunal has already issued stay order on 2.11.91 staying the execution of the order dated 28.10.91 meaning that the order dated 28.10.91 does not exist members whose election was set-aside through this order stand restored back to their position as the elected members as also the President and other Office bearers of that society.

It was contended by Mr. Joshi that it is not a case supersession of a society and therefore, against the order appointing the Administrator, no appeal could lie u/s 36(1 A) of the Cooperative Societies Act, 1956 to the Minister.

3. We are unable to accept this contention. It is not a case where certain members of officers of the Cooperative Society have been removed or superseded on the allegations of mis-conduct. It is a case, where the society on account of the declaration of the result of certain election to be void, was not able to function because the remaining members could not constitute a proper quorum. Thus, certain members of the Committee, whose election was not declared void were there and some others whose election has been set-aside have now been restored to their original position on account of stay order of the Tribunal and therefore, it is very much a case of the supersession or removal of the Committee and appointment of an Administrator which stand covered by the clause " or is otherwise not discharging its or his function properly" and therefore, this supersession of the Committee of the Cooperative Society and the appointment of the Administrator is covered by the provisions of Section 36(1 A) of the Act of 1965.

4. We put a pointed question to Mr. Joshi to point out any either provision under which the Committee of this Cooperative Society has been superseded and the Administrator has been appointed. Our attention was drawn to no other provision in the Act under which this Cooperative Society has been superseded. Annexure 2 itself shows that the Administrator has been appointed in exercise of the powers u/s 36 (1 A) of the Rajasthan Cooperative Societies Act, 1965 and therefore, when a Committee has been superseded and an Administrator has been appointed an appeal certainly lies to the concerned Ministry u/s 36 (1A) of the Rajasthan Cooperative Societies Act, 1965 and consequently, if any order has been issued by the Hon"ble Minister, it cannot be said that he has acted without jurisdiction.

5. In the result, we find no force in this Appeal and it is hereby dismissed on merits.