
(1988) 04 GAU CK 0017
In the Gauhati High Court
Case No : Civil Rule No. 430 of 1987

Dinwang Lowang & Others

APPELLANT

Vs

State of Arunachal Pradesh & Others

RESPONDENT

Date of Decision : 12-04-1988

Acts Referred:

Arunachal Pradesh Co-operative Societies Act, 1978 — Section 77, 77, 79, 79, 85, 85

Citation : (1988) 2 GLR 324

Hon'ble Judges : J.Sangma, J and S.N.Phukan, J

Bench : Division Bench

Advocate : N.K.Singh, G.K.Dutta, B.M.Goswami, B.Dutta, A.Sarma, Advocates appearing for Parties

Judgement

S. N. Phukan, J.—The facts which are necessary for the purpose of disposal of the present petition are briefly stated as follows. The petitioner No. 3 is a cooperative Society and the petitioner No. 1 is the Chairman of the said Cooperative Society, The Society has been set up to process timber, encourage self help and mutual help among its members and to manufacture commercial plywood. One Sri Wanglin Lowangdong became its Chairman and it is alleged that during his tenureship no annual general meeting was convened for 3 years and there were serious irregularities regarding management of the Cooperative Society and accordingly a no confidence motion was moved and passed against him in a meeting of the Board of Directors held on 16.2.1987. The Board of Directors empowered the petitioner No. 1 to do all acts on behalf of the Cooperative Society Thereafter, the Registrar Cooperative Societies, Government of Arunachal Pradesh, respondent No. 2 authorised the petitioner No. 1 to call a special general meeting and accordingly it was decided by the Board of Directors to hold the said meeting on 31.3.1987 and notices were also issued. However on 14.3. 87 the respondent No. 2 by a W. T. message to the Deputy Commissioner of the District withdrew his earlier authority allowing the petitioner No. 1 to act as Chairman of the Cooperative Society and operate bank account and informed that said Sri Wanglin Lowangdong would call a special general meeting of the

Society on 5.4.1987. In spite of the above position, the said annual general meeting convened by the petitioner No. 1 was held on 31.3.87 which was attended by 470 shareholders and in the meeting, the petitioner No. 1 was elected as Chairman along with 11 new members of the Board of Directors. The proceeding of the meeting was sent to the respondent No 2 for confirmation. But the respondent No. 2 by the impugned order (Annexure 16 to the petition) addressed to the Deputy Commissioner, Khansha refused to approve the proceeding of the said general meeting and made an interim arrangement for running the affairs of the Society. Being aggrieved the present petition has been filed for an appropriate writ.

2. On behalf of the respondents, an affidavit in opposition and the counter to the affidavit in reply have been filed duly sworn by the Under Secretary (P & D), Government of Arunachal Pradesh, Itanagar. The petitioners have challenged various orders passed by the respondent No. 2 under the provisions of the Arunachal Pradesh Cooperative Societies Act, 1978, for short "the Act" but to our surprise the Registrar of the Cooperative Societies has not filed any affidavit before us.

3. The main point urged before us by Mr. Sarma, learned counsel for the petitioners is that as the provisions of the Act and the rules framed thereunder have not given any power to the Registrar, who is a statutory authority of limited jurisdiction either to approve or to disapprove the proceedings of the annual general meetings, the impugned order dated 16.4.87 (Annexure 16 to the petition) is wholly without jurisdiction and void. In support of his contention Mr. Sarma has placed reliance on *Essex County Council vs. Essex Incorporated Congregational Church Union* (1963) 1 All E. R. H.L.326 and *Chief Justice of Andhra Pradesh and others vs. LVA Dittulu* (1979) 2 S.C. C.34.

4. Section 77 of the Act, inter alia, empowers the Registrar to direct a Society to call a special general meeting; Section 79 of the Act, inter alia, empowers the Registrar by following the provisions laid down in the said Section to remove the committee of a Cooperative Society and appoint a new committee or appoint administrators; Section 84, inter alia, empowers the Registrar to hold an enquiry into Constitution, working and financial conditions of a Society; Section 85, inter alia, empowers that Registrar or any other person authorised by him to inspect a Cooperative Society. This Section also empowers the Registrar to direct a Cooperative Society to remedy the defects, within specified time, which came to his knowledge as a result of the inquiry held under section 84 or 85 and in the event of failure of Society to rectify the defects. Registrar may himself take steps to have the defects rectified and Section 120 lays down provisions of appeal. Rule 59 of the Arunachal Pradesh Cooperative Societies Rules, 1984, inter alia, provides that the general meeting of a Society shall be convened under intimation to the Registrar who may attend such meeting or authorise some person to attend such meeting on his behalf.

5. From the above provisions of the Act and Rules framed thereunder we do not

find any provision under which the proceeding of an annual general meeting to become effective requires approval of the Registrar. However the Registrar has got power to control such meeting by attending the same or by authorising some other person to attend the meeting.

6. In *Essex County Council* (supra) the House of Lords held that "the consent of the parties cannot confer jurisdiction where none exists nor can any question of estoppel arise for estoppel cannot enlarge the jurisdiction of a court of limited Jurisdiction." In *Chief Justice of Andhra Pradesh* (supra) the Apex Court held that if a decision of a Tribunal was given by an authority suffering from inherent lack of jurisdiction, such a decision cannot be sustained merely on the doctrine of *resjudicata* and estoppel.

7. There is no dispute that the Registrar of cooperative Societies is a statutory authority of limited jurisdiction held earlier, the Act and the Rules framed thereunder do not confer any jurisdiction on him to approve or disapprove proceedings of an annual general meeting of a Cooperative society. Merely because the petitioners sent the proceedings of the special annual general meeting held on 31.3.87, it would not confer any jurisdiction on the Registrar to approve or to disapprove the proceedings of the annual general meeting as consent of the parties cannot confer any jurisdiction on the Registrar as he has no such jurisdiction to decide this point under the Act and Rules framed thereunder. We are, therefore, of the opinion that the impugned order dated 16.4.87 (Annexure 16 to the petition) was not legally and validly passed.

8. From the affidavit in opposition dated 31.10.87 filed behalf of the respondents we find that the Registrar, Cooperative Societies in exercise of its powers under section 79 of the Act has superseded the Board of Directors of the present Cooperative society and has appointed the Asstt. Registrar as an administrator of the said society. The said administrator has taken charge of the Society and has been managing the affairs of the Society. The Registrar has also directed the Administrator to hold the annual general meeting of the society within a period of 6 months from 7.10.1987. This order of the Registrar dated 21.9.87 passed under Section 79 of the Act has not been challenged before us and as such we do not propose to interfere with the present arrangements made by the Registrar for running the Cooperative society. There is an apprehension in the mind of the petitioner No. 1 that while holding the annual general meeting, the administrator may take action to alter the names of the members of the Society and thereby may deprive the petitioner No. 1 to contest the election. Mr. Goswami, learned senior Government Advocate, Arunachal Pradesh rightly submitted that the administrator or for that matter the Registrar shall not take any action without following the provisions of law and as such there is no cause for any apprehension in the mind of the petitioner No. 1.

9. From what has been stated above and in view of the changed circumstances, we do not propose to interfere with the order dated 16.4.87 (Annexure 16 to the petition), the interim arrangements and the order passed under section 79 of the

Act by the Registrar, respondent No. 2 for managing the affairs of the present Society. The petition is infructuous and hence dismissed.

Parties to bear their own costs.