

(2016) 01 JH CK 0172
In the Jharkhand High Court
Case No : W.P.(C) No. 6030 of 2015

Dipak Kishore Dutta Roy and others

APPELLANT

Vs

State of Jharkhand and others

RESPONDENT

Date of Decision : 14-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Jharkhand Co-operative Societies Act, 1935 — Section 14(8)

Citation : (2016) 2 JBCJ 13 : (2016) 2 JCR 273

Hon'ble Judges : Chandrashekhar, J.

Bench : Single Bench

Advocate : Chandra Prabha, S.C. and D.K. Malityar, J.C. to S.C, B.B. Sinha, Advocate, for the Respondent

Final Decision : Disposed off

Judgement

Chandrashekhar, J. - Aggrieved by order dated 27.11.2015 in Revision Case No. 17 of 2015 and order dated 05.08.2015 in Misc. Case No. 02 of 2015, the present writ petition has been filed.

2. The brief facts as narrated in the writ petition are stated thus :

(i) The Jamshedpur Cooperative House Building Society Limited is registered under the Jharkhand Cooperative Society Act, 1935. Initially, Society was managed by the Managing Committee comprising of 12 members, out of which 5 members were nominated by M/s Tata Iron and Steel Company Limited. Subsequently, M/s Tata Iron and Steel Company Limited withdrew its nominated members and the Managing Committee continued with only 7 members. In the election conducted on 26.12.1999, petitioner No. 1 was elected as Vice-President. The Managing Committee continued upto 31.12.2002 when election for members of the Managing Committee was held, in which petitioner No. 3 was elected as Vice-President. Thereafter, the election for the members of the Managing Committee was held only on 20.07.2006, in which the petitioner No. 1 was again elected as Vice-President. The said Managing Committee continued

upto 05.08.2009 when it was dissolved/superseded and, the District Cooperative Officer-Jamshedpur was appointed as Administrator. It appears that Surcharge Case No. 15 of 2009 was initiated on the allegation of misappropriation of Rs. 7,69,037.32 and Rs. 30,35,763.91 and, on the direction of the Deputy Secretary, Cooperative Department, Government of Jharkhand an enquiry was also conducted in which a report was submitted on 26.06.2011. In respect of the election held in November, 2013, respondent No. 4 and 5 instituted Misc. Case No. 02 of 2015, which was disposed of with observation that fresh election of the Society should be conducted in terms of the amended bye-laws. The petitioners challenged order dated 06.08.2015 in Revision Case No. 17 of 2015 which has been dismissed by the Registrar, Cooperative Societies on 30.11.2015. The respondents challenged the continuance of the petitioner No. 1 as Vice-President asserting that the same is contrary to Section 14(8) of the Jharkhand Cooperative Societies Act, 1935 and Clause 52 of the bye-laws of the Society.

3. Heard the learned counsel for the parties.

4. Referring to order dated 05.08.2015 in Misc. Case No. 02 of 2015 by the Joint Registrar, Cooperative Societies, Jharkhand, the learned counsel for the petitioners contends that the issue before the authority was validity of the election however, the respondent-Joint Registrar has recorded a finding that the petitioners are defaulters. It is further submitted that the revisional authority in order dated 27.11.2015 has made stigmatic remarks against the petitioner No. 1 which warrants interference of this Court.

5. From the materials brought on record, it appears that an enquiry was conducted in which a report was submitted on 28.06.2011. The respondent-Joint Registrar has noticed the said fact and in that reference he has observed that Shri D.K. Dutta, S.K. Sinha and Anup Kumar are defaulters. Considering the issue raised in Misc. Case No. 02 of 2015, it is hereby clarified that the observation by the Joint Registrar in order dated 05.08.2015 that the petitioners are defaulters shall not be treated as a finding recorded in Misc. Case No. 02 of 2015. Other grievance of the petitioners is to the observation in order dated 27.11.2015 in Revision Case No. 17 of 2015 which is extracted below:

"At present, the fragmented managing committee is not functioning in a democratic manner, Mr. D.K. Dutta Roy has been occupying the post of Vice President in flagrant violation of sub Section (8) of section 14, Jharkhand Co operative Societies Act, 1935 and clause 52 of By-Laws of the said society. If not ordered by Registrar, Co operative Societies he would continue as Vice President time immemorial and it smacks of his bad intention and mala fide action for which he should be penalised from Court of Criminal law."

6. In view of the jurisdiction of the revisional authority, the stigmatic observation in order dated 27.11.2015 are hereby expunged. The facts as disclosed in the present proceeding indicates that there is serious dispute between the members of the Society. For conduct of a free and fair election, appointment of

Administrator cannot be faulted. It appears that on 05.08.2009 also, that is previous to the 2013 election, an Administrator was appointed. Mrs. Chandra Prabha, the learned counsel for the respondent-State of Jharkhand submits that an Administrator was, in fact, appointed however, in view of order dated 15.12.2015 passed by this Court, the order appointing the Administrator was recalled. Considering the facts disclosed in the present proceeding, the writ petition stands disposed of with the aforesaid clarifications. Needless to say, election of the Society shall be held at the earliest and it should be conducted by the authority prescribed under the law. Interim order dated 15.12.2015 stands vacated. I.A. No. 76 of 2016 also stands disposed of.