
(2012) 08 CHH CK 0039
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 1434 of 2012

Dukalu Chandra

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 24-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2013) 1 MPHT 21

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Division Bench

Advocate : Hari Shankar Patel, for the Appellant; Satish Gupta, Govt. Advocate for the State on Advance Copy, for the Respondent

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J.—In this writ petition, filed under Article 226/227 of the Constitution of India, the petitioner has called in question the order dated 1-8-2012 (Annexure P-1) passed by respondent No. 5/SDO (Revenue), Sakti, District Janjgir-Champa, allowing the election dispute raised by respondent No. 2 and setting aside his election. While deciding the dispute, the SDO (Revenue) has exercised the powers u/s 64(2)(V) read with Section 66 of the Co-operative Societies Act, 1960 (for short "the Act, 1960"). u/s 66 of the Act, 1960, Registrar has power to decide the dispute u/s 64 himself or transfer it for disposal to a nominee or Board of nominees to be appointed by him and such decision of a nominee shall for the purpose of the Act, be deemed to be the decision of the Registrar. u/s 3 of the Act, 1960, the Registrar is appointed by the State Government and similarly, other officers are also appointed to assist him. Proviso to sub-section (2) of Section 3 says that the officers appointed to assist the Registrar shall within such areas, as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Registrar by or under this Act as the State Government may, by special or general order, direct. Thus, while performing the duties of a nominee of Registrar, which

includes the Deputy Registrar/Assistant Registrar before whom the election dispute was presented and later on made over, the SDO (Revenue) discharges the functions of the Deputy Registrar or the Assistant Registrar, as the case may be.

2. The order passed by the Deputy Registrar is appealable before the Joint Registrar u/s 77 of the Act, 1960 and, thereafter, a second appeal is also provided. In the matter of Madhosingh and others Vs. SDO, Shujalpur and others, 1997 RN 233, similar view was taken that when the election petition is decided by the SDO (Revenue) as nominee of the Registrar, such an order is appealable u/s 77 of the Act, 1960.

3. In view of the above, this Court is of the considered opinion that the petitioner has an alternative remedy of filing an appeal u/s 77 of the Act, 1960, therefore, the writ petition is not maintainable on the ground of availability of alternative remedy. The petitioner, if so advised, may prefer the appeal within 3 weeks from today. Accordingly, this writ petition is dismissed with the above liberty.