
(2014) 08 MP CK 0166
In the Madhya Pradesh High Court
Case No : W.P. No. 4753/2014

Gajendra Singh Dandotiya

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 21-08-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Madhya Pradesh Co-operative Societies Act, 1960 — Section 80-A

Citation : (2014) 08 MP CK 0166

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : Ravindra Dixit, Advocate for the Appellant; Ajay Raghuvanshi, PL, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rohit Arya, J.—By this petition under Article 226 of the Constitution of India challenge is made to the order dated 15/10/2013 (Annexure P/1). By the impugned order, Joint Registrar, Cooperative Societies, Gwalior Division has addressed the letter to the Collector, Gwalior recommending departmental action against the petitioner, the Village Agricultural Development Officer, Ghatigaon, Gwalior for alleged grave irregularities as an election officer, while conducting the elections of Primary Agricultural Cooperative Society, Tighara. It is further mentioned therein that a writ petition was preferred by the members of the society alleging irregularities and illegalities committed by the petitioner and by the orders of this Court, the enquiry was held and vide order dated 10/10/2013, the elections of the Society were cancelled.

2. The challenge to the aforesaid order is made on the premise of Section 80-A of M.P. Cooperative Societies Act, 1960 (for short "the Act") stating that the petitioner ought to have been heard before passing of the order dated 10/10/2013 by the Joint Registrar and therefore, the departmental action recommended in the impugned order on the basis of order dated 10/10/2013 is

bad in law.

3. Having heard, learned counsel for the parties, this Court is of the opinion that petition is misconceived based on misplaced reliance on Section 80-A of the Act while assailing the impugned order dated 15/10/2013 (Annexure P/1).

4. Section 80-A of the Act is placed under Chapter X which deals with redressal forums providing for Constitution of Tribunal, powers of Tribunal, appeals before the Registrar and Tribunal etc. and Section 80-A of the Act provides inherent powers to Registrar to call for proceedings of subordinate officers and Board of Directors of a society and to pass orders thereon. The Registrar may invoke such powers to satisfy himself as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer or Board of Directors and if it appears to the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, the Registrar, may pass such order thereon as he may deem fit. This power is subject to proviso which reads as follows:-"Provided that no order under this Section shall be made to the prejudice of any party unless such party has had an opportunity of being heard."

5. Upon perusal of Section 80-A of the Act of 1960, it is well evident that the Registrar, may at any point of time on his own motion or on the application made by any party call for and examine the record of any enquiry or the proceeding by any subordinate officer or a decision of committee or society and therefore, the opportunity is required to be afforded to the party to the dispute and not the authority, which has passed the order. The word party shall not include the officer who has passed the order to claim an opportunity of hearing before the Registrar while he exercises the power u/s 80-A of the Act. In the instant case, the petitioner was an election officer and not a party to the dispute. The election, in respect whereof the enquiry was conducted pursuant to the order passed by this Court. The petitioner is not covered by the proviso to Section 80-A of the Act, and therefore, the order passed u/s 80-A of the Act on 10/10/2013 cannot be assailed on the premise of non-compliance of proviso to Section 80-A of the Act in case of petitioner.

6. Further by the impugned communication, a departmental action has been recommended. In the event, enquiry is initiated against the petitioner and charge sheet is issued to the petitioner, petitioner shall have complete opportunity to file reply thereto and deal with the allegations made against him on facts, in accordance with law. However, it is considered apposite to observe that in the enquiry so constituted, the enquiry officer shall not be influenced by the order dated 10/10/2013 and deal with charges independently in light of material placed before him, in accordance with rules with due observance of principles of natural justice.

7. With the aforesaid observation, petition is dismissed.