

(2007) 11 P&H CK 0071
In the Punjab And Haryana At Chandigarh

Hanuman

APPELLANT

Vs

The Registrar Co-Operative Societies and Others

RESPONDENT

Date of Decision : 15-11-2007

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2008) 149 PLR 251

Hon'ble Judges : Satish Kumar Mittal, J;K.C. Puri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The petitioner, who is one of the seven elected members of the Managing Committee of the Basti Bhiwan Primary Agricultural Cooperative Society Limited, Fatehabad, as Society registered under the Haryana Co-operative Societies Act, 1984, (hereinafter referred to as "the Act), has filed this petition under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the Presiding Officer-cum-Inspector, Co-operative Societies, Fatehabad (respondent No. 2 herein) not to hold the election of the office bearers of the Managing Committee of the aforesaid Society.

2. It is the case of the petitioner that seven members of the Managing Committee, including the petitioner, were elected on 23.8.2007. It is further the case of the petitioner that as per Section 29 of the Act, the Hafed and Financial Institution, which provide financial assistance to the Society, may have the right to nominate two more members of the Managing Committee representing the interest of the Hafed and the said Financial Institution. It is also the case of the petitioner that as per Section 30 of the Act, the election of the office bearers of the Society would be held within sixty days from the date of election of the members of the Committee. It is submitted that in this case within sixty days no meeting of the Committee was called for electing the office bearers of the Society. However, now respondent No. 2 has issued a Circular dated 3.11.2007 that a meeting of the Managing Committee will be held on 16.11.2007 to elect

the President and Vice President. It is the case of the petitioner that the said Society is holding the election contrary to the provisions of the Act because after the expiry of more than sixty days of the election of the members of the Society, the election of the office bearers cannot be held particularly when two more members representing the interest of Hafed and the Financial Institution have not been nominated to the Managing Committee.

3. After hearing the learned Counsel for the petitioner and going through the contents of the petition, we are not inclined to entertain this petition on three grounds. Firstly, if the election of the office bearers of a Managing Committee of the Society is held contrary to the rules or bye-laws of the Act, the aggrieved person may approach the Registrar by invoking the provisions of Section 27 of the Act.

4. Secondly, in our opinion, the respondent Society is not an instrumentality of the State. In view of the said fact and the law laid down by the Supreme Court in *General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, U.P. Vs. Satrughan Nishad and Others*, , no writ petition is maintainable against the respondent Society and respondent No. 2, who is holding the election of the office bearers of the Society.

5. Thirdly, in case of any dispute arising in connection with the election of office bearers of the Society, the aggrieved person can approach the Registrar challenging the election of such office bearers u/s 102 of the Act. Thus, we are not inclined to entertain this petition.

Dismissed.

6. However, it will be open for the petitioner to approach the Registrar raising his grouse, if there is any violation in holding the election of the office bearers or subsequently after the election, such election of the office bearers can be challenged under the provisions of Section 102 of the Act.