

(2023) 06 MP CK 0043
In the Madhya Pradesh High Court
Case No : Writ Petition No. 12779 Of 2023

Hariram Kewat

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 14-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Madhya Pradesh Cooperative Societies Act, 1960 — Section 64(2)(v), 80A

Citation : (2023) 06 MP CK 0043

Hon'ble Judges : Milind Ramesh Phadke, J

Bench : Single Bench

Advocate : D.P. Singh, G.K. Agrawal

Final Decision : Disposed Of

Judgement

Milind Ramesh Phadke, J

The present petition under Article 226 of the Constitution of India has been preferred by the petitioner challenging the order dated 20.04.2023; whereby, the petitioner made a complaint under Section 80-A of the Madhya Pradesh Cooperative Societies Act, 1960 before respondent No.3- Joint Registrar (Judicial), Cooperative Societies in respect of conduction of illegal, unlawful and unfair election of respondent No.5 - Society based on forged documents. Respondent No.3 instead of taking cognizance of the matter returned the same by placing reliance in the matter of Vijay Tiwari vs. M.P. State Cooperative Tribunal & Ors. reported in 2014 RN 444, holding that the elections of the society since have been conducted by the MP State Cooperative Election Authority and not by the Registrar Cooperative Societies, therefore, the Joint Registrar has no power to entertain such application under Section 80-A of the Act of 1960 and advised the petitioner to file dispute under Section 64(2)(v) of the Act of 1960.

Learned counsel for the petitioner has tried to impress upon the fact that the entire proceedings conducted by the Election Tribunal was per se illegal and was

based upon certain documents which were forged, therefore, the Registrar under Section 80-A of the Act of 1960 had ample powers to call for the record and enquire about the proceedings conducted in the elections and pass a reasoned order but instead of exercising the said powers, the complaint has been returned which is per se illegal and deserves to be set aside and it was thus prayed that respondent No.3 be directed to hear the objections and decide the same in accordance with law. Reliance was placed in the matter of Naresh Sharma vs. Commissioner-Cum-Registrar Cooperative reported in 2008 (5) MPHT 208 with a contention that in similar set of facts, the Coordinate Bench of this Court has held that the objections under Section 80-A of the Act of 1960 would be maintainable.

Per contra, G.K. Agrawal, learned Government Advocate for the State submits that the respondent No.3 has rightly returned the objections filed by the petitioner as after the elections are over, the authority had become functio officio and therefore, could not have called for any of the records of the proceedings of the election and could have decided the same under the provisions of Section 80-A of the Act of 1960. It was further submitted that the judgement which has been relied by the counsel for the petitioner is based on different facts as therein the elections were not over and proceedings of the elections pending were challenged and in that context, the Coordinate Bench of this Court has come to a conclusion that the objections filed under Section 80-A of the Act of 1960 are maintainable. Thus, it was prayed that the present petition be dismissed.

Heard counsel for the parties and perused the record.

From bare reading of Section 80-A of the Act of 1960 which deals with the powers of Registrar to call for the proceedings of sub-ordinate officers and Board of Directors of a society to pass orders thereon reflects that the jurisdiction of the Registrar under the aforesaid section could be exercised only when there is some enquiry or proceedings pending before the sub-ordinate authorities but herein it is a case where the elections are already over, no proceeding or any enquiry is pending before the sub-ordinate authority of which the record could be called and enquiry can be conducted by the Registrar by invoking the provisions of Section 80-A of the Act of 1960. Even the judgment which has been relied upon by the counsel for the petitioner is pertaining to the election process which was challenged prior to conclusion of the election and in that context, the Coordinate Bench of this Court has come to a conclusion that the Registrar has rightly exercised the powers under Section 80-A of the Act of 1960 and directed for re-election thus, is not applicable to the present matter. This Court, thus, does not find any reason to interfere with impugned order and holds that the Registrar has rightly directed the petitioner to approach the competent authority by invoking the provisions of Section 64(2)(v) of the Act of 1960.

At this juncture, learned counsel for the petitioner submits that the respondents may be directed to supply him the documents relating to entire election process

so that if he may deem it necessary to challenge the same before the Competent Authority under the provisions of Section 64(2)(v) of the Act of 1960, he may do so.

The aforesaid prayer appears to be reasonable.

In the fitness of things and in the interest of justice, this Court directs the respondent No.4 to supply the copies of documents relating to entire election process of respondent No.5 - Society to the petitioner within a period of one month from the date of receiving the certified copy of this order.

With the aforesaid observation, the petition is disposed off finally.