

(2011) 11 JH CK 0005
In the Jharkhand High Court
Case No : Writ Petition (C) No. 6766 of 2011

Jai Kumar Singh and Another

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-11-2011

Acts Referred:

Bihar Co-operative Societies Act, 1935 — Section 16, 32, 48, 63

Citation : (2011) 11 JH CK 0005

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : M.K. Roy, for the Appellant;

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari

1. In this writ petition, the petitioners have prayed for setting aside the Letter No. 59 dated 29.10.2011 by which the election programme of Deoghar Co-operative Grain Bank has been notified and according to which the election of the Grain Bank is scheduled to be held on 22.11.2011. The petitioners have further prayed for a direction on the respondents to show cause as to under what condition the nomination papers of the petitioners have been rejected without assigning and communicating any reason for the same. The petitioners have also prayed for a direction on the respondents for publishing a fresh election programme allowing the petitioners to participate in the same. When the case is taken up for hearing, learned J.C. to Additional Advocate General raised preliminary objection and submitted that the petitioners have challenged the validity of rejection of their nominations and have raised other factual grounds, which come within the election disputes and the same are to be adjudicated upon by the Registrar of the Co-operative Society u/s 48 of the Bihar Co-operative Societies Act, 1935.

2. I have heard learned counsel for the parties and considered the facts and

materials on record. The petitioners are mainly aggrieved by rejection of their nomination papers. They have raised several grounds disputing the validity of the said rejection. They have also raised several other factual grounds relating to the election of the Deoghar Co-operative Grain Bank. Section 48 of the Bihar Co-operative Societies Act, 1935 provides for reference and decision of all the disputes touching the business of the registered society before the Registrar of the Co-operative Society.

3. Section 48 of the Bihar Co-operative Societies Act, 1935 is quoted hereinbelow:

48. Disputes. - (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its managing committee against a paid servant of the society) arises -

(a) amongst members, past members, persons claiming through members, past members or deceased members, and sureties of members, past members or deceased members, whether such sureties are members or non-members; or

(b) between a member, past member, persons claiming through a member, past member or deceased member, or sureties of members, past members or deceased member, whether such sureties are members or non-members and the society, its managing committee or any officer, agent or servant of the society; or

(c) between the society or its managing committee and any past or present officer, agent or servant of the society; or

(d) between the society and any other registered society; or

(e) between a financing bank authorized under the provisions of Sub-section (1) of Section 16 and a person who is not a member of a registered society;

such dispute shall be referred to the Registrar:

Provided that no claim against a past member or the estate of a deceased member shall be treated as a dispute if the liability of the past member or of the estate of the deceased member has been extinguished by virtue of Section 32 or Section 63.

4. On plain reading of Section 48, it is clear that any dispute touching the business of a registered society is to be referred to the Registrar of the Co-operative Society. The expression "election" is also covered thereunder and Rule 21-X of Bihar Co-operative Societies Rules, 1959 also provides for settlement of all the disputes relating to election by the Registrar.

5. The said legal position has not been disputed by learned counsel for the petitioners.

6. In view of the above, I find that the petitioners have got effective statutory remedy for adjudication of the disputes raised in this writ petition. This writ petition is not maintainable and the same is, accordingly, dismissed.