
(2013) 04 AHC CK 0014

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4432 of 2013

Jai Prakash Saini

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-04-2013

Acts Referred:

Citation : (2014) 106 ALR 152 : (2013) 6 AWC 6067 : (2013) 3 UPLBEC 1872

Hon'ble Judges : Vipin Sinha, J; Satya Poot Mehrotra, J

Bench : Division Bench

Advocate : Bijendra Kumar Mishra and Sri Dinesh Kumar Rai, for the Appellant;
Nisheeth Yadav, for the Respondent

Judgement

Satya Poot Mehrotra and Vipin Sinha, JJ.—The present Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India, inter-alia, praying that direction be given to the respondents to consider and decide the Representation of the petitioner within stipulated time granted by this Court. From a perusal of the averments made in the Writ Petition, it appears that there is a Cooperative Society, namely, Uttranchal Jan Kalyan Sehkari Avas Samiti Ltd. (respondent No. 5). The said Cooperative Society has herein-after been referred to as "the Cooperative Society in question".

2. The petitioner claims himself to be a life founder member of the Cooperative Society in question.

3. From a perusal of the averments made in the Writ Petition, it appears that the petitioner has raised various grievances regarding the working of the Cooperative Society in question.

4. It is averred in the Writ Petition that despite Representations having been made to various authorities including the Registrar, Cooperative Societies, U.P., Lucknow (respondent No. 6) in regard to the alleged irregularities in the Cooperative Society in question, nothing has been done in the matter.

5. We have heard Shri Bijendra Kumar Mishra, learned Counsel for the petitioner, the learned Standing Counsel appearing for the respondent Nos. 1, 3, 4 and 6, and Shri Anand Yadav, holding brief for Shri Nisheeth Yadav, learned Counsel for the respondent No. 2.

6. Learned Standing Counsel appearing for the respondent Nos. 1, 3, 4 and 6, and Shri Anand Yadav, holding brief for Shri Nisheeth Yadav, learned Counsel for the respondent No. 2 submit that for redressal of his alleged grievances as raised in the Writ Petition, the petitioner has an alternative remedy available u/s 65 of the U.P. Cooperative Societies Act, 1965 (in short "The Act").

7. It is further submitted that in fact, as per the averments made in the Writ Petition, the Representation has already been made before the Registrar, Cooperative Society, U.P., Lucknow (respondent No. 6) in regard to the alleged irregularities being committed in the Cooperative Society in question.

8. We have considered the submissions made by the learned Counsel for the parties.

9. Section 65 of the U.P. Cooperative Societies Act, 1965 lays down as under:

Inquiry by Registrar.--(1) The Registrar may, of his own accord, himself, or by a person authorized by him by order in writing, hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held by the Registrar or by a person authorized by him in writing in this behalf on the application of--

(a) a co-operative society to which the society concerned is affiliated;

(b) not less than one-third of the total members of the society;

(c) a majority of the members of the Committee of Management of the society.

(3) The Registrar, or the person authorized by him under sub-section (1) shall, for the purposes of any inquiry under this Section, have the following powers, namely-

(a) he shall, at all times, have access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession of, or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe has knowledge of any affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath;

(c) he may, notwithstanding any rule or bye-law specifying the period of notice

for a general meeting of the society require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself; and

(d) he may in the manner and for the purpose mentioned in Clause (e) require to be called or himself call, a meeting of the Committee of Management.

(4) Any meeting called under Clause (c) or Clause (d) of sub-section (3) shall have the powers of the general meeting or meeting of the Committee of Management, as the case may be, under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(5) When an inquiry is made under this Section, the Registrar shall communicate the result of the inquiry to the society and, in the case of inquiry on an application under Clause (a) of sub-section (2), also to the applicant co-operative society.

10. Under the aforesaid Section 65, the Registrar has power to hold an inquiry into the constitution, working and financial condition of a cooperative society.

11. Sub-section (1) of Section 65 provides that such inquiry "may" be held by the Registrar of his own accord.

12. Further, sub-section (2) of Section 65 lays down that in case an application as per the requirements laid down in the said sub-section is filed, such inquiry "shall" be held by the Registrar.

13. It is, thus, evident that the petitioner has an alternative remedy available to him u/s 65 of the Act.

14. Having regard to the facts and circumstances of the case and having considered the submissions made by the learned Counsel for the parties, and also keeping in view the nature of controversy involved in the present case, we are of the view that the interest of justice would be sub-served by disposing of the Writ Petition with the direction that in case, appropriate application in accordance with requirements of sub-section (2) of Section 65 of the Act is moved before the Registrar, Cooperative Societies, U.P., Lucknow alongwith certified copy of this Order within four weeks from today, the Registrar, either himself, or by a person authorized by him by order in writing, hold an inquiry in regard to the alleged grievances raised in such application after giving reasonable opportunity of being heard to all the concerned parties including the petitioner and the respondent No. 5 in accordance with the provisions of the Act and the Rules framed thereunder.

15. The Writ Petition is accordingly disposed of with the above direction. It is made clear that this Court has not adjudicated the claim of the petitioner on merits.