
(1989) 01 GAU CK 0010
In the Gauhati High Court
Case No : Civil Rule No. 1 of 1989

Janashikha Co-Operative Printing Works Ltd.

APPELLANT

Vs

State of Tripura

RESPONDENT

Date of Decision : 05-01-1989

Acts Referred:

Citation : (1989) 1 GLJ 94 : (1989) 1 GLR 460

Hon'ble Judges : B.P.Saraf, J and S.N.Phukan, J

Bench : Division Bench

Advocate : D.D.Kundu, M.Majumdar, U.B.Saha, Advocates appearing for Parties

Judgement

1. Heard Mr. D. P. Kundu, learned senior counsel for the petitioners and Mr. M. Majumdar, learned Government Advocate for the respondents.

2. The petitioner No. 1 is a Cooperative Society and petitioner No. 2 is the Secretary of the said Cooperative Society. The term of the present Board of Directors of the petitioner Cooperative Society is going to expire on 24th January, 1989. On Nth June, 1988, the Secretary of the Society issued notice fixing 23.7.88. as the date for Annual General Meeting. According to the agenda, item No. 3 was election of new Board of Directors of the Society for the next term of three years. It is stated that by letter No, JCO/51/8788 dated 15.6.88 (AnnexureC) the Assistant Registrar, of the Cooperative Society was supplied with a copy of the resolution of the. Board of Directors fixing the Annual General Meeting for election of the new Board of Directors on 23.7.88 and also the election calendar and he was requested to appoint an Election Officer in terms of clause (b) of SubRule (1) of .Rule 61 of the Tripura Cooperative Societies Rules, 1976 (as amended). As no Election Officer was appointed, the elections could not be held on that date. After waiting for few months, on 19.11.88 the Secretary of the Society issued another notice fixing 21.12.88 as the date for the Annual General Meeting and in that agenda also the election of the new Board of Directors was included. According to the petitioners in spite of requests and even after issuance of the second notice no action has been taken by the Registrar,

Cooperative Societies as required under clause (b) of SubRule (1) of Rule 61. In this connection Mr. Kundu has drawn our attention to letter No. JCO/62/8889 dated 19.11.88 written by the Secretary of the Society to the Assistant Registrar, Cooperative Societies, Sedar South, Tripura West (AnnexureD to the present petition). From the endorsement on the body of the said letter we find that the letter was received on 22.11.86. Unfortunately, no. action has been taken on that letter so far. It is really unfortunate that a Cooperative Society, willing to hold Annual General Meeting and election of new Board of Directors in time as per the rules and the byelaws, could not do so due to the inaction of the Registrar of the Cooperative Societies, who has not only statutory obligation to enable the Society to hold election by appointing an Election Officer but also a duty to see that elections are held in time.

3. Mr. Majumdar, learned Government Advocate submits that there are financial irregularities in respect of the Cooperative Society and the matter is being enquired into. According to Mr. Majumdar for this purpose Election Officer has not been appointed. We are constrained to hold that the submission of Mr. Majumdar has no force at all. If there is any financial irregularity adequate powers are conferred on the Registrar of the Cooperative Societies under the Tripura Cooperative Societies Act, 1974 and the rules framed thereunder to take suitable action. For that purpose it is not necessary to stall the holding of Annual General Meeting and election of new Board of Directors as per Rules and bye laws. On the other hand, convening of the Annual General Meeting becomes more urgent as all such matters can be raised, discussed and decided in that meeting.

4. We have considered the submissions of Mr. Kundu on behalf of the petitioner and also Mr. M. Majumdar, learned Government Advocate. We have perused the provisions of Rule 61 (1) (a), (b) and (2) of the Tripura Cooperative Societies Rules, 1976 (as amended). It reads as follows:

61. (1) (a) The election of members of the Committee of a society shall be held in the manner specified hereinafter.

(b). The Registrar or any other officer authorised by him shall appoint one or more Election Officer as may be necessary for conducting the election of Committee members and the election of President, VicePresident or any other office bearer of the society.

(2) The election shall be held in the General Meeting of the Society?

From a bare reading of clause (b) of subrule (1) of Rule 61 it is clear that a duty is cast on the Registrar or any other officer authorised by him to appoint one or more Election Officers for conducting the election of the Committee. In the instant case We find the Registrar has failed to perform this statutory duty cast on him. We are of the firm opinion that in the interest of the cooperative movement and proper and efficient running of the cooperative societies it is necessary that the elections of the societies are held in time and in no event such elections should be stalled by reason of failure of the Registrar to appoint

an Election Officer to conduct the election. Accordingly, we are of the opinion that it is necessary in the instant case to issue directions to the respondent to take necessary steps for the purpose.

5. We, therefore, direct the Registrar of the Cooperative Societies to take action as required under clause (b) of subrule (1) of Rule 61 immediately to facilitate holding of elections. As the period of the present Board of Directors is going to expire on 24th January, 1989 and as according to law 15 days" time is necessary for notice it may not be possible to hold the election before the expiry of .the term of the present Board. As we find that though the Society has been trying to hold the elections for the last six months, but could not do so due to inaction of the Registrar of the Cooperative Societies, we direct that the Registrar shall" appoint an Election Officer as stated above within a period of 15 days" from today and thereupon try to complete the process of election within the period of two months from the appointment of such officer. The present Board of Directors shall continue till the next Annual General Meeting and election of new Board of Directors.

With the above directions, the petition is disposed of.

B. P. Saraf J. I agree.