

(2001) 10 CHH CK 0005
In the Chhattisgarh High Court
Case No : Writ Petition No. 357 of 2001

Khom Prasad Sharma

APPELLANT

Vs

Dy. Registrar, Co-operative Societies and Others

RESPONDENT

Date of Decision : 17-10-2001

Acts Referred:

Citation : (2001) 5 MPHT 50

Hon'ble Judges : W.A. Shishak, C.J

Bench : Division Bench

Advocate : A.K. Tiwari, Prashant Mishra, for the Appellant; Gautam Bhaduri, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

W.A. Shishak, C.J.—Heard the counsel for the parties.

2. The petitioner's society, namely Kuber Grih Nirman Cooperative Society, was superseded by an order issued on 9-3-2001 by the Deputy Registrar. The said order has been impugned in the present petition mainly on the ground that the order of supersession is not sustainable because clearly there were six members out of eleven Board Members at the time the order of supersession was issued.

3. Rule 43, Sub-rule 6 of M.P. Cooperative Societies Rules, 1962, states: "6. The quorum for the meeting of the committee shall be as provided in the bye-laws but in any case it shall be more than 50% of the total number of the members".

Of the total number of eleven Board members, six members would form the quorum. It is contended that at the time of the order of supersession, four members had resigned. Another member had also been removed from membership. It may be stated that subsequently, the order of removal was set aside but that took place long after the order of supersession was issued. It appears that the decision of this case would hinge upon membership of one S.K. Sable. The said S.K. Sable put in resignation on 8-3-2001. On 9-3-2001, Deputy Registrar asked said S.K. Sable to come to the Office for confirmation of his letter

of resignation. Thereafter, what actually happened is not clearly ascertainable.

4. Shri A.K. Tiwari appearing for the Intervener who is a member of the Society, submits that though there is no clear order of acceptance or subsequent statement recorded about the actual confirmation ascertained from S.K. Sable it is safe to infer from the order of supersession that the resignation was actually accepted.

5. As against this submission, Shri Prashant Mishra submits that infact, the authority to accept resignation is the Executive Committee of the Society. This averment has been made in the rejoinder submitted in the present case. According to Shri Prashant Mishra, an affidavit has been filed by Shri S.K. Sable himself to say that he did not want to press resignation put in by him on 8-3-2001 and therefore he continued to be a member of the Board of the said Society. In support of this contention, Shri Prashant Mishra submits that the said S.K. Sable attended and participated in the Board meetings on 24-12-2000, 11-2-2001, 13-5-2001 and 12-8-2001 vide Annexure P-10. It is further submitted that such averments made by the petitioner have not been rebutted.

6. Therefore what is clear to me is that S.K. Sable put in his resignation on 8-3-2001. In my view, the said paper for resignation could have been acted upon straightaway. There was no need of any verification or confirmation. However, having been asked for his confirmation, in my view, subsequent action should have been reflected in official document that infact it was confirmed from him that he has actually resigned. This position however is now a disputed one in view of the stand taken by S.K. Sable that he did not want to press his paper for resignation and that he wanted to continue as Board member and accordingly he participated in as many as about four or five subsequent meetings after the order for supersession was issued.

7. Further, there is nothing to show on record that the Executive Committee of the Board had infact considered the request for resignation of S.K. Sable. If that be so, in my view it cannot be said that resignation of S.K. Sable had been accepted by the competent authority. I am also further of the view that if the submission of Shri A.K. Tiwari as well as of Shri Gautam Bhaduri is to be accepted that the resignation should be deemed to have been accepted in view of the the order of supersession which has a clear reference to the resignation of S.K. Sable, then it would have been impossible for this man to participate in subsequent Board meetings. It is not the case of any party before me that his participation was at any stage objected to.

8. In the light of what I have stated above, I am of the view that at the time order of supersession was issued, clearly there were six Board members available. If that be so, quorum to hold meetings and to function the Society was clearly available at that time. In view of this, I must hold that the order of supersession dated 9-3-2001 is bad. The same therefore is set aside.

9. The petition is dismissed.