
(2009) 07 GAU CK 0058
In the Gauhati High Court
Case No : Writ Appeal No. 65 of 2008

Kriti Kanta Das

APPELLANT

Vs

Tulsi Das and Others

RESPONDENT

Date of Decision : 02-07-2009

Acts Referred:

Citation : (2006) 1 GLT 68

Hon'ble Judges : Jasti Chelameswar, C.J

Bench : Single Bench

Advocate : A.M. Mazumdar, J. Ahmed, A.H. Ahmed, D. Khan and S. Das, for the Appellant; H.R.A. Choudhury, Z. Hussain, N. Begum and B. Gogoi, for the Respondent

Judgement

Jasti Chelameswar, C.J.—Heard Mr. J. Ahmed, learned Counsel for the Appellant. Also heard Mr. H.R.A. Choudhury, learned senior counsel for the Respondent No. 1 and Mr. P.S. Deka and Ms. B. Gogoi, learned State Counsel appearing for the Respondent Nos. 2 to 6.

2. This appeal has a long and chequered history. The Appellant was the Chairman of M/s Ghiladhari Naduar Min S.S. Ltd. having had been elected in the year 2003 in a general meeting of the society u/s 32 of the Assam Co-operative Societies Act. For various reasons, the details of which may not be necessary now, by an order dated 21.6.06 the above mentioned elected body, of which the Appellant was the Chairman was dissolved by the Registrar of Co-operative Societies. Aggrieved by the said order a writ petition was preferred in this Court in WP (C) No. 3338/06. By an order dated 21.7.06 this Court quashed the impugned order dated 21.6.06 and directed the Managing Committee to be restored to office.

3. On assumption of the office the Managing Committee realized that as it was under an obligation to convene the annual general meeting before 31.8.06 and as they were restored to office just 10 days prior to such due date they were not in a position to hold the annual general meeting within the stipulated period. Therefore, the Managing Committee sought an extension of time for holding the

annual general meeting. They made an application invoking Section 32(2) of the Assam Co-operative Societies Act, 1949 praying for extension of time for holding the annual general meeting which application was eventually allowed by an order dated 31.7.06 of the Zonal Joint Registrar granting time to the Managing Committee to hold the election till 27.8.06.

4. On receipt of the said extension the Managing Committee issued notice calling for a general meeting on 18.8.06 where the election to the Managing Committee for the next three years also was to be held. In the meanwhile one of the shareholders of the Society approached this Court by way of WP (C) No. 3936/06 with an averment that the Managing Committee whose term expired on 31.7.06 was illegally continuing in office. A learned Judge of this Court by an interim order dated 9.8.06, in the absence of any assistance from the official Respondents, tentatively opined that the Managing Committee ought not to continue beyond its tenure and they shall desist from functioning as the Managing Committee. Pursuant to the said order the Registrar of Co-operative Societies appointed a one man Committee by his proceedings dated 17.8.06 to run the affairs of the Society. That one man Committee appointed by the Registrar in turn conducted an election on 15.11.06.

5. It appears that the said Managing Committee elected on 15.11.06 somehow held another election on 18.5.06 and the Registrar of Co-operative Societies accorded its approval for such election on 5.6.06. Though it is not very clear as to how such an election was held on 18.5.06, as according to Rule 27 the term of the Managing Committee is three years from date of its election, that is, the earlier election conducted by the one man Committee on 15.11.06.

6. The appointment of the one man Committee and the subsequent election led to a spate of litigations both before this Court as well as before the Registrar of Cooperative Societies, the details of which may not be worthwhile mentioning.

7. However, we must state here that the WP (C) No. 3936/06 in which the interim order was passed directing the then existing Managing Committee, of which the present Appellant was the Chairman, to desist from continuing in office itself came to be withdrawn eventually by the Petitioner when the matter came up for hearing. We may indicate here that on the single ground that this Court was not apprised to the fact that the Zonal Joint Registrar by his order dated 31.7.06 granted extension of time in favour of the Managing Committee till 27.8.06 to hold the election, the above mentioned writ petition ought to have been dismissed. However, in view of the quiet withdrawal of the writ petition this Court had no occasion to go into this question.

8. In the above mentioned background the fact remains a new Managing Committee got elected on 15.11.06 in an election conducted by the one man Committee appointed by the Registrar, referred to above.

9. Technically, since the appointment of the one man Committee itself was legally incorrect, as the order itself came to be passed pursuant to an interim order

passed by this Court all further steps taken by the said one man Committee normally ought to be treated to be invalid in law. But the fact remains that such steps were taken prior to withdrawal of the writ petition.

10. In the circumstances the learned Counsel for the Appellant as well as the learned Counsel for the Respondents agree that the existing Managing Committee be superseded by the Registrar and the affairs of the Society be conducted by a one man Committee appointed by the Registrar and such one man Committee should hold a fresh election forthwith.

11. In the circumstances the appeal is disposed of in terms of the agreement recorded above. The Registrar is directed to forthwith appoint a one man Committee to run the affairs of the Society in question and such one man Committee shall hold the election expeditiously, at any rate, not later than 15.11.09.