
(2015) 09 RAJ CK 0111
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10520/2015

Laxman Singh Khor

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 14-09-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 243Z(2), 243ZK, 243ZL

Citation : (2015) 09 RAJ CK 0111

Hon'ble Judges : Pratap Krishna Lohra, J.

Bench : Single Bench

Advocate : Paramveer Singh, for the Appellant

Final Decision : Dismissed

Judgement

Pratap Krishna Lohra, J.—Petitioner, Ex-Vice Chairman of the Chittorgarh Central Cooperative Bank Ltd., Chittorgarh (for short "CCB Ltd.") has laid this writ petition under Article 226 of the Constitution with under-mentioned prayers:-

"Hence it is therefore respectfully prayed that the writ petition filed by the petitioner be allowed by passing appropriate writ, order or direction:-

a). That as hereinabove submitted the respondents are guilty for breach of duty casted upon them under Act of 2001 and Rules framed thereunder by previous successive postponement of Elections and for this breach of duty the respondents may be ordered to be saddled with heavy costs and directed to pay compensation to the petitioner.

b). That the respondents be directed to conduct the Election positively without fail as per the Election Programme notified by order dated 07/09/2015 Annex.7 passed by Election Authority Co-operative Societies, Jaipur, after appointing the Election Officer.

c). Any other order or direction which this Hon"ble Court deems just and proper in regard to facts and circumstances of case in hand be passed in favour of

petitioner.

d). The petitioner may be awarded cost of the litigation."

2. The main thrust of the petitioner is that respondents are not conducting the Election of the Management Committee of CCB Ltd. after expiry of its five years term on 29.09.2014. For emphasizing his affliction in this behalf, the petitioner has referred to Sub-section (1) of Section 34 of the Rajasthan Co-operative Societies Act, 2001 (for short "the Act of 2001") substituted by Section 4 of the Rajasthan Co-operative Societies (Amendment) Ordinance, 2004 published in the Rajasthan Gazette Extraordinary on 19.02.2004. The petitioner has also referred to Sections 32 & 33 of the Act of 2001 which enjoins duty on the State Co-operative Election Authority to conduct elections in such manner as may be prescribed of the committee's of all the apex and central Co-operative Societies and of the Primary Agricultural Credit Co-operative Societies, Large-Area Multi-purpose Co-operative Societies, Farmers Service Societies, Agriculture Marketing Societies, Primary Land Development Banks etc. It is specifically averred in the writ petition that after completion of five years tenure of the Management Committee of CCB Ltd., the Registrar, Co-operative societies appointed Administrator to manage affairs of the society by resorting to Section 30(1)(c) of the Act of 2001. Being aggrieved by the said order, petitioner preferred a writ petition earlier which was registered as S.B. Civil Writ Petition No. 7292/2014. In the said writ petition, the petitioner has prayed for quashing of the order whereby Administrator is appointed and also craved for issuance of a writ of mandamus to conduct elections of the Management. The writ petition preferred by the petitioner was allowed by this Court by its order dated 01.12.2014. The operative portion of the order dated 01.12.2014 as passed in the said writ petition reads as under:-

"11. Accordingly, the writ petition is allowed. The State Cooperative Election Authority is hereby directed to initiate the process for election of Chittorgarh Central Cooperative Bank Limited, Chittorgarh and complete the entire election process within a period of three months from the date of receipt of this order. The Registry is directed to send a copy of this order to the State Cooperative Election Authority forthwith. No order as to costs."

3. It is submitted by the petitioner that after disposal of the writ petition and issuance of direction by the court, the State Co-operative Election Authority is not adhering to the direction and on one pretext or the other, is prolonging the election process. It is specifically averred in the writ petition that earlier election programme was announced by the Election Authority on 19.06.2015 but subsequently superseding the same, yet, another order was issued on 25.08.2015 whereby elections were re-notified. It is also submitted that even pursuant to the election programme notified on 25.08.2015 no endeavour has been made by the competent authority to appoint election officer till 07.09.2015 although the law mandates that appointment is required to be made 30 days prior to election. The petitioner has also taken shelter of Article 243Z(2), 243ZK

and 243ZL envisaged under Part IX B of the Constitution of India. In substance, the pleadings clearly and unequivocally indicate that respondents are not adhering to the direction issued by this Court earlier while disposing of S.B. Civil Writ Petition No. 7292/2014.

4. On being confronted, learned counsel Mr. Paramveer Singh submits that petitioner has already laid a contempt petition in the matter against the respondents for non-compliance of the order dated 01.12.2014 and the said petition is still pending.

5. As a matter of fact, if the grievances of the petitioner are objectively examined, then in my considered opinion, his whole attempt is to seek enforcement of the order passed earlier by this Court while disposing of S.B. Civil Writ Petition No. 7292/2014. When the Court has already issued writ of mandamus, second petition at the behest of the petitioner for the same relief is not at all maintainable. That apart, when the petitioner has already laid a contempt petition, he is well within his right to pursue the contempt petition for seeking enforcement of the order passed on 01.12.2014. It is needless to observe that Co-operative Societies are autonomous bodies democratically controlled by their members who actively participate in setting their policies and decision making. Conducting elections of democratic institutions within the time framed is hallmark of democracy and vis-a-vis a Co-operative Society is clearly mandated under Section 34 of the Act of 2001. In this background, the respondents are under an obligation to adhere to the mandatory provisions under Section 34 of the Act of 2001 and requisite notification for conducting election as well as election programme has already issued, at this stage, it is not desirable for this Court to interfere in the matter. Moreover, this is petitioner's second inning of litigation for the same relief and on this count also, the petitioner is liable to be non-suited.

6. Resultantly, I am not persuaded to interfere in the matter and consequently the writ petition fails and the same is hereby dismissed summarily with the observations made supra and without affecting the right of petitioner to pursue contempt petition.