
(2014) 11 RAJ CK 0118
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7297/14

Mathura Lal Nagda

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 26-11-2014

Acts Referred:

Citation : (2014) 11 RAJ CK 0118

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : Rajesh Joshi, Advocate for the Appellant; Kusum Rao, Additional Government Counsel, S.S. Rathore for P.S. Bhati, AAG and B.S. Sandhu, Advocate for the Respondent

Judgement

Sangeet Lodha, J.—This writ petition is directed against the notice dated 26.9.14 issued by the Registrar, Cooperative Societies proposing to appoint Administrator to manage the affairs of Udaipur Zila Sahakari Bhumi Vikas Bank Limited (for short "the Bank"), Udaipur. The petitioner has further prayed that the respondents be directed to conduct the election of Executive Committee of the Bank, forthwith.

2. At the outset, learned counsel appearing for the petitioner submitted that pursuant to the impugned notice, the respondents have already appointed the Administrator to manage the affairs of the Bank and therefore, the writ petition so far as it relates to challenge to the notice proposing to appoint the Administrator, has rendered infructuous.

3. Learned counsel submitted that as per the mandate of provisions of Section 34 of the Rajasthan Cooperative Societies Act, 2001 (for short "the Act") on written request being made by the Chief Executive Officer of the Cooperative Society, the State Cooperative Election Authority is under an obligation to conduct election of committee six months before the expiry of the term of the existing committee. Learned counsel submitted that the term of the Executive Committee of the Bank had expired on 22.9.14 and the Chief Executive Officer of the Bank has already

sent a written request to the State Cooperative Election Authority vide communication dated 12.5.14 to conduct the election of the Bank, however, defying the mandate of provisions of Section 34 of the Act, no steps have been taken by the State Cooperative Election Authority to conduct the election till this date and therefore, appropriate directions deserve to be issued to the respondents and the State Cooperative Election Authority to conduct the election of the Executive Committee of the Bank within the specified time, as may be fixed by this court.

4. On the other hand, the counsel appearing for the State submitted that necessary amendment in the bylaws of various cooperative societies is under process and therefore, the election could not be conducted in conformity with the mandate of provisions of Section 34 of the Act. Learned counsel submitted that the appropriate steps shall be taken for election of the Executive Committee of the Bank after incorporation of the required amendment in the bylaws of the concerned cooperative societies.

5. Replying the arguments, the learned counsel appearing for the petitioner submitted that in the garb of amendment of the bylaws, the respondents cannot be permitted to defer the election of cooperative societies for an indefinite period in defiance of the provisions of Section 34 of the Act.

6. I have considered the rival submissions of the learned counsel for the parties.

7. Indisputably, the cooperative societies are the autonomous bodies, democratically controlled by their Members, who actively participate in setting their policies and making decisions. It goes without saying that the election of the democratic institutions must be conducted within the time frame as specified. It is a common ground between the parties that as per the mandate of the provisions of Section 34 of the Act, the elections of the executive committee of any cooperative society has to be conducted by the State Cooperative Election Authority six months prior to the expiry of the term of the existing Executive Committee, on the written request being received from the Chief Executive Officer of the concerned cooperative society. It is not disputed before this court that the Chief Executive Officer of the Bank has already made a request for conducting the election of the Executive Committee of the Bank vide communication dated 12.5.14. In this view of the matter, the State Cooperative Election Authority was under an obligation to conduct the election of the Executive Committee of the Bank adhering to the mandate of the provisions of Section 34 of the Act. In the considered opinion of this court, the election law abhors the vacuum and the election of the cooperative institution cannot be deferred by the State Government for indefinite period in the garb of proposed amendment in the bylaws of the Bank/Cooperative Societies concerned.

8. In view of the discussion above, the writ petition preferred by the petitioner seeking directions to the respondents and the State Cooperative Election Authority for conducting the elections of the Executive Committee of the Bank,

deserves to be allowed.

9. Accordingly, the writ petition is allowed. The State Cooperative Election Authority is hereby directed to initiate the process for election of Udaipur Zila Sahakari Bhumi Vikas Bank Limited, Udaipur forthwith 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.