
(2015) 07 RAJ CK 0152
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8068 of 2015

Narendra Kumar	Vs	APPELLANT
State of Rajasthan and Others		RESPONDENT

Date of Decision : 30-07-2015

Acts Referred:

Citation : (2015) 07 RAJ CK 0152

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Vikas Balia, for the Appellant

Final Decision : Dismissed

Judgement

Arun Bhansali, J—This writ petition has been filed by the petitioner seeking the following reliefs:-

"A] By an appropriate writ order of direction, the order impugned dated 19.06.2015 (Annex.3) passed by the Rajasthan State Cooperative Election Authority for holding elections respondent No. 5 may kindly be quashed and set aside,

B] By an appropriate writ order or direction, the respondents may be directed to hold the elections of the respondents No. 5 as per the section 27 as amended vide the Rajasthan Cooperative Societies (amendment) ordinance, 2015,

C] By an appropriate writ order or direction, the respondents may be further directed to hold the elections of all the district level land development banks as well as the State Land development banks together in view of the provisions of the amended Act 2001,

D] By an appropriate writ order or direction, administrator as per section 30C of the Act of 2001 may kindly be ordered to be appointed/continued till the elections for all district level land development banks are held.

Any other appropriate order which is deemed just and proper in the facts and circumstances of the case may kindly be also passed in favour of the petitioner."

2. It is, inter alia, indicated that the petitioner is a member of Raisinghnagar Sahkari Bhumi Vikas Bank Limited, Raisinghnagar ("the Bank"); there is a two tier system of the Land Development Banks, in which at bottom level, there are Land Development Banks for each District and there is a State Level Land Development Banks.

3. By order dated 24.11.2014 passed in S.B. Civil Writ Petition No. 1985/2014 (Rakesh Tholia v. State of Rajasthan and Ors.), the State Cooperative Authority was directed to initiate the process of election of the Bank within a period of three months; pursuant thereto the State Cooperative Authority issued order on 19.06.2015 declaring the election programme and as per schedule of election, the same are going to take place between 01.08.2015, when the proposed electoral polling roll would be produced and 17.08.2015, when the polling and the counting would take place; the Election Officer has been appointed on 23.07.2015.

4. It is further indicated that 36 Land Development Banks in the State have term of five years, in which the ordinary members of the Bank elect a delegated body, which in turn elects a Managing Board of 12 Directors of the Bank, who in turn elect a Chairman of the Bank and the Chairman becomes a member of General Body of State Land Development Bank ("State LD Bank"), in turn the General Body members of the State LD Bank elect 12 members as Directors, who in turn elect a Chairman of the State LD Bank.

5. It is, inter alia, submitted that on account of gap in elections of various Land Development Banks, the Management of the State LD Bank is not properly constituted and there is no synchronization between the election of the District Level Banks and State Level Banks. It is claimed that after the order was passed by the Election Authority on 19.06.2015 and amendment by way of an Ordinance in the Rajasthan Cooperative Societies Act, 2001 ("the Act") has been introduced, which has been published in the official gazette on 01.07.2015, whereby certain amendments have been introduced in Section 27, 30 and 32 with a view to synchronize the elections of different tiers of Cooperative Societies. Based on the said Ordinance, the petitioner has sought the reliefs as indicated hereinbefore in substance seeking cancellation/deferment of elections.

6. It is submitted by learned counsel for the petitioner that in view of the amendment made in the Act by way of Ordinance, the elections even in pursuance of the order passed by this Court cannot be held as the amended Section 27 of the Act requires holding of the synchronized elections of different tiers of the Cooperative Societies. The Committee of the respondent-Bank was removed under Section 30 of the Act on 18.03.2014; the respondents have not declared any collective programme for elections of all the District Level Banks alongwith the State LD Banks and holding of election would result in piecemeal

election defeating the purpose of having of duly elected Board for five years.

7. With reference to the amended provisions of Section 27 of the Act, it was submitted that the synchronization of elections of all the tiers is a must and as holding of elections would result in disturbing the proposed synchronization, the elections deserve to be stayed.

8. Reference has also been made to the amendments introduced by way of insertion of Section 30-C and in Section 32 of the Act by way of Ordinance to indicate the purpose of synchronization.

9. I have considered the submissions made by learned counsel for the petitioner and have perused the material placed on record.

10. The term of the previous Managing Committee came to an end on 26.01.2014 and the same was superseded on 18.03.2014 and an Administrator was appointed. When the fresh elections were not taking place, S.B. Civil Writ Petition No. 1985/2014 was filed by one Rakesh Tholia, which came to be allowed by this Court on 24.11.2014 and the following directions were issued:-

"8. Accordingly, the writ petition is allowed. The State Cooperative Election Authority is hereby directed to initiate the process of election of Raisinghnagar Sahkari Bhumi Vikas Bank Ltd., Raisinghnagar 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."

11. Though the respondents were granted three months time to do the needful, after passage of six months, the order dated 19.06.2015 by the Election Authority was issued, whereby the election programme was announced starting with publication of electoral rolls on 01.08.2015 and culminating with polling of votes and counting on 17.08.2015.

12. Though apparently, it appears that the petitioner is not opposed to holding of the elections, however, taking aid of the amendment Ordinance dated 01.07.2015, the petitioner is seeking a cancellation/stay of the election process scheduled to start from 01.08.2015 and consequential continuance of the Bank under the Administrator.

13. The provision on which much reliance has been placed by the petitioner is the amendment in Section 27 of the Act, which has added a new proviso after existing Sub-section 4, which reads as under:-

"Sub-section 4 - Provided also that where the committee of a society is removed under section 30 and the remainder of the original term of the committee so removed is more than half of its original term, then the elections to the committee may be held for the remainder of the term of the committee so removed, but where the committee is removed after completion of half of its original term, elections to the committee of the society for a full term, elections

to the committee of the society for a full term shall be held at a time decided by the State Cooperative Election Authority for the purpose of synchronizing elections of different tiers of the cooperative societies."

14. The Ordinance has further inserted a new Section 30-C providing for appointment of Administrator on completion of term of the Committee and further the existing Section 32 of the Act has been substituted with a new Section 32 of the Act, which now provides that the elections to the Committee of a Cooperative Society shall be conducted as per the provisions of this Act, Rules and by Laws made thereunder.

15. A bare look at the newly introduced proviso to Section 27 of the Act shows that the elections to the Committee of the Society for a full term shall be held at a time decided by the State Cooperative Election Authority for the purpose of synchronizing elections of different tiers of the Cooperative Societies and the newly introduced proviso continues to cast burden on the Election Authority to decide about the timing when an election is to be held and the provisions can only be read to mean that the Election Authority would be guided while deciding the time for elections with a purpose of synchronizing elections of different tiers of the Cooperative Societies.

16. The guiding factor regarding synchronizing the elections cannot be taken as a further proviso for the purpose of timing of elections and/or a pre-condition for fixing the timing of elections. If the submissions of learned counsel for the petitioner are accepted, the same would render the earlier part of the proviso redundant, as the same provides for holding of fresh elections, in case a Committee is removed before completion of half of its original term, as in that event also, the election of such Society could also be held only once the original period of five years comes to an end. An interpretation, which makes the entire provision/system unworkable, cannot be accepted.

17. Besides the above, the elections to the respondent-Bank, are being held after directions were issued by this Court in a writ petition filed for the purpose and the amendment to the provisions have been introduced after the election programme was announced by the Election Authority on 19.06.2015 and, therefore, besides the fact that there is nothing in the amendment Ordinance so as to vitiate the election process started by order dated 19.06.2015, the amended provisions would have no application to the elections, for which, the programme has already been issued by the Election Authority on 19.06.2015.

18. In view of the above discussion, there is no substance in the writ petition filed by the petitioner, the same is, therefore, dismissed.