(1999) 10 MP CK 0004

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2316/99

Narendra Pratap Singh APPELLANT

Vs

Board of Revenue and Others RESPONDENT

Date of Decision : 07-10-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227
High Court of Madhya Pradesh (Contempt of Court Proceedings) Rules, 1980 — Rule 5

Citation : (2000) 2 MPHT 155 : (2000) 1 MPLJ 401

Hon'ble Judges : S.P. Khare, J

Bench : Single Bench

Advocate : Ravindra Shrivastava, for the Appellant; R.K. Gupta, for the Respondent

Final Decision : Allowed

Judgement

S.P. Khare, J.

This is a petition under Articles 226 and 227 of the Constitution of India challenging the order dated 6-5-1999 (Annexure P-15) passed by the Board of Revenue in Misc. Case No. 806/3-99.

The petitioner was one of the nine elected directors of respondent No. 4 District Co-operative Central Bank, Sidhi. Respondent No. 6 Rajbali Singh was the Chairman of the Board of Directors. The petitioner and six other directors have resigned. Four of them did so on 23-3-1999, two on 29-3-1999 and one on 26-4-1999. The Manager of the Bank who is also Secretary of the Committee (Board of Directors) convened a meeting to be held on 30-3-1999 for consideration of these resignations by the Committee. Respondent No. 6 challenged the notice calling this meeting before the Board of Revenue in Revision No. 564/3-99. By an order dated 26-3-1999 the Board of Revenue sent the case to the Joint Registrar, Co-operative Societies, Rewa as he had concurrent jurisdiction in hearing the revision. The Joint Registrar after hearing the parties by order dated 16-4-1999 (Annexure P-4) directed the Committee to consider the resignations within a period of ten days. Respondent No. 6 challenged this order before the Board of Revenue on the ground that the Joint Registrar had no power to pass such order. That was revision No. 739/3-99. The Board of Revenue by order dated 28-4-1999 (Annexure P-5) directed maintenance of status-quo up to 17-5-1999. But the meeting of the Committee was already held on 26-4-1999 in which only one elected director respondent No. 6 was present. The quorum of the meeting of the Committee was half of its members. The meeting was cancelled for want of quorum. The Assistant Registrar and the Manager of the Bank were present in the meeting. The Manager of the Bank wrote the letter dated 26-4-1999 (Annexure P-7) stating therein that the meeting had been cancelled in the absence of quorum. He also wrote that four directors including the petitioner had resigned on 23-3-1999 and therefore as per bye-law 23/2 their resignations had become effective automatically after the expiry of 30 days. These four directors submitted affidavits also to that effect before the Manager. Three other directors also submitted affidavits before him supporting their resignations. The directors who had resigned refused to participate in any proceeding.

The Assistant Registrar, Co-operative Societies wrote a detailed letter dated 28-4-1999 (Annexure P-8) to the Registrar apprising him of all the facts mentioned above and mentioning that the working of the Bank has come to stand still as the Committee had ceased to function. On receipt of this report respondent No. 2 Additional Registrar passed the order dated 1-5-1999 (Annexure P-9). By that date the resignations of six directors had become effective by efflux of the time of 30 days from the date of submission of their resignations. The Additional Registrar after recording his satisfaction that the Committee has ceased to function appointed the Collector, Sidhi as one man Committee, to look after the management of the Bank as per Section 53(13) of the M.P. Co-operative Societies Act, 1960 (hereinafter to be referred to as the ''Act''). Respondent No. 6 submitted an application before the Board of Revenue for initiating contempt proceedings against the Additional Registrar and the Collector for violation of order dated 28-4-1999. In reply it was pointed out that the meeting had already taken place on 26-4-1999 and the Additional Registrar and the Collector were not parties to the revision in which order dated 28-4-1999 was passed. It was also pointed out that the M.P. Co-operative Tribunal has been constituted under Chapter-X of the Act by the notification dated 12-3-1999 with effect from 1-5-1999 and the jurisdiction of the Board of Revenue under the Act had come to an end. All appeals, revisions and other proceedings were transferred to the Tribunal by an Ordinance issued on 29-4-1999. The Board of Revenue passed the impugned order dated 6-5-1999 (Annexure P-15) by which the order dated 1-5-1999 (Annexure P-9) of the Additional Registrar has been set aside. It was further directed that the status-quo be maintained treating the order dated 1-5-1999 as if it had not been passed. The Board of Revenue further held that prima facie there was breach of the order dated 28-4-1999 and therefore as per Rules 5 (a) and 5 (b) of the High Court of M.P. (Contempt of

Court Proceedings) Rules, 1980 notices were issued to the Additional Registrar and the Collector to show cause why a reference should not be made to the High Court to initiate contempt proceedings against them. The case was fixed on 17-5-1999.

The petitioner''s case is that the impugned order dated 6-5-1999 (Annexure P-15) passed by the Board of Revenue is without jurisdiction as the M.P. Co-operative Tribunal had been constituted from 1-5-1999 and the Board of Revenue had ceased to have any jurisdiction in matters arising under the Act and all the proceedings pending before the Board of Revenue stood transferred to that Tribunal by virtue of Section 80-A introduced in the Act by an Ordinance. No contempt was prima facie made out against Additional Registrar and the Collector as they were not parties to the revision petition in which order dated 28-4-1999 was passed, the meeting was already held on 26-4-1999 and the Assistant Registrar had written the letter dated 28-4-1999 to the Registrar. The order dated 1-5-1999 of the Additional Registrar does not violate the order dated 28-4-1999 of the Board of Revenue. In any case the Collector who complied with a statutory order cannot even remotely be held guilty for contempt.

The case of the respondent No. 6 is that the petitioner has no locus standi to file this petition. He was not a party to the case before the Board of Revenue and he is not in any way adversely affected by the impugned order. The Board of Revenue has not set aside the order dated 1-5-1999 of the Additional Registrar. The Chairman of the M.P. Co-operative Tribunal has started functioning from 1-7-1999 and therefore the impugned order does not suffer from any jurisdictional defect. The revision in which the order dated 28-4-1999 was passed now stands transferred to the Tribunal.

The points for determination are (a) whether the petitioner had locus standi to file this petition; (b) whether the Board of Revenue had jurisdiction to pass the impugned order; and (c) whether it was proper and desirable to issue contempt notice to the Additional Registrar and the Collector. The learned counsel for both the sides have been heard on these points.

Point (a) : The petitioner was one of the directors of the District Co-operative Central Bank, Sidhi. He resigned from that office and that was the subject matter of the two revisions before the Board of Revenue. He has sufficient interest to see that the management of the Bank is done in accordance with law and if an order has been passed by the Additional Registrar for that purpose that should continue. The narrow and rigid rule of locus standi has been buried long back. There has been a virtual abandonment of the former restrictive rule as to locus standi after the decision in R. v. Inland Revenue Commissioners (1982) AC 617, in England and of S.P. Gupta Vs. President of India and Others, by the Supreme Court. The traditional rule of standing which confines actions to the judicial process only to those to whom the legal injury is caused or legal wrong is done has now been jettisoned. The petitioner in the present case is the aggrieved or interested person in the broader sense. He can challenge the impugned order.

Point (b) : The impugned order shows that it is in two parts. Para 4 of the order sets aside the order dated 1-5-1999 of the Additional Registrar and directs that the status-quo be maintained as if the order of the Additional Registrar has not been passed. The power to pass this order could be derived only from the appellate or revisional power given by the Act. As already stated the M.P. Co-operative Tribunal was constituted from 1-5-1999 by the notification dated 12-3-1999 and therefore the Board of Revenue ceased to have jurisdiction in matters under the Act to pass an order setting aside the order dated 1-5-1999 of the Additional Registrar and to order the maintenance of further status-quo as if the order of the Additional Registrar had not been passed. It is true that the Co-operative Tribunal started actual functioning from 1-7-1999 when the Chairman assumed the charge but the Board of Revenue had ceased to have jurisdiction in co-operative matters from 1-5-1999. Therefore, the first part of the impugned order is without jurisdiction and has to be quashed. The order of the Additional Registrar is legal and valid so far as the appointment of the Collector, Sidhi as one-man Committee u/s 53 (13) of the Act to look after the management of the Bank is concerned.

Point (c) : By the second part of the impugned order the Board of Revenue has directed that notices be issued to the Collector, Sidhi and the Additional Registrar under Rule 5 of the High Court of M.P. (Contempt of Court Proceedings) Rules, 1980 to show cause as to why a reference be not made to the High Court to initiate contempt proceedings against them. A perusal of order dated 28-4-1999 of the Board of Revenue shows that in the revision in which that order was passed the order dated 16-4-1999 of the Joint Registrar, Co-operative Societies by which he had directed the convening of the meeting of the Board of Directors to consider the resignation of the directors within ten days of that order, was challenged. The ex-parte order "to maintain status-quo" upto 17-5-1999 was passed. The Additional Registrar and the Collector were not parties to this revision. What was stayed by this order ? Fairly construed the order of status-quo in this context meant that the meeting of the Board of Directors for consideration of the resignations would not be held. The meeting had already been held on 26-4-1999. The order of maintenance of status-quo by the Board of Revenue could not be stretched to mean that the Bank should stop functioning. It could not have the effect of stoppage of running of time. On 1-5-1999 when the Additional Registrar applied his mind he found that the resignations of six directors had already become effective by lapse of time of 30 days from the date of resignation as provided in the bye-laws and, therefore, it was necessary and expedient for him to take action u/s 53 (13) in exercise of his statutory power to appoint the Collector as one-man Committee to look after the functioning of the Bank. The Committee had ceased to function as majority of the directors had resigned. By virtue of the order of the Additional Registrar the day-to-day functioning of the Bank did not come to halt. Where is the contempt ? In the opinion of this Court the Additional Registrar could not stay his hands because of the order dated 28-4-1999 of the Board of Revenue. It could never have been in the contemplation of the Board of Revenue while passing order dated 28-4-1999 that it would operate against the Additional Registrar. In any case there is not even the remofest possibility of holding prima facie that the Collector has committed the contempt. This is simply an abuse of the process of the Court. It is neither expedient nor desirable that the Additional Registrar and the Collector should be summoned for reference of the case under the Contempt of Courts Act, 1971. The Additional Registrar performed his statutory duty and the Collector complied with his order.

The petition is allowed. The impugned order is quashed.

