
(2019) 10 CHH CK 0043
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 8251 Of 2019

Paresh Kumar Gautam

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Citation : (2019) 10 CHH CK 0043

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : R.S. Marhas, Alok Bakshi, Richa Shukla, Prafull N. Bharat, Jitendra Shrivastava

Final Decision : Disposed Of

Judgement

Goutam Bhaduri, J

1. Heard.

2. Challenge in this petition is to the order dated 18.03.2019 passed by the Joint Registrar, Co-operative Societies, Raipur.

3. The petitioner was terminated by order dated 01.09.2018. Against such order of termination, a writ petition bearing WPS No.6658 of 2018 was

filed, wherein on 08.10.2018 this Court passed the following order:-

3.This Court thus is inclined to accept the view taken by this Court in those two writ petitions for this writ petition also, and the present writ petition

therefore stands disposed off with a direction to the petitioner to raise a dispute before the concerned authorities i.e. the Registrar, Cooperative

Societies under the Act of 1960 under Section 55(2) within a period of 15 days from today and on such representation being made, the authorities

concerned would proceed further and decide the same at the earliest preferably

within a period of six months, subject to the co-operation rendered by the petitioner as well.

4. In the event, if the petitioner raises a dispute that the authority hearing the dispute, was a party to the dispute at an earlier occasion, then appropriate decision would be taken by the concerned higher authority in the department ensuring that the matter is heard by a person unconnected to the said dispute.

5. Needless to mention that while raising the dispute under Section 55(2) within a period of 15 days, the petitioner would also be entitled to file an application for grant of interim stay, which shall also be decided by the concerned authorities in accordance with rules at the earliest.

4. Subsequent to it a dispute was raised before the Registrar, Co-operative Societies, Chhattisgarh, Raipur and the case was numbered as 55 (2)/88/B of 2018. In such dispute raised before the Registrar, the Registrar was made a party as respondent No.2. During preliminary hearing an objection was raised by the respondent that the petition suffers from misjoinder of the parties as Registrar himself was made a party before whom the lis was pending. Consequent upon it, the petitioner was asked to correct the memo of petition before the Registrar along with it the Court fee was also directed to be paid. The petitioner contended that since the allegations have been made against the Registrar itself, therefore, the Registrar would continue to be a party and his name was not deleted. In a result, eventually the petition itself was dismissed which was under Section 55 (2) of the Chhattisgarh Co-operative Societies Act, 1960 (for short 'the Act, 1960').

5. Learned counsel for the petitioner would submit that since the allegations were made against the Registrar itself, which are required to be deliberated, therefore, the Registrar was made a party in application under Section 55 (2) of the Act, 1960. It is stated that with respect to the Court fee the petitioner never objected to pay the Court fee and it is only a meager amount. Consequently, the order itself is bad.

6. During the course of hearing, the petitioner was asked as to which line of litigation the petitioner chose to avail. Since in view of the law laid down by the Supreme Court in the case of Supreme Court Advocates-on-Record Association and Another Versus Union of India (Recusal Matter) {(2016) 5 SCC 808} if the disqualification is attributed to the Court as per direction of the

Supreme Court that disqualification to hear a case would not be

automatic in such case enquiry has to be made. In answer to the quarry, the petitioner submit that the main grievance of the petitioner is with respect

to the termination of the service and the termination of the service may be adjudicated.

7. Learned counsel for respondents No.3 & 7 would submit that likewise petitions are pending before the Joint Registrar, as many as there were more

terminations were made and were subject of lis before the Joint Registrar.

8. Considering the background of this case and the dispute involved in this case, the main pith and substance of the matter about the termination of the

petitioner from the service. Consequently, to advance the cause of justice, the petitioner is directed to delete the name of respondent No.2, Registrar

Co-operative Societies, who is the adjudicating authority, from the array of the petition. Further the petitioner is also directed to pay the required Court

fee. The petitioner shall appear before the Registrar/Joint Registrar, Co-operative Societies on 7th November, 2019 and thereafter shall amend the

petition and shall pay the Court fee within a period of 7 days from the date of appearance. Thereafter, the Registrar/Joint Registrar shall adjudicate

the dispute in accordance with law. In view of the observation made, the order dated 18.03.2019 is set aside.

9. With the aforesaid observation, the writ petition stands disposed of.