

(1999) 07 MP CK 0068

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2543 of 1999

Patrakar Bhawan Samiti, Bhopal

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 13-07-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 1 MPLJ 239

Hon'ble Judges : Saraswati Prasad Khare, J

Bench : Single Bench

Advocate : Satish Shrivastava, for the Appellant; V. Awasthy, Dy. Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Khare, J.

This is a petition under Articles 226 and 227 of the Constitution of India challenging the orders dated 27-11-1998 (Annexure P-2) and dated 19-5-1999 (Annexure P-1) by which the governing body of the petitioner Society has been removed and an administrator has been appointed to manage the affairs of the Society as per section 33 of the M. P. Society Registrikaran Adhiniyam, 1973 (hereinafter to be referred to as the Act).

The petitioner is a registered Society. It was granted land measuring 27000 Sq.ft. in South T.T. Nagar, Bhopal by registered deed of a grant dated 11-2-1969. It has also been granted a sum of Rs. 2,00,000/- by the State Government in the year 1995 for construction of a cultural hall. The Registrar appointed under the Act got an enquiry held regarding the working and financial conditions of the petitioner Society and gave to it a show cause notice dated 16-4-1998 (Annexure P-8). The petitioner submitted the reply as per Annexure P-9 on 14-5-1998. The result of the enquiry was communicated to the petitioner by the Registrar by letter dated 19-5-1998 (Annexure P-10). The State Government by order dated

27-11-1998 directed that the governing body of the Society would function under the supervision and with the approval of the Sub-Divisional Officer (Revenue), Bhopal. The State Government also issued a notice (Annexure P-14) on 27-11-1998 giving an opportunity to the petitioner to show cause why the governing body of the Society be not removed. The petitioner submitted its reply on 4-3-1999. Thereafter, by the impugned order dated 19-5-1999 (Annexure P-1), the respondent No. 1 removed the governing body and appointed the Joint Director (Industries) as the administrator for a period of one year.

The petitioner's case is that the Patrakar Bhawan Samiti, Bhopal is not a "State-aided Society". It has not received any aid or grant or loan from the Government. Therefore, section 33 of the Act could not be invoked. It is also contended that there was no serious irregularity committed by the governing body of the Society and therefore, it could not be removed. Reply to the show-cause notice submitted by the petitioner was not properly considered.

The case of the respondents is that the petitioner has been granted land by the Government and it has also been granted an amount of Rs. 2,00,000/- in the year 1995 for construction of a cultural hall and therefore it is a "State-aided Society". The petitioner Society was committing various irregularities as mentioned in the enquiry report. It was not maintaining proper accounts of its funds. Therefore, the governing body of the Society has been removed for valid reasons.

It has been contended on behalf of the respondents at the time of hearing of the petition that this petition in the name of the Society is not maintainable at the instance of Shri S. S. Vatwe who claims himself to be the Vice-President of the Society as the governing body has been superseded. It is true that this writ petition in the name of the Society through its ex-Vice President is not maintainable as the administrator is now looking after the working of the Society. However, this petition is treated as having been filed by Shri S. S. Vatwe in his individual capacity. He was Vice-President before the removal of the governing body by the impugned order and therefore, he is a person vitally interested in the affairs of the Society and therefore, the petition at his instance is maintainable.

The question whether the petitioner Society is a State-aided Society or not is to be answered in view of the amended definition given in section 3(f) of the Act. This amendment has come into force on 4-9-1998. As per amendment the definition of the "State-aided Society" is as under:--

"a Society which received aid, grant or loan or has received land or building or both on concessional rates and other facilities from the Central Government, State Government or any statutory Body."

Before this amendment the definition was given as below:--

"State-aided Society" means a Society which receives or has received aid or

grant or loan from Central Government or State Government or any other statutory body."

It has been argued on behalf of the petitioner that in *Adarsha Vidya Mandir vs. State of M. P.*, 1982 MPLJ 762 it has been held by a Division Bench of this Court that the grant received by a Society in 1975 and 1976 cannot authorise taking of any action by the State in May 1979 u/s 33 of the Act, the Society not being "State-aided Society" in the said year. It was observed that the present perfect tense in the words "has received" contemplates a completed event connected in some way with the present time. But in the present case the petitioner was given a grant-in-aid of Rs. 2,00,000/- in the year 1995 for construction of a cultural hall. Therefore, as per amended definition of the Society it "received aid" and it is covered by the words "State-aided Society". Now in addition to the present perfect tense, the past tense has also been used to cover the aid or grant which was received in the past. Further, it is an admitted fact that the petitioner was also granted land on concessional rates for its building and for that reason also it is a State-aid Society. In view of the amendment in Clause (f) of section 3 of the Act, the argument of the learned counsel for the petitioner based on the Division Bench decision of this Court referred above is not acceptable. The amendment came into force before the impugned orders Annexures P-1 and P-2 have been passed.

The grounds for removal of the governing body have been set out in the show-cause notices served on the petitioner Society. The replies given by the petitioner have been considered by the authorities. There is no violation of any principle of natural justice. The conclusion arrived at by the authorities is reasonable. There are a number of irregularities in the working and the financial management of the Society. Therefore, the act of removal of the governing body and of the appointment of the administrator cannot be said to be either arbitrary or illegal.

The petition is dismissed.