
(2004) 11 OHC CK 0027
In the Orissa High Court
Case No : O.J.C. No. 9492 of 1998

Pratap Kumar Pradhan

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 17-11-2004

Acts Referred:

Societies Registration Act, 1860 — Section 12

Citation : (2005) 1 OLR 10

Hon'ble Judges : P.K. Mohanty, J;J.P. Mishra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

P.K. Mohanty, J.—The petitioner, President of Sri Aurobinda Study Circle, Phulbani calls in question the letter dated 16.6.1998 of the Collector, Kandhamal, Phulbani (Annexure-2) requiring the petitioner to comply with the suggestions made therein, failing which, the action as per law is to be initiated, as illegal, arbitrary and unauthorized.

The petitioner's case in short is that Shri Aurobinda Integral Education and Research Centre is a unit of Shri Aurobinda Study Circle and is registered under the Societies Registration Act and governed by its memorandum and Articles of Association. The Collector, who has no authority nor the Registrar of the Societies in terms of the Societies Registration Act has issued the impugned letter under Annexure-2, unnecessarily interfering in the internal administration of the society and, as such, the same should be quashed. Opposite Party No. 2 has filed a counter affidavit and it is submitted that on receipt of several allegations, an enquiry was made and it was found that fees are being collected from the students in violation of the provisions of the bye law and Government guidelines. There have been disputes between the two Managing Committees, one of the school and the other of the centre. It has also been stated that there are many members of the society, who are Government servants and not eligible to be members in the society without due permission from the employers. It is further

submitted that the society having acted in contravention of Section 12 of the Societies Registration Act, 1860 and the Orissa Government Servant Conduct Rules, 1959, the Collector intervened and directed audit of the accounts to detect the alleged misappropriation of funds. Instructions were issued to remove the Government employees from taking part in the society only in order to safeguard the interest of the Government. Opposite party No. 3, Secretary of the Sri Aurobinda Study Circle, Phulbani, more or less supports the steps taken by the Collector.

2. It is stated in paragraph 6 of the counter affidavit of opposite party No. 3 that he has filed Title Suit No. 3 of 1999 in the Court of the Civil Judge (Senior Division), Phulbani for declaration that the newly constituted executive body of Sri Aurobinda Study Circle and Aurobinda Integral Education Centre formed in the general body meeting are legal and have right to exercise power for management over the study circle and the school and for a permanent injunction restraining the defendants therein from functioning as office bearers of the Management Committee and to hand over charges to the plaintiffs 1 and 6. The said suit is pending but in view of the pendency of the writ application, the further proceeding is yet to commence.

3. Undisputedly, Shri Aurobinda Integral Education and Research Society, Phulbani is a society registered under the Societies Registration Act, 1860. It manages and maintains a school where there has been disputes between the Management of the Centre and the Study Circle, allegedly, the apex body. A society registered under the Societies Registration Act is required to comply with the provisions of the Act if there has been any violation of any provision of the Act or any Rules or bylaws. The Registrar of the Societies or the Additional Registrar of the Societies is competent to take note thereof and take action in accordance with the Act. The Collector of the district as such has no role to play even if there is allegation of mis-management or mis-appropriation of a fund of a registered society. If the Collector was of the opinion that there has been some mis-appropriation or mis-management of the institution, it was open to him to inform the appropriate authority like the Addl. Registrar or the District Inspector of Schools to take appropriate action in accordance with law and cannot usurp the powers of such authority. Neither in the counter nor during the hearing, any law has been brought to our notice which authorized the District Collector to interfere in the administration of a society and direct the society to act in the manner, it has been done. Moreover, it appears that a suit has already been instituted before the learned Civil Judge (Senior Division) Phulbani by opposite party No. 3 with regard to the Management of the Institution. Further, if the Collector was of the opinion that any Government official has taken the membership, which is contrary to the Conduct Rules such officers are to be proceeded against in accordance with the Conduct Rules, but the society could not have been directed to expel or remove such officers from the society. No provision of law having been pointed out authorizing the Collector to take action against a society like that of the petitioner in the manner done, the letter under

Annexure 2 is unauthorized and liable to be quashed.

4. Accordingly, we quash the impugned letter of the Collector under Annexure-2. However, we make it clear that if any competent authority duly authorized under law is of the opinion that there has been mis-appropriation, mis-management or illegalities committed by either the petitioner or the opposite party No. 3, it is open to it to take action in accordance with law and this order quashing the direction of the Collector in Annexure-2 will not be an impediment in such action.

5. The writ application is accordingly allowed, but in the circumstances, there shall be no order as to cost.

J.P. Misra, J.

6. I agree.