
(2005) 11 AHC CK 0135

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 43162 of 2004

Rakesh Kumar Srivastava

APPELLANT

Vs

Manager Dugh Utpadak Sahkari Sangh Ltd., State of Uttar Pradesh

RESPONDENT

Date of Decision : 29-11-2005

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2006) 2 AWC 1230

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : R.G. Padia and P. Padia, for the Appellant; G.D. Misra and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard Sri Prakash Padia counsel for the petitioner; Sri G.D. Misra, counsel for the respondents and perused the record.

2. Sri Padia, counsel for the petitioner states that he was granted time to file rejoinder affidavit and he communicate the same to his client but has received no response as such, no rejoinder affidavit could be filed. In view of this statement of Sri Padia, the case is being decided on merits, at the admission stage, with the consent of counsel for the parties.

3. Counsel for the petitioner submits that the petitioner was initially appointed on 31.3.1994 on contract basis for a period of one year on the post of Dughdbshala Prabhari on fixed salary of Rs. 1800/-. There after, he was appointed from time to time on different posts on contract basis. He was not permitted to work w.e.f. 5.7.2004. The petitioner moved representations but no heed was paid and hence this petition.

4. Counsel for the respondents submits that It appears from record that since 1997, the petitioner has neither been appointed nor his term of appointment was

extended. No salary wages have been paid to him by Dugdh Utpadak Sahkari Sangh Ltd., Deoria after 1997. Dugdh Utpadak Sahkari Sangh Ltd., Deoria is Central Milk Co-operative Society as defined in Section 2(d01) of U.P. Co-operative Societies Act, 1965 (hereinafter referred to as "the Act"). It is governed by the provisions of the Act and U.P, Cooperative Societies Rules, 1968 as well as by the registered Bye-laws of the Society. Out of 15 members of Committee of Management, 9 are elected by the General Body of Dugdh Utpadak Sahkari Sangh Ltd., Deoria. Manager/ in charge is Secretary of Dugdh Utpadak Sahkari Sangh Ltd., Deoria, as such, he is member of the Committee of Management. Other five members of the committee of Management are nominated in which two are nominated by the State Government.

5. From the aforesaid constitution of the Committee of Management, it is clear that the State Government has no control or supervision over day of day affairs of Dugdh Utpadak Sahkari Sangh Ltd., Deoria and as such, the writ petition is not maintainable.

6. Being co-operative society, Dugdh Utpadak Sahkari Sangh Ltd., Deoria is a private body and is not "State" or instrumentality of "State" within the meaning of Article 12 of the Constitution of India as has been held in the case of Radha Charan Sharma 1982 UPLBEC 89

7. For the reasons state above, no relief can be granted to the petitioner.

8. The writ petition is dismissed. No order as to costs.