
(2011) 08 PAT CK 0130
In the Patna High Court
Case No : CWJC No. 9639 of 2011

Ram Kumar Mukhiya

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-08-2011

Acts Referred:

Citation : (2012) 3 PLJR 777

Hon'ble Judges : Ravi Ranjan, J

Bench : Single Bench

Advocate : Basant Kumar Choudhary, for the Appellant; Mahasweta Chatterjee for the Respondent Nos. 9 and 10 and Mr. Bijay Kumar Pandey for the Sate, for the Respondent

Judgement

Dr. Ravi Ranjan, J.—Heard learned counsel for the petitioner, State and respondent nos. 9 and 10. In compliance of the direction vide order dated 28.6.2011, a counter affidavit has been filed on behalf of respondent no. 3, i.e. the Principal Secretary, Co-operative Department, Bihar, Patna, wherein it has been stated that the State Election Commission has been requested to complete the election of the concerned block Level Fisherman Cooperative Societies till October 2011. A copy of such order dated 12.7.2011 has been appended as Annexure-A to the counter affidavit.

2. The grievance of the petitioner is that the order, as contained in Memo No. 2378 dated 13.5.2011 (Annexure-13), has been passed by the Joint Registrar, Cooperative Societies, Bihar, Patna, setting aside the earlier order dated 21.2.2011 passed by the Joint Registrar, Co-operative Societies, Darbhanga Division on the ground that the said order has been passed without giving opportunity of hearing to the concerned parties. Even in this writ application, a stand has been taken by the petitioner that Annexure-13 itself suffers from that vice as the order which has been passed in favour of the petitioner has been set aside without hearing him.

3. Learned counsel appearing on behalf of respondent nos. 9 and 10 submits that

those are merely administrative orders though she does not contest the petitioner's claim that he has not been heard before passing Annexure-13. It has been categorically stated on behalf of the aforesaid respondents that Annexure-9 was also passed without hearing to all the concerned parties.

4. Learned counsel appearing for the petitioner fairly accepts the aforesaid fact. It is also a common ground that election petition has been filed by one Thakai Mukhiya, another member of the society concerned, challenging the Ad hoc Committee as contained in Annexure-4 upon which Miscellaneous Case No. 41 of 2011 has been registered and the same is pending before the Registrar, Co-operative Societies, Bihar, Patna.

5. Thus, in view of the admitted fact that the Annexures-9 and 13 both have been passed without hearing the affected parties, both are not sustainable in the eyes of law and as such both of them are hereby quashed. However, in view of the fact that there is common ground that Miscellaneous Case No. 41 of 2011 is pending challenging the Ad hoc Committee as contained in Annexure-4, the petitioner would be at liberty either to join the aforesaid election petition or file a fresh election petition before respondent no. 5, i.e., the Registrar, Co-operative Societies, Bihar, Patna. In case, either of two steps is taken alongwith a certified copy of this order, let the Registrar, Cooperative Societies, Bihar, Patna, consider and dispose of the concerned case within one month from the date of filing of such application on its own merit and in accordance with law after giving opportunity of hearing to all the concerned parties including the petitioner. Accordingly, this writ application stands disposed of in terms as indicated above.