

(1972) 08 PAT CK 0022

In the Patna High Court

Case No : Civil Writ Jursdn. Case No. 1752 of 1970

Ramashankar Prasad Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 03-08-1972

Acts Referred:

Citation : AIR 1973 Patna 269

Hon'ble Judges : U.N. Sinha, C.J.; J. Narain, J

Bench : Division Bench

Advocate : Rajendra Prasad Singh, for the Appellant; Govt. Pleader No. 2 and Jagdish Pandey, for the Respondent

Final Decision : Allowed

Judgement

1. Three petitioners have filed this writ application under Articles 226 and 227 of the Constitution of India, praying, that an order of liquidation passed by the Deputy Registrar, Co-operative Society (Cane), Government of Bihar, Patna, respondent No. 5, passed in June, 1967 (published in Bihar Gazette on 27th July, 1967), and confirmed on appeal, by the Minister for co-operative, Government of Bihar, Patna, respondent No. 2, by his order, dated the 7th July, 1970, may be quashed.

2. The relevant facts mentioned in this writ application are as follows. It is alleged, that the Co-operative Development and Cane Marketing Union, Maharajganj, in the district of Saran, was functioning from 1963 and, all of a sudden in June, 1967, the Secretary of the Marketing Union, petitioner No. 1, received a letter, dated the 9th June, 1967 (Annexure 1) from respondent No. 5 to the effect, that, an order for winding up of the said Union was passed. On receipt of the communication this petitioner came to Patna and on inquiry from the office of the Co-operative Department came to learn, that, respondent No. 5 had, by a letter dated the 8th April, 1967, authorised the Assistant Registrar, Co-operative Society, Siwan, respondent No. 6, to hold an inquiry u/s 35 of the Bihar and Orissa Co-operative Society Act, 1939, about the affairs of the Union in

question. A copy of the letter has been annexed as Annexure 2. This petitioner further came to know, that, on receiving the above mentioned communication, respondent No. 6 had submitted an ex parte report to respondent No. 5. A copy of the report has been given as Annexure 3 and it is dated the 8th May, 1967. It was alleged in paragraph 6 of the original writ application, that, neither the original petitioner of the writ case, who is now petitioner No. 1, nor the original respondent No. 7, who is now petitioner No. 3, the President of the Union, nor any of the other office-bearers of the Union, had ever received any notice that an inquiry will be held by respondent No. 6, nor had they any knowledge of such an inquiry having been held by respondent No. 6. It is alleged, that, petitioners Nos. 1 and 2 and the other office-bearers of the Union had no opportunity to be present at the inquiry and, therefore, natural justice has been violated by holding an inquiry, without the knowledge of these persons. Some other questions of law have also been mentioned in the writ application. But, it is not necessary to deal with the point, as will be clear subsequently. The original writ application had been supported by the affidavit of a Karpardaz and this Court had granted time on 4th November, 1970 to the original petitioner to file a supplementary affidavit. Thereafter, on the 9th November, 1970 a supplementary affidavit was filed by petitioner No. 1 of the writ application. In that affidavit, petitioner No. 1 has himself stated, that, the contents of the main writ application were true to his own knowledge. He has further, stated specifically that, he, that is, petitioner No. 1 of the writ case, had neither received notice regarding the holding of the impugned inquiry nor had he received any copy of the result of the so-called inquiry and, therefore, he had been deprived of the opportunity to make a representation before the appropriate authority prior to the passing of the impugned order. The matter has further been elaborated in paragraph 6 of this supplementary affidavit to the effect, that, respondents Nos. 4 and 5 had not issued any show cause notice to the Union, nor had they given any opportunity to the petitioners to explain the allegations made against the Union and its officers in the report filed by respondent No. 6. In spite of these serious allegations made by the petitioners, no affidavit in opposition has been filed by any of the respondents. As a matter of fact, the hearing of the writ case had commenced on 1st August and, thereafter it has been listed for hearing today. But even today no denial of any of the assertions mentioned above is forthcoming. In that view of the matter, we must accept the allegations made by the petitioners, that, they had no notice of the inquiry made by respondent No. 6, nor did they have any opportunity of being present at any inquiry culminating in the report. We must also accept the allegation, that, the writ petitioners had no opportunity to challenge the report given by respondent No. 6 in May, 1967 and that, therefore, there has been violation of natural justice in this case. The writ application is bound to succeed only on this ground alone. Therefore, we quash the impugned orders, by which the Co-operative Development and Cane Marketing Union, Maharajganj, stands liquidated. The writ application is, therefore, allowed. In the circumstances of the case, there will be no order for costs.