

(1977) 11 AHC CK 0031

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 4393 of 1977

Ramesh Pal Singh

APPELLANT

Vs

Pariniksha Adhukari, Mainpuri Distt.Co-Operative Bank
Ltd.and Another

RESPONDENT

Date of Decision : 03-11-1977

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Co-operative Societies Act, 1965 — Section 20, 70
Uttar Pradesh Co-operative Societies Rules, 1968 — Rule 230

Citation : (1977) 11 AHC CK 0031

Hon'ble Judges : C.S.P.Singh, J and B.N.Sapru, J

Final Decision : Dismissed

Judgement

C.S.P. Singh, J.

The petitioner has by this petition challenged the election of the members of the Committee of Management held on October 31, 1977. He has also prayed for a direction that the election of the President and the Vice President of the Committee of Management Scheduled to be held on November 3, 1977 should be stayed. The basis on which this relief has been claimed is that the Administrator (The District Planning Officer) while preparing the voters' list appended a note to the effect that delegates of Primary Societies which were members of the Central Society who were in default of the dues of the Central Society to the extent of 25 percent or more would not be entitled to vote. This contention is based on the explanation to Section 20 of the Act. We do not think it is necessary to pronounce on the correctness or otherwise of the note added to the voters' list by the Administrator (District Planning Officer), although it has been alleged in the petition that as a result of this restriction, a large number of members from the Karnal area were not allowed to vote. The reason why we decline to go into this contention is that the petitioner has a clear alternative remedy of challenging the election of the members of the Committee of Management, and the subsequent election of the President and the Vice President of that Committee,

by filing an application under Section 70 of the Act.

Counsel contended that inasmuch as the persons elected to the Committee of Management were delegates of primary societies, like the petitioner, the dispute could not be raised under Section 70 of the Act and rules framed there under. We are unable to accept this contention. The Bank whose Committee of Management has been elected has as its members primary societies. The persons who have been elected as members of the Committee of Management appear to be delegates of the primary societies. It is no doubt true that it is the primary society that is the member of the Central Society; but a primary society is not a sentient being and as such necessarily, it has to set through a human agency. That is why subclause (b) of the proviso to Section 20 of the Act, and rule 83(2) provide for a right to vote to the delegate and the right to represent a primary society in the affairs of the Central Society. Thus, the delegate of a primary society so long as he continues as such, exercises all the rights of membership of a primary society, and for purposes of elections he has to be treated as a member of the Central Society. In this view of the matter, the petitioner who is a delegate member representing a primary society can raise a dispute about the validity of the election of the members of the Committee of Management, as also the subsequent election of the President or the Vice President by recourse to Section 70 of the Act. The petitioner can in these proceedings raise all the contentions that he wants to urge in the present petition. Counsel for the petitioner urged that inasmuch as under rule 230 (e) the reference under Section 70 will be decided by the District Magistrate, and as the District Magistrate is at present the Administrator of the Bank, it may not be possible for him to decide the reference with the same measure of objectivity as is necessary for a quasi judicial authority. On this basis it was urged that the remedy provided under Section 70 read with rule 230 of the rules is illusory, and not an alternative remedy. However, under rule 230 (e) of the rules, it is not incumbent on the District Magistrate to decide the reference himself. He can appoint any one of the subDivisional Magistrates under him to decide the reference. In the present case, as the District Magistrate is the Administrator of the Bank, it would be in the fitness of things that on a reference being made by the petitioner, the matter should be decided by the SubDivisional Magistrate, Mainpuri. The standing Counsel has assured us that if such a reference is made, the District Magistrate will transfer the same to the SubDivisional Magistrate, Mainpuri within whose territorial jurisdiction the office of the Bank are situate.

The petition is accordingly dismissed. A copy of this order will be given to the learned counsel for the petitioner today on payment of usual charges.