

(2020) 02 RAJ CK 0131
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1832 Of 2020

Shrawanram

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 05-02-2020

Acts Referred:

Rajasthan Cooperative Societies Act, 2001 — Section 30C, 30(1)©

Citation : (2020) 02 RAJ CK 0131

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Akshay Surana, O.P. Sangwa

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner, a member of the Committee, aggrieved by order dated 30.01.2020 (Annexure-6) passed by the Registrar, Co-operative Societies, whereby, the Board of the Bank has been superseded and the Regional Audit Officer has been appointed as Administrator exercising powers under Section 30C of the Rajasthan Cooperative Societies Act, 2001 ('the Act').

It is, inter alia, submitted by learned counsel for the petitioner that the Board of the Bank was not accorded adequate opportunity of hearing and that the order passed by the Registrar is without jurisdiction. The jurisdiction for passing the order lies with the Zonal Registrar and, therefore, the order impugned deserves to be quashed and set aside.

I have considered the submissions made by learned counsel for the petitioner and have perused the material available on record.

It is not in dispute that the term of the Board has already come to an end long back on 05.08.2018 and the Board/Committee was continuing to function without fresh elections being conducted by State Co-operative Election Authority. A notice in terms of Section 30C of the Act wrongly indicated as Section 30(1)(c) was issued on 13.01.2020 by the Registrar calling upon the entire managing

Board/members of the Board to show cause as to why the Administrator be not appointed and the date fixed was 30.01.2020.

The notice was duly received on 16.01.2020. Whereafter it is claimed that the petitioner claiming himself as Chairman of the Special Meeting sent a communication dated 28.01.2020 (Annexure-5) indicating that as the next session of the Board was fixed on 04.02.2020, the decision regarding response would be taken in the said meeting and, therefore, hearing of the matter be adjourned.

On 30.01.2020 when none appeared before the Registrar, the Registrar noticing the fact that the period of the Board was already over, passed the order for appointment of Administrator, as noticed hereinbefore.

The plea raised by the petitioner regarding lack of reasonable opportunity of being heard apparently has no substance, inasmuch as, admittedly the notice was issued to the Board/members of the Board for showing cause on 13.01.2020, which notice was duly served well in time on 16.01.2020, it was required of the petitioner/any Member of the Board to appear before the Registrar on the date fixed, however, instead of appearing, on a specious plea that as the session is scheduled to be held on 04.02.2020, the date may be extended, a letter claims to have been sent on 28.01.2020, however, as to whether the letter was delivered to the Registrar, no material has been placed on record.

Once on the date fixed none appeared on behalf of the Board, there was no occasion for the Registrar then to wait for the appearance and/or to adjourn the matter to a future date without there being any application/request in this regard and, therefore, it cannot be said that the Board was not accorded reasonable opportunity of being heard. In case of non appearance after due notice, the complaint of lack of adequate opportunity of being heard cannot be accepted.

In so far as the jurisdiction of the Registrar to pass the order is concerned, provisions of Section 30C of the Act reads as under:-

"Sec. 30-C. Appointment of Administrator on completion of term of the committee. - (1) Where the term of existing committee has expired and the State Cooperative Election Authority has failed to conduct elections for a new committee, for whatever reason, in accordance with the provisions of this Act or the rules made there under, the Registrar may, by an order in writing, appoint a Government servant as an Administrator to manage the affairs of the society till the elections are held to the committee of the society."

(emphasis supplied)

A bare look at the provisions, which pertain to the power of appointment of Administrator on completion of the term of the Committee, reveals that the power to pass order is with the Registrar only. The submissions made by learned counsel for the petitioner apparently based on provisions of Section 30(1) of the

Act, which pertains to removal of committee or member thereof, wherein, the power has been conferred on different Registrars for removal and appointment of Government servant as an Administrator to manage the affairs of the society are baseless and, therefore, the submissions made in this regard are rejected.

In view of the above fact situation, no case for interference in the order impugned is made out. The writ petition filed by the petitioner has no substance, the same is, therefore, dismissed.