
(2005) 03 AHC CK 0081

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 49205 of 2000

Som Pal Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 10-03-2005

Acts Referred:

Uttar Pradesh Cooperative Societies (Thirty Eight Amendment) Rules, 2000 — Rule 459, 459(2), 460

Citation : (2005) 3 AWC 2467 : (2005) 2 ESC 1492 : (2005) 2 UPLBEC 1913

Hon'ble Judges : R.P. Misra, J;A.P. Sahi, J

Bench : Division Bench

Advocate : V.D. Chauhan, for the Appellant;

Final Decision : Dismissed

Judgement

R.P. Misra and A.P. Sahi, JJ.—Heard Sri V.D. Chauhan, learned Counsel for the petitioner and learned Standing Counsel at length.

2. We have examined the provisions of The Uttar Pradesh Cooperative Societies (Thirty Eight Amendment) Rules, 2000 (hereinafter referred to as "Rule"), the vires whereof has been challenged by means of the present writ petition.

3. A perusal of Rule 459 of the Rule would indicate that the same is a provision for providing quorum in respect of a meeting to be convened. In order to make it a valid meeting, the quorum has been made more than half of the total number of the members of the committee.

4. Rule 460 of the Rule provides for passing of a no confidence motion by a majority of two third of the total number of the members of the committee of management. This provision appears to have been amended in order to allow a motion of no confidence to be passed only if, two third of the total number of the members of the committee of management vote in favour of such a motion.

5. The provision for a quorum in our opinion, can be different from the provision

of the minimum requirement of the number of members for passing of a no confidence motion. The passing of no confidence motion is to dislodge an elected chair person. It is in the exclusive domain of the Legislature to provide for such a number and its wisdom cannot be questioned unless it is shown that the provision is ultravires the Constitution or the provision of the Statute itself. The learned Counsel for the petitioner has failed to point out any such infirmity. There does not appear to be any element of arbitrariness or any element of inconsistency with any of the other provisions of the Act, which may render the aforesaid provision invalid.

6. We have considered the arguments of the learned Counsel for the petitioner, and do not find any such inconsistency between Rule 459(2) which provides for the minimum quorum for a meeting to be convened and Rule 460, which ultimately requires a different number for passing a no confidence motion. Apart from this, we cannot entertain any plea of malafide against a legislative act. No other decision or any other authority contrary to the view taken by us, has been placed so as to persuade us to take a different view.

7. The writ petition is devoid of merit and is accordingly, dismissed.