

(2025) 10 PAT CK 1334

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.18663 Of 2024

Umesh Kumar

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 09-10-2025

Acts Referred:

Bihar Cooperative Societies Rule, 1959 — Rule 21

Citation : (2025) 10 PAT CK 1334

Hon'ble Judges : Sudhir Singh, J;Rajesh Kumar Verma, J

Bench : Division Bench

Advocate : S.B.K. Mangalam, Awnish Kumar, Kumar Gaurav, Vikash Kumar Singh, Rishi Raj, Mithilesh Kumar, Raja Ram Rai, Mukesh Kumar Thakur

Final Decision : Disposed Of

Judgement

Rajesh Kumar Verma, J

1. Heard Mr. S.B.K. Mangalam, learned counsel for the appellant, Dr. Mithilesh Kumar, learned counsel for Respondent no.14, AAG-7, learned counsel for the State and Mr. Mukesh Kumar Thakur, learned counsel for the Election Authority.

2. The present appeal is directed against the judgment and order dated 14.07.2025 passed in C.W.J.C. No. 18663 of 2024, whereby and where under, the writ court was pleased to dismissed the writ petition with cost of Rs.20,000/- against the appellant.

3. Initially the appellant who was the writ petitioner challenged the order dated 29.10.2024/20.11.2024 passed by the Respondent No.2 and letter dated 22.11.2024 issued under the signature of the Respondent no.3 by which respondent no.2 has been pleased to direct for counting of votes of the election which was held on 13.12.2019 for constitution of Managing Committee of the Respondent Society in compliance of the order dated 22.04.2024 passed in Civil Appeal No. 5312 of 2024 but without supplying any copy of the report of the Respondent No.5.

4. The appellant further sought relief from the writ court that respondent no.5 be directed to produce on record his report, and on production the same may be quashed by the writ court for a declaration that if on consideration of all materials available with Respondent society regarding grant of membership to 392 applicants if the Administrator of Society, District Cooperative Society and the Returning Officer-cum-Block Development Officer, Goraul had published the voter list of 1547 voters of the Respondent Society.

5. The facts of the case reveals that on 15.11.2019 (Annexure P/5 to the writ petition), a complaint was filed before the State Election Authority regarding the manner in which the voter-list was prepared by the authority.

6. The State Election Authority vide order dated 16.11.2019 directed the Block Development Officer, Goraul, Vaishali to consider the objections regarding updation of voter-list.

7. On 20.11.2019, the appellant/writ petitioner filed his complaint before the State Election Authority about the conduct of returning officer.

8. The State Election Authority on 21.11.2019 had directed the District Magistrate, Vaishali to hold an inquiry and take appropriate action with regard to the complaint of the appellant/writ petitioner. The appellant/writ petitioner had filed C.W.J.C No. 24786 of 2019 for quashing of the proceeding of the Managing Committee of the Cooperative Society.

9. Vide order dated 12.12.2019 the writ court passed an interim order staying counting and declaration of result. The relevant paragraph-6 of the aforesaid interim order is quoted hereinbelow:-

" In the meantime, though election may proceed tomorrow, but no further process, including counting and declaration of result shall take place and the ballot shall be kept under sealed cover until further orders of the Court."

10. Learned counsel for the appellant further submits that finally the matter was heard by a Division Bench of this Court and was finally disposed of vide order dated 09.01.2023. The relevant paragraph 8 to 11 of the aforesaid order is quoted hereinbelow:-

"8. Having given our anxious thoughts, the Court would like to indicate, what is going through its mind. On the one hand. elections have been held minus the 392 persons who had applied well before the preparation of the voter list. On the other hand, the body which was competent to consider, i.e., the Managing Committee itself in the resolution bought on record has accepted the application of some of the persons and rejected some, which clearly means that out of 392 persons at least some were allowed Once they were allowed, they had to be made members and their names ought to have figured in the voting list and they had a right to take part in the election. Admittedly, all 392 persons have been left out. This 392 figure compared to 1116, which is the numbers of persons included in the voter list, is a large number to be ignored without the due

process of law which clearly, at the cost of repetition, the Court has held has not been done

9. Accordingly, taking an overall view in the matter, the Court holds that the election cannot be sustained and the exercise has to be redone right from the inception i.e., preparation of the voter list itself. However, the said exercise will be limited to the 1116 members already there in the voter list and the 392 fresh applicants.

10. The State Election Authority is directed to issue fresh programme starting from the stage of preparation of voter list. The Court would indicate that the consideration would not extend beyond the 1116 persons already being on the voter list and the concerned 392 applicants and the exercise shall be taken to its logical conclusion, strictly in accordance with law including the statutory aspect of the Act and the Rules as also the bye-laws of the PACS. The same be initiated within four weeks from today. Further, any objections which may be filed shall be dealt with and disposed of in time strictly in accordance with law after proper consideration of both the factual and legal aspects.¹¹ Coming to the issue of there being grave irregularity committed by the officers of the Co-operative Department especially at the district level, the Court was of the opinion that the enquiry be entrusted to the Vigilance Department for which Mr. Alok Raj, the Director General, Vigilance is present in the Court. However, in view of the request made by the Secretary Department of Co-operation, Government of Bihar that she may be entrusted with holding an in house enquiry and also to lay down strict guidelines with regard to how the officers of the Department are to act in cases related to the constitution of Managing Committees/ Governing Bodies of Co-operative Societies at all levels, the Court acceding to such request refrains from directing for any vigilance enquiry, for the present. However, the Court has been assured that such exercise would be completed within two months and also strict and specific guidelines would be issued. The Court would only add that the departmental officers should also be communicated that any violation and failure to strictly adhere to those guidelines shall be treated as misconduct and shall lead to penal consequences. The Court expects that based upon the enquiry with regard to the conduct of the then officers in the present case, responsibility shall be fixed and action shall be taken."

11. Respondent No.14 has challenged the order dated 09.01.2023 passed in CWJC No. 24786 of 2019 before the Hon'ble Supreme Court in Civil appeal No. 5312 of 2024 and the same was disposed of on 22.04.2024. The relevant portion of the aforesaid order is quoted hereinbelow:-

"4. We have heard learned senior counsel for the appellant as well as learned State counsel. The first respondent, who was the writ petitioner before the High Court, has not come forward.

5. In our considered opinion, the issues relating to establishment, management and affairs of the Society can be effectively determined by the Statutory

Authority, namely, the Registrar, Cooperative Society, who can, if need be, hold a Fact-Finding Enquiry and/or summon the original records to determine whether the 392 applicants had applied for membership or not and if so, whether they were eligible to be included in the voter list. Without undertaking such an exercise, it will be difficult to hold that the election of Managing Committee of the Society held by excluding those voters, is vitiated in law. Consequently, we do not deem it necessary to delve into the merits of the case and rather remit the same to the Registrar, Cooperative Society, Bihar, who may in his discretion decide the entire controversy himself or refer it to an Officer, not below the rank of Deputy Registrar, to hold a Fact-Finding Enquiry; determine the claim, if any, of 392 applicants and consequently further adjudicate the legality of the elections of the Managing Committee already held. It goes without saying that if the Competent Authority comes to the conclusion that the 392 applicants never applied for membership and/or were ineligible to be included in the voter list, the elections already held would warrant no interference. However, if such applicants have been deprived of their right to vote in the elections of the Managing Committee, necessary consequences must follow."

12. Learned counsel for the Respondent No.14 submits that he had taken preliminary objection with regard to maintainability of the aforesaid writ petition on the ground that as per the Article 329 (b) and Article 243-ZG of the Constitution of India, election process at intermediate stage is not amenable to writ jurisdiction under Article 226 of Constitution of India, except by way of election petition presented to such authority and in such manner as may be provided for by or under any law.

13. Learned counsel for the respondent no.14 further submits that as per Section 21 (x) of the Bihar Cooperative Society Rules 1959-

" Any dispute relating to election of a Cooperative Society may be raised within (90 days) from date of declaration of result and such dispute shall be decided under Section 48 of Bihar Cooperative Societies Act, 1935."

14. Learned counsel for the Respondent no.14 further submits that Hon'ble Apex Court has been pleased to dispose of Civil Appeal No. 5312 of 2024 and the matter was remitted back to the Registrar, Cooperative Societies, Bihar Patna for deciding the entire controversy himself or refer it to an official not below the rank of the Deputy Registrar to hold a fact finding inquiry to determine the claim of any of 392 applicant and consequently further adjudicate the eligibility of the election of the managing committee already held. In Compliance of order of the Hon'ble Apex Court, respondent no.2 has issued notice to all concerned and they were directed to file their written notes of arguments. As per direction of Respondent no.2, Respondent no.5 has proceeded with fact finding inquiry and summon the appellant and respondent no.14 in the office of the District Cooperative Officer on 24.07.2024 and after inquiry, Respondent no.5 submitted his report to Respondent no.2 vide his letter no. 1695 dated 17.08.2024.

15. Learned counsel for the Respondent no.14 submits that copy of the fact finding report dated 17.08.2024 has not been given to the appellant/writ petitioner (as claimed by the appellant/writ petitioner) but from bare perusal of the aforesaid report dated 17.08.2024, it suggest that appellant/writ petitioner has received a copy of the aforesaid fact finding report on 10.09.2024.

16. Learned counsel for Respondent no.14 further submits that the appellant/writ petitioner was not before the Hon'ble Apex Court in Civil Appeal No. 5312 of 2024 and as per Section 48 of the Bihar Cooperative Societies Act, 1935 read with Rule 21(x) of the Bihar Cooperative Societies Rule, 1959, the election petition is the only remedy and apart from aforesaid that after the order of the competent authority which was passed in compliance of the order dated 22.04.2024 passed in Civil Appeal No.5312 of 2024 the result was published and Respondent no.14 has been declared successful and he has already taken oath.

17. Learned counsel for the State Election Authority submits that appellant has not come with clean hand rather he has made false statement before the writ court. He further referred to the paragraph 1 & 2 of the judgment of the Supreme Court in Dalip Singh vs State of U.P. & Ors reported in (2010) 2 SCC 114 which is quoted hereinbelow:-

"For many centuries, Indian society cherished two basic values of life i.e., 'Satya' (truth) and 'Ahimsa' (non- violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of justice delivery system which was in vogue in pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the

consequences. However, post- independence period has seen drastic changes in our value system. The materialism has over-shadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

18. We have heard the counsel for the parties and perused the records as well as order/orders as mentioned aforesaid which transpired that the petitioner/appellant has not come before this Court with clean hand and he has suppressed the material fact that he has not received copy of the report dated 17.08.2024. Infact he has received the aforesaid report on 10.09.2024 itself and apart from the aforesaid as per Section 48 of the Bihar Cooperative Societies Act, 1935 read

with Rule 21(x) of the Bihar Cooperative Societies Rule, 1959, the election petition is the only remedy. In compliance of the order of the Hon'ble Apex Court passed in Civil appeal No. 5312 of 2024, the competent authority has published the result of the election in question and Respondent no.14 has been declared successful and he has already taken oath.

19. In view of the aforesaid, there is no merit in the present appeal and same stands dismissed.

20. Interlocutory Application(s) if any shall stand disposed of.