

(2022) 01 CHH CK 0044
In the Chhattisgarh High Court
Case No : Writ Appeal No. 5 Of 2022

Yashwant Verma	Vs	APPELLANT
State Of Chhattisgarh		RESPONDENT

Date of Decision : 14-01-2022

Acts Referred:

Constitution Of India, 1950 — Article 226
Chhattisgarh Co-operative Societies Act, 1960 — Section 64(1), 64(2), 64(2)(i), 64(2)(ii), 64(2)(iii), 64(2)(iv), 64(2)(v)

Citation : (2022) 01 CHH CK 0044

Hon'ble Judges : Arup Kumar Goswami, CJ; N.K. Chandravanshi, J

Bench : Division Bench

Advocate : Manish Upadhyay, Sandeep Dubey, Rajeev Shrivastava, Malay Shrivastava

Final Decision : Dismissed

Judgement

1. Heard Mr. Manish Upadhyay, learned counsel for the appellant. Also heard Mr. Sandeep Dubey, learned Deputy Advocate

General appearing for respondents No.1 and 4 and Mr. Rajeev Shrivastava, learned senior counsel appearing for respondents No.2 and 3.

2. Challenge in this appeal is to an order dated 09.12.2021 passed by the learned Single Judge in Writ Petition (C) No.4930 of 2021, whereby the writ petition filed by the appellant was rejected as not maintainable in view of availability of efficacious alternative remedy under Section 64(2)(v) of the Chhattisgarh Co-operative Societies Act, 1960, for short "Act of 1960".

3. Respondent No.2 had notified election on 08.09.2021 in respect of election of Board of Directors of Primary Agriculture Credit Co-operative Societies, including respondent No.5-Society. It is seen that the election was to be held in two phases. It appears that the election in respect of

respondent No.5-Society was scheduled to be held in the second phase. The last date for submission of nomination form and the last date for scrutiny

of nomination form were fixed on 23.11.2021 and 26.11.2021, respectively. On scrutiny of nomination paper, the Returning Officer had rejected the

nomination paper of the appellant by an order dated 26.11.2021 (Annexure-P/1 to the writ petition). For the purpose of this case, it is not necessary to

dilate on the grounds on which the rejection of nomination paper had taken place.

4. Challenging the said order rejecting the nomination form, the appellant filed the writ petition, out of which this appeal arises.

5. It is contended by Mr. Manish Upadhyay, learned counsel for the appellant that the learned Single Judge was not correct in holding that the

appellant has efficacious alternative remedy inasmuch as in terms of Section 64(2)(v) of the Act of 1960, the Registrar cannot entertain the issue

relating to rejection of the nomination paper till declaration of the results and therefore, the writ petition is maintainable and that the learned Single

Judge failed to notice that aspect of the matter.

6. Mr. Rajeev Shrivastava, learned senior counsel appearing for respondents No.2 and 3, submits that no election dispute is to be entertained by the

Registrar during the period commencing from the announcement of the election programme till the declaration of the results. Thus, any dispute relating

to election, including the rejection of the nomination paper, has to be adjudicated by the Registrar in terms of Section 64(2)(v) of the Act of 1960, but

such dispute has to be raised only after the declaration of the results of the elections and it is in that light, the learned Single Judge had observed that

the appellant has efficacious alternative remedy. Accordingly, he submits that no interference is called for with regard to the order under challenge

and the writ appeal is liable to be dismissed.

7. We have considered the submissions of learned counsel appearing for the parties and have perused the materials on record.

8. Chapter VII of the Act of 1960 is under the heading of "Disputes and Arbitration". Section 64(1) provides that, notwithstanding anything

contained in any other law for the time being in force, any dispute touching the constitution, management or business, terms and conditions of

employment of a society or the liquidation of a society shall be referred to the Registrar by any of the parties to the dispute if the parties thereto are

among any of the categories as indicated therein. For the purpose of this appeal, it is not necessary for us to dwell upon such categories.

9. Section 64(2) provides that for the purpose of Section 64(1), any dispute shall include the disputes as enumerated therein from Clauses (i) to (v).

Section 64(2)(v) refers to any dispute arising in connection with the election of any officer of the society or representative of the society or of composite society.

10. Proviso to Section 64(2)(v), however, lays down that the Registrar shall not entertain any dispute under the aforesaid clause during the period

commencing from the announcement of the election programme till the declaration of the results.

11. In view of the proviso, such a dispute relating to rejection of nomination paper cannot be entertained by the Registrar before the declaration of the

results. However, legislative mandate is very clear that any dispute arising in connection with the election of any officer of the society or

representative of the society or of composite society, has to be adjudicated by the Registrar.

12. The argument advanced by Mr. Upadhyay that as the Registrar could entertain the dispute only after declaration of the result would make an

application under Article 226 of the Constitution of India at this juncture maintainable, cannot be accepted.

13. According to the scheme of the Act of 1960, any dispute relating to election has to be entertained and adjudicated by the Registrar. An election

dispute cannot be allowed to be raised during the pendency of the election programme until the declaration of the results. If the same is allowed, it

may have the potential of subverting and derailing the democratic process of election. Therefore, an application under Article 226 of the Constitution

of India seeking to raise such a dispute would also be not maintainable.

14. In that view of the matter, we see no good ground to interfere with the order passed by the learned Single Judge and accordingly, the writ appeal

is dismissed. No cost.