

A.F.R.

Court No. - 5

Case :- WRIT - C No. - 20203 of 2020

**Petitioner :-** Matsya Jivi Sahkari Samiti Ltd.

**Respondent :-** State Of U.P. And 6 Others

**Counsel for Petitioner :-** Vijay Kumar

**Counsel for Respondent :-** C.S.C.,Sunil Kumar Singh

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Dr. Yogendra Kumar Srivastava,J.

1. Heard Sri Vijay Kumar, learned counsel for the petitioner and learned Standing Counsel for the State respondents.
2. The present writ petition has been filed seeking a direction to decide the claim of the petitioner with regard to election proceedings of a co-operative society namely, *Matsya Jivi Sahkari Samiti Ltd.*, Village Karauta, Block Brahmampur, District Gorakhpur.
3. As per the averments made in the writ petition, in particular, in paragraphs 9 and 10, the elections have been held and declared on 22.11.2019 and the elected office bearers have also taken charge but the grievance of the petitioner with regard to the elections, raised in his complaints, has not been redressed.
4. Learned Standing Counsel appearing for the State respondents has drawn attention of this Court to the provisions under Section 70 of the Uttar Pradesh Co-operative Societies Act, 1965, and the proviso to sub-section (1) thereof and also to Rule 444-C (2) of the Uttar Pradesh Co-operative Societies Rules, 1968, to contend that once an election of a co-operative society has been held, the remedy available to the aggrieved party is by seeking a reference of the dispute to the Registrar.

5. To appreciate the aforesaid contentions, the relevant statutory provisions may be adverted to.

6. Section 70 under Chapter IX of The U.P. Co-operative Societies Act, 1965 reads as under :-

**"70. Disputes which may be referred to arbitration.** - (1) Notwithstanding anything contained in any law for the time being in force, if any dispute relating to the constitution, management of the business of a co-operative society other than a dispute regarding disciplinary action taken against a paid servant of a society arises-

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or any person claiming through, a member, past member or deceased member, and the society, its Committee of Management or any officer, agent or employee of the society, including any past officer, agent or employee; or

(c) between the society or its committee and any past committee, any officer, agent or employee or any past officer, past agent or past employee or the nominee, heir or legal representative of any deceased officer, deceased agent, or deceased employee of the society; or

(d) between a co-operative society and any other co-operative society or societies:

such dispute shall be referred to the Registrar for action in accordance with the provisions of this Act and the rules and no court shall have jurisdiction to entertain any suit or other proceeding in respect of any such dispute:

**Provided that a dispute relating to an election under the provisions of this Act or rules made thereunder shall not be referred to the Registrar until after the declaration of the result of such election.**

(2) For the purpose of sub-section (1), the following shall be deemed to be included in dispute relating to the constitution, management or the business of a co-operative society, namely -

(a) claims for amounts due when a demand for payment is made and is either refused or not complied with whether such claims are admitted or not by the opposite party;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due

to it from the principal debtor as a result of the default of the principal debtor or whether such debt or demand is admitted or not;

(c) a claim by a society for any loss caused to it by a member, officer, agent, or employee including past or deceased member, officer, agent, or employee, whether individually or collectively and whether such loss be admitted or not; and

(d) all matters relating to the objects of the society mentioned in the bye-laws as also those relating to the election of office-bearers.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute relating to the constitution, management or the business of co-operative society the decision thereon of the Registrar shall be final and shall not be called in question in any Court."

7. Rule 444-C of the Uttar Pradesh Co-operative Societies Rules, 1968 is being reproduced hereinbelow :-

"**444-C.** (1) The election in a co-operative society shall not be called in question either by arbitration or otherwise except on the ground that--

(a) the election has not been a fair election by reasons that corrupt practice, bribery or undue influence has extensively prevailed at the election, or

(b) the result of the election has been materially affected--

(i) by improper acceptance or rejection of any nomination, or

(ii) by improper reception, refusal or rejection of voters, or

(iii) by gross failure to comply with the provisions of the Act, the rules or the bye-laws of the society.

*Explanation.*--For the purpose of this rule corruption, bribery or undue influence shall have the meaning assigned to each under Section 123 of the Representation of the People Act, 1951.

(2) A dispute relating to election shall be referred by the aggrieved party within forty-five days of the declaration of the result."

8. The aforequoted provisions indicate that the manner of settlement of disputes is provided for under Chapter IX of the Act, 1965.

9. Section 70 is in respect of disputes which may be referred to arbitration and in terms thereof, the disputes specified under sub-section (1) are to be referred to the Registrar for action in accordance with the provisions of the Act

and the rules and no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any such dispute.

10. In terms of the proviso to sub-section (1) of Section 70, a dispute relating to an election under the provisions of the Act or the rules made thereunder, shall not be referred to the Registrar until after the declaration of the result of such election.

11. Sub-rule (1) of Rule 444-C provides that the election in a co-operative society shall not be called in question either by arbitration or otherwise except on the grounds specified under clause (a) and clause (b) under sub-rule (1).

12. In terms of sub-rule (2) a dispute relating to an election shall be referred by the aggrieved party within forty-five days of the declaration of the result.

13. In the case at hand, as per the case set up by the petitioner, the elections of the co-operative society in question, have already been held and the results thereof have also been declared. In view of the aforesaid facts and situation, any complaint, grievance or dispute which is being sought to be raised with regard to the elections, is to be referred to the Registrar on an appropriate application by the aggrieved party.

14. A conjoint reading of the provisions contained under Section 70 of the Act, 1965 and Rule 444-C of the Rules, 1968 leave no manner of doubt that a complete procedure for settlement of disputes and the manner of reference of such disputes, including a dispute relating to an election under the provisions of the Act or the Rules made thereunder, is provided for. Any grievance, complaint or dispute relating to the election proceedings of a co-operative society can be called in question on the grounds specified under sub-rule (1) of Rule 444-C by applying for a reference by making an appropriate application under Section 70 of the Act, 1965.

15. A complete mechanism with regard to settlement of disputes relating to election in a co-operative society having been provided for in the manner as

aforestated, we are not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution, in the facts of the present case.

16. It would be open to the petitioner to invoke the appropriate remedy, provided in terms of the statutory provisions under the Act, 1965 and the Rules made thereunder.

17. Subject to the aforesaid observation, this writ petition stands dismissed.

**Order Date :- 16.12.2020**

Shalini

(Dr. Y.K.Srivastava,J.) (Surya Prakash Kesarwani,J.)