

Court No. - 6

Case :- WRIT - C No. - 7497 of 2025

Petitioner :- Bahujan Nirbal Varg Sahkari Grih Nirman Samiti Ltd. Thru. Secy. And 3 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Cooperative Govt. Of U.P. Lko. And 19 Others

Counsel for Petitioner :- Sharad Pathak, Priya Singh

Counsel for Respondent :- C.S.C., Gaurav Mehrotra, Nirankar Singh, Sachindra Dwivedi, Utsav Mishra

Hon'ble Pankaj Bhatia, J.

1. Heard Shri Sharad Pathak, learned counsel for the petitioners; Shri Pritish Kumar, learned AAG assisted by Shri Rahul Shukla, learned CSC for the State and Shri Nirankar Singh, learned counsel for respondent nos.9 & 10.

2. Present case demonstrates a deep malaise of corruption that is rampant in the Co-operative Housing Societies in the State of Uttar Pradesh.

3. In the present case, the society in the name of Bahujan Nirbal Varg Sahkari Grih Nirman Samiti Limited was incorporated, perhaps for the benefit of persons of Scheduled Castes. Subsequently, on account of the lands being acquired and thereafter being given to the society, huge inconsistencies and bungling were done by the society as are evident from the report dated 27.08.2024 which highlighted the manner in which the lands have been allotted to the persons who are not entitled to, the society has not followed the restrictions with regard to the quantum of land that can be allotted to the member of the society, etc.

4. It is also disturbing to notice that despite there being a detailed report in an inquiry conducted by as many as seven responsible officers of the LDA, no action has been taken.

5. Present petition was filed by the petitioners alleging that despite the petitioners being elected in the election result declared on 18.03.2023, the respondents who are not even the office bearers, executed two sale deeds - one of them is on record as Annexure - 22, whereby the person namely respondent no.10 who is not even a member or the elected member of the society after elections executed sale deeds of the properties of the society. The recital of the sale deed indicate that substantial amounts were issued in favour of the executant i.e. respondent no.10 herein through various cheques and demand drafts. None of the said amount was credited to the account of the society.

6. A specific query was raised to Shri Nirankar Singh, learned

counsel for respondent nos.9 & 10 as to whether the cheques referred to in the sale deeds have vanished. He states that, on instructions of respondent no.10, that none of the said amounts have been credited to the account of respondent no.10. He is unable to give any statement as to what happened to the cheques which were admittedly collected by respondent no.10 and have not been credited to the account of society.

7. During the course of hearing, my attention is also drawn to yet another sale deed executed by respondent no.10 on 12.12.2024 - a copy of which has been handed over across the Bar and taken on record - wherein yet another piece of the land belonging to the society was sold. The said land was sold for a sale consideration of Rs.5,05,000/-. The said amount is also not reflected in the accounts of the society.

8. The statement of account of the society reveals huge siphoning off of the funds. All the money deposited towards the execution of the sale deeds have been withdrawn by respondent nos.9 & 10 through cash withdrawal.

9. It is also disturbing to notice that despite all these facts being in the knowledge of the State and there being a bar in execution of the sale deeds of the society, huge funds have been siphoned off by the members who were then manning the society by executing sale deeds contrary to the bye-laws.

10. Shri Prithish Kumar, learned AAG informs that the State is in process of registering the FIR.

11. Learned AAG shall file a status report with regard to the steps taken in pursuance to the FIR lodged today on the next date of listing.

12. In case the police authorities/State Authorities feel necessary, steps shall also be taken for conducting the land audit of the society which shall include the total land owned by the society and the number of the sale deeds executed by the society in the last ten years and the deposit of sale proceeds in society's account.

13. The authorities shall also collect the date and the receipts by which new members were included in the society.

14. In case the police authorities deem it appropriate, steps shall also be taken for recovery of the money including action, if necessary, under The Prevention of Money Laundering Act.

15. The entire investigation in pursuance to the FIR shall be

supervised by the officer of the level of Superintendent of Police.

16. The status report shall be furnished on the next of listing.

17. List for further hearing on 16.09.2025 in top of the list.

Order on dispute involved:

18. Present petition has been filed by the petitioners challenging that in an election of the society held and result declared on 18.03.2025, respondents filed an application under Section 70 of U.P. Cooperative Societies Act and the SDM concerned has passed an order directing the parties to maintain status quo as a result whereof, the elected members are unable to take over the society in terms of the election.

19. It is argued that although the election disputes are also amenable to Section 70 of U.P. Cooperative Societies Act, however, in the manner in which the interim order has been passed has resulted in staying the election which is not permissible even in an election petition.

20. The impugned orders being Annxures - 1 & 2 also do not reflect any application of mind prior to passing of the said orders which results in staying the election, as such, as an interim measure, the operation and effect of the orders dated 10.03.2025 and 12.05.2023 shall remain stayed till further orders. Meaning thereby that the petitioners shall be permitted to continue as the office bearers of the society and the record shall be handed over to the petitioners who are the elected office bearers and they shall cooperate with the police authorities in furnishing whatever documents are required for the proper investigation, as directed above.

21. Further proceedings before the SDM concerned shall remain stayed till the next date of listing.

22. The State shall also submit a report as to what action has been taken in pursuance to the provisions contained in U.P. Revenue Code which bar the execution of the sale deed in favour of the persons not belonging to the Scheduled Caste and Scheduled Tribe.

23. In the meanwhile, learned counsel for the petitioner shall file a supplementary affidavit bringing on record the subsequent sale deed executed on 12.12.2024. A copy whereof is taken on record.

Order Date :- 20.8.2025/nishant