

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 2537 (MS) of 2013

Matsya Jeevi Sahkari Samiti Ltd.Petitioner
Versus
State of Uttarakhand & othersRespondents
with

Writ Petition No. 2538 (MS) of 2013

Matsya Jeevi Sahkari Samiti Ltd.Petitioner
Versus
State of Uttarakhand & othersRespondents

Present:

Mr. Siddhartha Singh, Advocate, present for the petitioner in both writ petitions.
Mr. Ashish Joshi, learned Standing Counsel present for respondent nos. 1 & 2.
Mr. Lok Pal Singh, Advocate with Mr. Tapan Singh Advocate, present for the respondent no.3.

Hon'ble Sudhanshu Dhulia, J. (Oral)

In both the writ petitions, since issue is common, therefore, both the writ petitions are being disposed of with a common judgment.

2. The matter relates to fishing rights which are being given to a Cooperative Society, where all the members belong to fishing community only. The petitioners in both the writ petitions claim themselves to belong to such a fishing community. Society of the petitioners is registered with the Registrar, Cooperative Societies at Tehshil level at Roorkee, District-Haridwar.

3. Petitioners are aggrieved by the order dated 24.09.2013, passed by the Registrar, Cooperative Societies, Dehradun, whereby the Registrar of the Societies allowed the appeal of the respondent no. 3, which is another

Cooperative Society at the Village level. Respondent no.3-Cooperative Society contest for fishing rights in village level. Petitioner-Society works at Tahsil level.

4. On a complaint made by the petitioner-Society regarding the constitution of respondent no. 3-Society, the Assistant Development Officer, Cooperative, Roorkee and Additional District Cooperative Officer made inquiry on the complaint of the petitioner, which was to the effect that some of the members of the respondent no.3-Society were also members of their Society and membership of two Cooperative Societies is not permissible in view of Section 17 of the Uttarakhand Cooperative Societies Act, 2003. After inquiry, a recommendation was made by Additional District Cooperative Officer, Roorkee to District Assistant Registrar (Cooperative Societies), Uttarakhand, Hardwar for cancellation of registration of respondent no. 3-Society and on the basis of this recommendation, District Assistant Registrar (Cooperative Societies), Uttarakhand, Hardwar vide order dated 16.03.2012 forwarded the matter for cancellation of the registration of respondent no. 3-Society to Additional Registrar (Cooperative Societies), Uttarakhand, Dehradun and on the basis of such recommendation dated 16.03.2012, Sub Registrar (Cooperative Societies), Uttarakhand, Almora has cancelled the registration of the respondent no. 3/Society vide order dated 21.04.2012. Against this order dated 21.04.2012, respondent no. 3 filed a statutory appeal before the Sub Registrar (Cooperative Societies), Uttarakhand, Almora which was allowed by the Sub Registrar vide order dated 10.05.2012 on the ground that as on today the members of the Respondent no. 3 Society are not the members of the

petitioner Society and cancellation of the registration of the respondent no. 3 society is in violation of the law.

5. The petitioner-Society challenged the order dated 10.05.2012, before the Registrar, Cooperative Societies, Dehradun by way of review petition who allowed the review petition of the petitioner-Society vide order dated 08.04.2013. But the respondent no.3 filed an appeal before the respondent no. 1 against the order dated 21.04.2012 who remitted the matter to the respondent no. 2 and respondent no. 2 allowed the appeal of the respondent no. 3 vide order dated 24.09.2013. Hence, this writ petition.

5. Learned counsel for the petitioner contents that the order, passed by the respondent no. 2 is totally wrong, inasmuch as, the Uttaranchal Cooperative Societies Rules, 2004, particularly Rule 42 does not permit a person to be a member of another Cooperative Society. Rule 42 reads as under:-

“42.(1) No individual person who is already a member of a primary co-operative credit society shall, unless permitted by the Registrar for reasons to be recorded, be a member of another primary co-operative credit society except where such society is a co-operative bank the main business of which is to advance long-term loan to its members on the mortgage of immovable property;

(2) If an individual has become a member of two credit societies in contravention of Sub-rule (1), he shall resign from membership of one of the two and on his failure to do so within 45 days of his being called upon to do so, the society of which he became a member later shall remove him from membership.”

6. However, since there is a finding on record that members of the respondent no. 3-Society were never members of the Petitioner-Society, as such, there is no violation of any law.

7. In view of the above, there is no force in the writ petitions. Both the writ petitions are hereby dismissed.

(Sudhanshu Dhulia, J.)

31.10.2013

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