

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1290 of 2016

Arising out of

C.W.J.C. No. 19687 of 2015

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Shafique Alam, S/o Jabbar Alam, Resident of Village and P.O. Brindaban Takiya ,
P.S. Uchkagaon, Block- Thawe, District- Gopalganj.

.... Appellant/s

Versus

1. The State Election Authority, Bihar, Patna through the Secretary.
2. The Joint Registrar, Cooperative Societies, Saran Division, Chapra.
3. The Block Development Officer- cum - Returning Officer (Cooperative Election), Thawe Block, District- Gopalganj.
4. Ikhlakh Ahmad, S/o Noor Hassan,
5. Iftekhar Ahmad, S/o Wakil Ahmad,
6. Subuk Tara, W/o Ubaid Alam, All Resident of Village and P.O. Brindaban Takiya, P.S. Uchkagaon, Block - Thawe, District- Gopalganj.
7. Brindaban Primary Agriculture Credit Cooperative Society Ltd. through the Manager Jubaid Alam and P.O. Brindaban Takiya, P.S. Uchkagaon, Block-Thawe, District-Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar Manglam, Advocate

For the Respondent/s : Mr. R.K. Chaudhary, A.C. to G.P. 19

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 31-07-2017



Delay of 136 days in filing of the appeal is condoned.

I.A. No. 5089 of 2016 stands allowed and disposed of.

2. Seeking exception to an order dated 05.01.2016 passed by the learned Writ Court in C.W.J.C. No. 19687 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.

3. With regard to the election to the Cooperative Society in question, appellant who lost the election, filed an Election Petition under the statutory provision and the Joint Registrar, Co-operative Societies in Case No. 8 of 2014 having dismissed the Election Petition with regard to election of Respondent No. 4 on the post of Chairman to the Society in question, the matter was agitated before the Writ Court and the Writ Court having dismissed the same, this appeal under Clause 10 of the Letters Patent.

4. The only question that was canvassed before the Writ Court so also before us is to the effect that Respondent No. 4 has been elected even though he is an coopted member and not a regular paid member of the Society and, therefore, he was disentitled to contest the election. The Election Tribunal has in detail analyzed the issue with regard to the nomination submitted by Respondent No. 4 and in the impugned order passed has dealt with the issue in Page 48 which goes to show that when the objections to the nomination were being considered, such an objection was not raised and when certain



documents were filed to show that the respondent was not a regular member of the Society and has not paid his membership dues, certain receipts were also produced which has been disbelieved by the learned Election Tribunal and the Writ Court, and the learned Writ Court after evaluation of the entire matter has rejected the writ petition by observing as under:-

“Although Mr. Manglam has tried to support his case by saying that even though the petitioner as the Chairman of the Society, has raised objection to the nomination of the private respondent but the impugned order reflects that a categorical stand was taken by the Returning Officer-cum-Block Development Officer to submit that no such objection was raised by the petitioner questioning the nomination of the private respondent.

Perusal of the order impugned further manifests that neither the voter list reflected any such ineligibility on the part of the respondent no. 4 of being a co-opted member nor the receipt produced by the petitioner for supporting his claim was found worthy of reliance as the signature was not clear. Apart therefrom, it is the petitioner himself who is the Ex-Chairman of the Society and has supplied the list of members for preparation of the voter list. The very fact that the voter list did not mention any such ineligibility on the part of the private respondent of being a co-opted member, I find no reason to interfere with the impugned order.

This writ petition is dismissed.”



5. Keeping in view the aforesaid reasons that were considered by the learned Writ Court, we see no reason to make any indulgence into the matter.

6. The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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