

## **Dayalbagh Consumers Co-operative Society Ltd.and another Vs State of U.P.and others.**

**Court:** Allahabad High Court

**Date of Decision:** Dec. 17, 2008

**Hon'ble Judges:** Pradeep Kant, J and Shabihul Hasnain, J

**Final Decision:** Disposed Of

### **Judgement**

Shabihul Hasnain, J.

Heard the learned counsel for the parties.

The petitioners' grievance is that despite the fact that request for holding the elections of Committee of Management has been made by the present

Committee as per the statutory rules before the term had expired, but the Registrar has not taken any steps for holding the elections with the result

that the term of the Committee of Management is to come to an end even under the amended Act, i.e. of two years and as a consequence the

Administrator would be appointed for no fault of the petitioners. Their further submission is that in all the cooperative societies, where the term

stood expired because of the introduction of the Ordinance No. 34 of 2007, replaced by the Act No. 46 of 2008 and also where the term had not

expired, the elections have not been held by the Registrar till date. Submission is that in view of Section 29 subclause 5, the power cannot be

allowed to be abused by the State or the Registrar only for the purpose of superseding the present Committee and taking control by appointing the

Administrator.

We are satisfied that the provisions of Section 29 subclause 5 cannot be used as a tool for replacing the elected body of a Committee of

Management by Administrator nor it permits the State Government or the Registrar to sit tight over the matter, despite the request being made by

the Committee of Management within time, for holding the elections and then under the purported exercise of power under the aforesaid provision,

appointing the Administrator and take its own time for holding the elections.

We, therefore, dispose of the writ petition with the consent of the parties counsel, with the direction that if the Administrator has not been

appointed yet, the present Committee of Management shall continue till the elections are held by the Registrar. As soon as the elections are held,

the functioning of the present Committee of Management shall cease and it will hand over the charge to the elected committee.