

(2008) 12 AHC CK 0120

Allahabad High Court

Case No: None

Dayalbagh Consumers
Co-operative Society Ltd.and
another

APPELLANT

Vs

State of U.P.and others.

RESPONDENT

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.