

(2009) 07 AHC CK 0333

Allahabad High Court (Lucknow Bench)

Case No: None

Syed Azizul Hasan Rizvi

APPELLANT

Vs

Registrar, Co-operative Societies
and Others

RESPONDENT

Date of Decision: July 7, 2009

Acts Referred:

- Constitution of India, 1950 - Article 226
- Uttar Pradesh Co-operative Societies Act, 1965 - Section 70(1)

Citation: (2010) 2 AWC 1896

Hon'ble Judges: S.P. Mehrotra, J; Anil Kumar, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.P. Mehrotra and Anil Kumar, JJ.

The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner claiming himself to be bona fide member of the Co-operative Society in question, and, inter alia praying for quashing the election process for the election of the Committee of Management of the Co-operative Society in question on various grounds mentioned in the representation dated 1.7.2009 (Annexure-1 to the writ petition).

2. We have heard Sri Yogendra Mishra, learned Counsel for the petitioner and the learned Chief Standing Counsel appearing for respondents No. 1, 2 and 3 and perused the record.

3. Rule 444C of the U.P. Co-operative Societies Rules, 1968 framed under the U.P. Co-operative Societies Act, 1965 provides as under:

444C. (1) The election in a co-operative society shall not be called in question either by arbitration or otherwise except on the ground that:

- (a) the election has not been a fair election by reasons that corrupt practice, bribery or undue influence has extensively prevailed at the election, or
- (b) the result of the election has been materially affected:
 - (i) by improper acceptance or rejection of any nomination, or
 - (ii) by improper reception, refusal or rejection of voters, or
 - (iii) by gross failure to comply with the provisions of the Act, the rules or the bye-laws of the society.

Explanation.--For the purpose of this rule corruption, bribery or undue influence shall have the meaning assigned to each u/s 123 of the Representation of People Act, 1951.

(2) A dispute relating" to election shall be referred by the aggrieved party within forty-five days of the declaration of the result.

4. Sub-rule (1) of the above quoted Rule 444C thus lays down that the election in a co-operative society shall not be called in question either by arbitration or otherwise except on the grounds mentioned in clauses (a) and (b) of the said sub-rule. Subclause (iii) of clause (b) of sub-rule (1) of the above-quoted Rule 444C provides that the election may be challenged on the ground that the result of the election has been materially affected by gross failure to comply with the provisions of the Act, the rules or the bye-laws of the society. Various grounds mentioned in the representation of the petitioner (Annexure-1 to the writ petition) are covered under the aforesaid subclause (iii) of clause (b) of sub-rule (1) of Rule 444C.

5. Proviso to Sub-section (1) of Section 70 of the U.P. Co-operative Societies Act, 1965 shows that dispute relating to an election may be referred to the Registrar after the declaration of the result of such election.

6. As per the averments made in the writ petition, it is evident that the election process has already started. In the circumstances, we are not inclined to interfere in the matter under Article 226 of the Constitution of India. It will be open to the petitioner to seek appropriate remedy under the aforesaid Section 70 read with Rule 444C after the conclusion of the election.

7. In view of the above, the writ petition is liable to be dismissed, and the same is accordingly dismissed.