

(2012) 07 JH CK 0123

Jharkhand High Court

Case No: Writ Petition (C) No. 748 of 2012

Prabir Kumar Pahari and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: July 2, 2012

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: Indrajit Sinha, for the Appellant; Sumir Prasad, S.C.I, for the Respondent

Final Decision: Allowed

Judgement

Narendra Nath Tiwari

1. The petitioners are aggrieved by the order dated 31.1.2012 passed by learned Registrar, Cooperative Society, Jharkhand, Ranchi in Election Misc. Case No. 2 of 2012 (Gauri Shankar Vrs. Board of Directors of M/s. Navjivan Sahakari Grih Nirman Samittee, Baridih, Jamshedpur & Ors.). By the impugned order, learned Registrar during pendency of the election petition has suspended the Managing Committee and nominated one Rambabu Singh, C.E.O., Gamharia as Special Officer. The said order has been challenged by the petitioners mainly on the ground that learned Registrar has no jurisdiction to suspend the Managing Committee during pendency of the election petition on the ground of any irregularity in the election, unless the said issue is finally decided on the basis of the evidence adduced by the parties.

2. Mr. Indrajit Sinha, learned counsel, appearing on behalf of the petitioners, submitted that the impugned order amounts to granting relief to the election petition without proper hearing and before final decision thereon. The order is wholly illegal and without jurisdiction. There is no provision under the Jharkhand Cooperative Societies Act providing such power to the Registrar in the matter of election petition.

3. Learned S.C.I, appearing on behalf of the respondents, opposed the petitioners' petition and submitted that learned Registrar has prima facie found that the place

of election was changed at the last hour and it was shifted from the office of the society to Durga Puja Pandal. On the basis of the said prima facie material on record, has passed the said order suspending the Managing Committee and, in the meanwhile, appointing Rambabu Singh as Special officer. Learned counsel, however, has not given any reply to the legal issue of the jurisdiction of learned Registrar to pass such order.

4. I have heard learned counsel for the parties and perused the facts and material on record. The respondents have filed election petition being Election Misc. Case No. 2 of 2012 before learned Registrar, Cooperative Society, Jharkhand, Ranchi. The petitioners have appeared and sought time for filing their written statement. Learned Registrar granted time for filing reply, as prayed for by the petitioners (Opposite parties in the election petition), but at the same time passed the said interim order suspending the Managing Committee and appointing one Rambabu Singh as Special Officer. The petitioners have challenged the jurisdiction of learned Registrar to pass such interim order during pendency of the election petition, which amounts to dislodging the elected Managing Committee. Learned counsel for the respondents have not been able to place any legal provision under which the said power has been exercised by learned Registrar.

5. I, therefore, find no legal jurisdiction for passing order dated 31.1.2012 by learned Registrar, whereby he has suspended the elected Managing Committee and in place thereof, has nominated Special Officer during pendency of the Election Petition.

6. For the aforesaid reasons, this writ petition is allowed. The order dated 31.1.2012 passed by learned Registrar, Cooperative Society, Jharkhand, Ranchi in Election Misc. Case No. 2 of 2012 is quashed. Learned Registrar shall expedite the hearing and disposal of the election petition.