

State of Rajasthan

Vs

Praful Ranwah

Civil Appeal No. 2861 of 1992

(A. M. Ahmadi, M. M. Punchhi, K. Ramaswamy JJ)

05.08.1992

JUDGMENT

1. Delay condoned.
2. Special leave granted.
3. Heard counsel for the appellant. None has entered an appearance on behalf of the respondent even though while issuing notice we had indicated that the matter will be disposed of finally at the notice stage itself. We, therefore, proceed to dispose of this appeal.
4. Gram Sewa Samitis constituted under the Rajasthan Co-operative Societies Act, 1965 (hereinafter called 'the Act'), are managed by a Board comprising 9 elected members. The elections have to be held every three years. The Chairmen of the Gram Sewa Sahakari Samitis in turn elect nine members to the Board of the Central Co-operative Banks and the Chairmen of these Banks in turn elect the Board of the State Co-operative Banks. Section 36(IB) added to the Act reads as under:

"36(IB). If before the expiry of the term of the Committee as specified in the bye-laws, a new Committee is not constituted, the Registrar may appoint a Government servant as Administrator to manage the affairs of the Society for a period not exceeding one year or till a new Committee is constituted, whichever is earlier. "

The explanation to that sub-section is not relevant for our purpose. Acting in exercise of Power conferred by this provision, an order dated 25th September, 1991 came to be passed by the Registrar of Co-operative Societies which inter alia states that since the election of the Central Co-operative Bank Ltd., Nagore, was held on 9th September, 1988 and the period of three years had since expired and no fresh election had taken place, it had become necessary to appoint the District Collector, Nagore, as the Administrator for one year for the purpose of management of the Committee or till the election of the organisation is held, whichever is earlier. This order was challenged in a Writ Petition No. 5065 of 1991 which was disposed of by the impugned order by a Division Bench of the Rajasthan High Court. It appears from the impugned order that the High Court desired to know the Justification, if any, for the concession made by the State before Jaipur Bench of the High Court permitting the elected Board to continue in the case of the Urban Co-operative Bank, Bhilwara and Rajasthan Industrial Co-operative Bank Ltd., Jaipur, even though their elected terms had expired. On the next date of hearing, the High Court observed that no justification was pointed out as to why the Government permitted the elected Board to continue in the aforesaid two cases despite the

expiry of their term. As the learned counsel for the State Government was not able to enlighten the Court, the Court after reproducing the observations made by the Jaipur Bench proceeded to hold that there was violation of Art. 14 of the Constitution inasmuch as in the case of the said two Banks no Administrator was 'appointed even though their terms had expired and elections were not held while in the case of the Nagore Bank an Administrator was appointed under the impugned order dated 25th September, 1991. Proceeding on that basis, the High Court concluded that there was violation of Art. 14 of the Constitution and stayed the operation of the order dated 25th September, 1991. It is this order passed by the High Court which is put in issue in the present appeal.

5. The learned counsel for the State of Rajasthan invited our attention to Paragraph 21 of the Affidavit which was filed on behalf of the State Government before the High Court wherein it was pointed out that in the case of the aforesaid two Banks since the election process had already commenced it was not thought proper and necessary to appoint an Administrator whereas in the case of the Nagore Bank the election process had been postponed and hence it became necessary for the State to exercise the power conferred by Section 36(IB) of the 1965 Act. The High Court order also shows that counsel for the State had submitted that in the case of Bhilwara Urban Co-operative Bank election had already been ordered and the process was underway which was not the case in respect of the present Bank. This also becomes clear from the extract reproduced from the judgment rendered by the Jaipur Bench. It is, therefore, obvious that in the case of the Banks where the election process had been set in motion the State of Rajasthan did not consider it necessary or expedient to appoint an Administrator whereas in the case of the Bank in question since the election process had not been set in motion and had in fact been postponed no such concession could be granted. The High Court, therefore, was wrong in treating the case to be identical to attract Art. 14 of the Constitution. We, therefore, find it difficult to sustain the impugned order of the High Court.

6. In the result, we set aside the impugned order of the High Court and restore the order dated 25th September, 1991 appointing the Administrator in exercise of power conferred by Section 36(IB) of the 1965 Act. The appeal is allowed accordingly with no order as to costs.

Appeal allowed.

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