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Court : Mumbai Nagpur

Decided On : May-07-2013

Judge : The Honourable Mrs. Justice Vasanti a. Naik

Appeal No. : Writ Petition No.10 of 2003

Appellant : Rahul

Respondent : State of Maharashtra Through Its Minister, Animal Husbandary and Dairy Development Department and Others

Judgement :

Oral Judgment:

By this petition, the petitioner impugns the order passed by the respondent no.1, the Hon'ble Minister for Animal Husbandary and Dairy Development, on 28.11.2002 remanding the matter to the Joint Registrar, Co-operative Societies for a fresh decision on the same.

2. The Magasvargiya Pashu Va Pakshi Palan Sahakari Sanstha is a society registered under the provisions of Maharashtra Co-operative Societies Act, 1950 (sic). On the said society, the respondent No.5 was appointed as an administrator. The petitioner is the chairman of the society. According to the petitioner, the bye-laws of the society were amended as per the guidelines of the State Government.

The amendment was carried out after seeking the approval of the Assistant Registrar of the Co-operative Societies. The respondent Nos.6 to 15 were aggrieved by the order granting permission to amend the bye-laws and hence challenged the same before the Divisional Deputy Registrar, Cooperative Societies, Nagpur. The Divisional Deputy Registrar rejected the appeal filed by the respondent Nos.6 to 15. The respondent Nos.6 to 15 then filed a revision before the respondent no.2, the Joint Registrar, Co-operative Societies. The revision was rejected by the respondent no.2 by an order dated 12.2.1999. The respondent Nos.6 to 15, had in the meanwhile filed a revision under section 154 of the Act challenging the amendment to the bye-laws of the society. The revision was dismissed by the State Government.

After the dismissal of the revision, the respondent Nos.6 to 15 had filed Writ Petition No.1958 of 1997. This court had, by an order dated 6.10.1997, dismissed the writ petition and upheld the orders passed by the Assistant Registrar, Co-operative Societies and the Divisional Deputy Registrar. After the petition was dismissed, the respondent Nos.6 to 15 again filed a revision application before the Hon'ble Minister suppressing the fact that on the earlier occasion the revision filed by the respondent Nos.6 to 15 was dismissed by the Hon'ble Minister. Though the petitioner had filed an application for intervention in the said revision, in order to point out the facts as stated herein above, the application for intervention was rejected. The Hon'ble Minister by the impugned order remanded the matter to the Joint Registrar, Cooperative Societies for a fresh decision on the same. The petitioner has impugned the order passed by the Hon'ble Minister mainly on the ground that the Hon'ble Minister had no jurisdiction to entertain the revision when the revision filed by the respondent Nos.6 to 15 was dismissed earlier. According to the petitioner, the Hon'ble Minister had no jurisdiction to reopen the matter, specially when the same had attained finality after the dismissal of the writ petition challenging the order of the authorities.

3. On hearing the learned Assistant Govt. Pleader and on perusal of the petition, as also the documents annexed to the petition, it appears that the second revision was not maintainable before the Hon'ble Minister. It appears on a reading of the writ petition that the respondent Nos.6 to 15 had filed a revision before the State

Government under the provisions of Section 154 of the Maharashtra Cooperative Societies Act and the said revision was dismissed by the Hon'ble Minister. Without mentioning the fact about the dismissal of the revision earlier filed, the respondent Nos.6 to 15 again filed the revision application before the State Govt. Being oblivious of the fact that a revision filed by the respondent No.6 to 15 was already dismissed by the State Government, the Hon'ble Minister, by the impugned order dated 28.11.2002, allowed the revision filed by the respondent Nos.6 to 15 and remanded the matter to the Joint Registrar, Co-operative Societies for a fresh decision on the propriety of the amendment of the bye-laws of the society. The same question could not have been agitated before the State Govt. by filing a second revision under section 154 of the Act though a first revision filed by the respondent nos.6 to 15 was dismissed and the order had attained finality.

4. Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is quashed and set aside. Rule is made absolute in the aforesaid terms with no order as to costs.

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