

Siya Devi and Another Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Dec-07-2000

Reported in : 2001(1)AWC375; (2001)2UPLBEC1392

Judge : S.K. Sen, C.J. and ;S.R. Alam, J.

Acts : U.P. Co-operative Societies Rules, 1968 - Rule 464

Appeal No. : C.M.W.P. No. 50751 of 2000

Appellant : Siya Devi and Another

Respondent : State of U.P. and Others

Advocate for Def. : S.C., ;H.M. Srivastava and ;V.S. Rajput, Adv.

Advocate for Pet/Ap. : Ram Avtar Verma, Adv.

Judgement :

Shyamal Kumar Sen, C.J.

1. Heard learned counsel for the parties.

2. In the instant writ petition, the petitioner is aggrieved by further calling of the meeting of the members of Board of Directors by the District Magistrate. According to the petitioner, further calling of the meeting within three months is contrary to Rule 464 of the U. P. Co-operative Societies Rules, 1965 (hereinafter referred to

as the Act) which provides as follows :

'464. If the motion for no confidence fails for want of quorum or lack of requisite majority at the meeting, no subsequent meeting for considering the motion of no-confidence shall be held within six months of the date of the previous meeting.'

3. It appears on proper interpretation of Rule 464 of the Rules that if the motion for no-confidence fails either for want of quorum or lack of requisite majority, there is no scope for calling any subsequent meeting for considering motion of no-confidence again within six months from the date of the previous meeting. In view of the specific bar provided in the aforesaid Rule 464 of the Rules, District Magistrate has no power to call another meeting within a period of six months if the meeting fails either for want of quorum or lack of requisite majority. In the instant case, a meeting admittedly took place on September 25, 2000. The District Magistrate has again called a meeting on December 7, 2000. It appears that at the said meeting, vote of confidence could not be passed against the petitioner. Admittedly, six months-period has not expired. In that view of the matter, calling of the said meeting by the District Magistrate is without jurisdiction and contrary to Rule 464 of the said Rules.

4. Accordingly, we allow the writ petition and set aside the order-dated 7/13.11.2000 passed by the District Magistrate.

5. No order as to costs.

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