

Narendra Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Apr-22-1999

Reported in : 1999(2)AWC1485; (1999)2UPLBEC995

Judge : N.K. Mitra, C.J. and ;S.R. Singh, J.

Acts : [Constitution of India](#) - Articles 12, 14 and 226; Uttar Pradesh Co-operative Societies Act, 1965

Appeal No. : Special Appeal No. 312 of 1999

Appellant : Narendra Singh

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : N.L. Pandey, Adv.

Judgement :

N. K. Mitra, C.J. and S. R. Singh, J.

1. The petitioner, who was an employee on daily wage basis as Chowkidar in Kisan Seva Sahkari Samiti Limited Biralsee, district Muzaffarnagar, filed this writ petition against the termination order dated February 16, 1999 passed by the Chairman of the said society. The learned single Judge rejected the writ petition holding, inter alia, that Cooperative Societies are not State within the meaning of

Article 12 of the [Constitution of India](#) which is under challenge in this appeal.

2. In the case of Sri Ram Saran v. State of U. P. and others, (1998) 3 UPLBEC 1867, one of us (S. R. Singh, J.) has an occasion to consider the question of maintainability of writ as against a Co-operative Society registered under the provisions of the U. P. Co-operative Societies Act, 1965. Relying upon the judgment of the Supreme Court reported in the case of Air India Statutory Corporation v. United Union, (1997) 9 SCC 377, and also in the case of K. Krishnamacharyulu v. Sri Venkateshwara Hindu College of Engineering, (1997) 3 SCC 571, the Court held therein, inter alia, as under:

'A Co-operative Society registered under the Co-operative Societies Act, 1965 and the Rules made thereunder may be a private body but it certainly caters to the needs of public and the employees being the arm of the society cannot be dealt with by the society in an arbitrary manner. Absence of arbitrariness in action by bodies performing public function is a facet of Article 14 of the Constitution. Violation of Article 14 by public bodies will give rise to a cause of action under Article 226 of the Constitution.'

3. The view taken in the case of Sri Ram Saran (supra) finds support from the latest judgment of the Supreme Court in the case of U. P. State Co-operative Land Development Bank Limited v. Chandra Bhan Dubey and others, (1999) 1 SCC 741, in which, inter alia it has been held thus :

'It does appear to us that Article 226 while empowering the High Court for issue of orders or directions to any authority or person does not make any such difference between public functions and private functions. It is not necessary for us in this case to go into this question as to what is the nature, scope and amplitude of the writ of habeas corpus, mandamus, prohibition, quo warranto and certiorari. They are certainly founded on the English system of Jurisprudence. Article 226 of the Constitution also speaks of directions and orders which can be issued to any person or authority including, in appropriate cases, any Government. (Emphasis is ours).'

4. In such view of the matter, we have no hesitation in holding that the writ against the order of the Cooperative Society terminating the services of the appellant shall lie and as such the learned single Judge was wrong in dismissing the writ petition.

5. Accordingly, the Special Appeal is allowed. The order under challenge is set aside and the matter is remitted back for hearing the writ petition on merit.

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