

**Rakesh Vs. State of U.P. and ors.**

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**Court :** Allahabad

**Decided On :** Feb-15-2006

**Reported in :** 2006(2)AWC1778

**Judge :** Rakesh Tiwari, J.

**Acts :** Uttar Pradesh Cooperative Societies Act - Sections 128

**Appeal No. :** C.M.W.P. No. 9149 of 2006

**Appellant :** Rakesh

**Respondent :** State of U.P. and ors.

**Advocate for Def. :** K.N. Misra and S.C.

**Advocate for Pet/Ap. :** Sehat Bahadur, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**Rakesh Tiwari, J.**

1. Heard Sri Sehat Bahadur, learned Counsel for the petitioner, the learned standing counsel for respondent No. 1 and Sri K.N. Misra, the counsel appearing on behalf of respondent No. 2.

2. Sri Misra has raised preliminary objection that the writ petition is not maintainable as the petitioner has no locus standi to file the writ petition.

3. The facts of the case are that the date of birth of Gorakhi son of Sukkha respondent No. 4 was recorded as 22.5.1945 in his service record. He is working on the post of peon (class IV employee) in District Cooperative Bank, Head Office at Mathura. He had retired from service on 31.5.2005 after attaining the age of superannuation, i.e., 60 years.

4. It appears that after retirement, respondent No. 4 challenged his retirement under Section 128 of U. P. Cooperative Societies Act and moved an application before Deputy Registrar, Cooperative Societies Agra Region, Agra (respondent No. 3) claiming that he has been prematurely relieved from service on 31.5.2005 as actual date of his birth is 1.8.1949. Vide order dated 18.11.2005, respondent No. 3 held that respondent No. 4 was wrongly retired on the basis of date of birth as 22.5.1945 whereas his actual, date of birth is 1.8.1949, hence he is entitled to continue in service for further period of four years.

5. The petitioner has come up with the writ petition aggrieved by the order passed by the Deputy Registrar, Cooperative Societies, by which the date of birth of respondent No. 4 has been held to be 1.8.1949.

6. The grievance of the petitioner is that in case respondent No. 4 would have been retired on the basis of his date of birth 22.5.1945 and had the Dy. Registrar not set aside the order of superannuation of respondent No. 4, the petitioner would have been appointed in service in place of respondent No. 4.

7. It is submitted that now in pursuance of the order of Dy. Registrar dated 18.11.2005 respondent No. 4 will remain in service for four more years and in such situation the petitioner will not get the service.

8. Sri K.N. Misra, learned Counsel for The Secretary/General Manager, District Co-operative Bank, Mathura-respondent No. 2 submits that appointment of class IV employees is made by direct recruitment following the procedure prescribed under the relevant Rules and By-laws. He further submitted that no process for

recruitment of class IV employees has been initiated. As such how could the petitioner assume that he would be appointed on the post of peon in place of respondent No. 4 as there could be a large number of candidates who may apply against the post. He has further submitted that the petitioner is not in any way affected by the impugned order and as such he has no locus standi in the matter.

9. In my opinion the contention of Sri K. N. Misra has force. The petitioner has no locus standi in the matter, nor he is an aggrieved person.

10. For the reasons stated above, the writ petition appears to be frivolous. It is accordingly dismissed. There will be no order as to costs.

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