

ITEM NO.1

COURT NO.5

SECTION IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) Nos.29815/2014

(Arising out of impugned final judgment and order dated 14/10/2014
in WP No. 13806/2014 passed by the High Court of M.P. at Jabalpur)

ANKUR TRIVEDI

Petitioner(s)

VERSUS

STATE OF M P AND ORS

Respondent(s)

(With appln.(s) for directions and exemption from filing O.T. and
permission to plead the subsequent facts, grounds and file addl.
documents and interim relief and office report)

WITH S.L.P.(C) No.31553/2014

(With interim relief and office relief)

Date: 17/03/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.
Mr. Mrigendra Singh, Sr. Adv.
Mr. D.S. Parmar, Adv.
Mr. Sushil Tomar, Adv.
Mr. Rajesh Srivastava, AOR

SLP 31553/14 Mr. Mohit Kumar Shah, AOR

For Respondent(s) Mr. Anoop G. Chowdhary, Sr. Adv.
Nos.9, 10, 14 & Ms. Joon Chowdhary, Sr. Adv.
17 Ms. Sumeeta Chaudhari, Adv.
Mr. Sarvam Ritam Khare, AOR

For R-6 Ms. Indira Jaising, Sr. Adv.
 Mr. Rahul Kaushik, AOR

For R-4 Mr. Ravindra Shrivastava, Sr. Adv.
 Mr. Apoorv Kurup, Adv.

For R-1 Mr. S.K. Dubey, Sr. Adv.
 Mr. C.D. Singh, Adv.
 Ms. Sakshi Kakkar, Adv.

For R-8 Mr. Jayant Kumar Mehta, AOR

UPON hearing the counsel the Court made the following
O R D E R

In pursuance of our order dated 10th March, 2015, Mr. Anil Khare, Additional District Magistrate, Panna, is present. He has produced a Notification dated 13th January, 2015, which is taken on record, to indicate that he had passed the order dealing with the matter on being directed by the M.P. State Co-operative Election Authority. We have been apprised that Mr. R.C. Ghiya, Secretary, Co-operative Election Authority, Madhya Pradesh, had issued the same. Mr. Ghiya was present in the Court on 6th January, 2015, when the order was passed. On being asked about the reason for not informing the Court about the same, he admitted his fault and tendered unconditional apology for the conduct he had shown. As advised, without pursuing the matter further, we have accepted the unconditional apology.

Regard being had to our order dated 6th January, 2015, there can be no shadow of doubt that Mr. Khare could not have entertained the appeals and, therefore, the orders passed in the appeal are hereby set aside.

Mr. Ravindra Shrivastava, learned senior counsel appearing for the State Cooperative Election Authority, has submitted that he has got the objections with him. A copy of the objections be filed before this Court. We have indicated in our earlier order that we will be dealing with the objections.

After hearing the learned counsel for the parties, we have been apprised that the Registration Officer, Bhopal, had entertained only six objections and thereby six persons were added to the original voters list. Thus, the valid voters list as on today is thirty-three in number. It is the admitted position that there are 105 primary societies, who are the members.

It is submitted by Mr. Anoop G. Chowdhary, learned senior counsel appearing for the respondent Nos.9, 10, 14 and 17 that the default amount goes to Rs.25 crores. Ms. Meenakshi Arora, learned senior counsel appearing for the petitioner and Mr. Jayant K. Mehta, learned counsel appearing for the respondent No.8, have submitted that there has to be proper auditing of the accounts of the District Co-operative Central Bank, Panna, M.P., as well as of the primary

societies so that the default position can be known. We are absolutely conscious that under the statute there has to be audit by some other authority, but regard being had to the peculiar situation prevailing in this case since 2013 and taking note of the decision rendered by this Court in State of M.P. and Others vs. Sanjay Nagayach and Others (2013) 7 SCC 25, we think the accounts of the District Co-operative Central Bank, Panna, as well as the primary societies who are its members should be audited to find out default position and the financial discrepancies, as alleged. We are inclined to direct this keeping in view the concept of wrong handling of public funds and regard being had to the fiscal health of the societies. No primary society can remain defaulter and then claim right for voting right and, similarly, District Co-operative Central Bank, Panna, cannot mismanage the funds. The said 106 objections which have been filed before this Court, the copies thereof shall be produced before the Madhya Pradesh Accountant General, Gwalior, M.P., within a week hence. The copies of the said objections in the same form shall be filed before the Accountant General. The Accountant General shall appoint a team of auditors from his office and supervise the same and send us the report through a responsible officer, who shall remain present on that day to explain, if so required. We have so directed as once the audit report comes from the office of the Accountant General,

all the societies who would be in default, shall pay the default amount so that they can participate in the voting and then there would be fair election. The said direction has to be issued in this case to clear the maze and the manner in which the societies, the officers and all others connected with the *lis* have conducted themselves.

The Accountant General would be at liberty to call for any document from the District Co-operative Central Bank, Panna, as well as from any of the primary societies. If any of the primary societies does not cooperate with the Accountant General, this Court shall take serious notice of that and may direct for criminal investigation. The Accountant General is also given liberty to send his team to the office of the District Co-operative Central Bank, Panna, to find out the truth and they may also visit any office of the primary societies for the said purpose. If any steps are taken by any person in the management of the District Co-operative Central Bank, Panna, that will affect the scrutiny of accounts by the Accountant General, liberty is granted to the parties to approach this Court.

The Accountant General shall be well advised to complete the audit within a period of six weeks.

Registry is directed to send a copy of the order to the Accountant General, State of Madhya Pradesh at Gwalior. Mr. S.K. Dubey, learned senior counsel appearing for the

State of M.P. undertakes that the Registrar, Cooperative Society, M.P. shall personally go with the objections and a copy of this order and produce the same before the Accountant General by 21st March, 2015.

Let the matter be listed on 6th May, 2015.

(Chetan Kumar)
Court Master

(H.S. Parashar)
Court Master