

WP No.185 of 2019

[The Andaman and Nicobar State Cooperative Union & another Vs. The Andaman & Nicobar Administration and others]

Mr.Biswaroop Bhattacharya
Mr.Avik Ghatak,
Mr.Vivekananda Bose,
Ms.Tasneem,
Mr.Md. Apzal Ansari ... for the petitioners
Mr.A.K.Mandal. for the Administration

July 12, 2019
[GNC]

The matter pertains to the proposed annual general election to the Andaman and Nicobar State Cooperative Union.

Under the bye-laws of the Union, which is a recognised society, the office of the Secretary (Cooperative) in the Administration is required to nominate certain personnel as returning officer or manager to conduct the election or preside over the annual general meeting and the like. The immediate grievance of the petitioner society is that despite the request made to the appropriate department of the Administration for nominating a returning officer and a manager so that the annual general meeting of the society may be held, such appointments have not been made and certain grievances by non-members have been required to be addressed by the society.

According to the respondent authorities, the petitioner society is a representative body of the nearly 2100 cooperative societies in these islands, but the present membership in the petitioner society is restricted into 148 members. The respondents say that there are several applications for membership which have remained pending for years together since those at present in control of the petitioner society perceive that their dominance over the society may be loosened if new members are inducted.

In addition to an initial response which was furnished on July 4, 2019 by the respondents following the petitioner society's request of June 22, 2019, a further letter of July 11, 2019 has been issued by assistant registrar in the office of the Secretary(Cooperative) to the effect that the present managing committee of the society would continue for an

indefinite period till such time that the pending applications for membership are disposed of and till such further time that the managing committee initiates a drive for induction of more cooperative societies in the petitioner society.

It is submitted on behalf of the respondents that there is a need to broad-base the petitioner society and make it more inclusive.

The rules and bye-laws of the society permit every cooperative society in these islands to seek membership into the society. However, the membership cannot be thrust on any society that has not applied for membership, though it is desirable that applications be invited for new members be inducted into the society. However, neither the society nor its present management can be blamed for other cooperative societies not obtaining membership into the petitioner society. It is always open to the respondent authorities to undertake any drive or initiative to call upon any number of cooperative societies to take membership into the petitioner society.

In effect, the notice of July 11, 2019 continues the control of the present management over the petitioner society. That may not be desirable without an election being conducted. It is apparent from the rules and bye-laws of the petitioner society that the election is to be conducted by the nominee or nominees of the Administration and such nominee or nominees may ensure complete fairness in the election process. However, it may not do to wait to conduct the election till the membership grows or other cooperative societies join the petitioner society. Such a drive may be undertaken even after the scheduled election is held so that the petitioner society is more representative of cooperative societies in these islands.

The petitioner society submits that applications for membership that are pending (it is said that there are four in number) will be considered and, the applicants, if eligible, will be immediately inducted as members of the petitioner society. The petitioner society will also ensure that upon the nominees of the Administration being appointed in terms of the petitioner society's request, due notices are issued to all members of the petitioner society affording them adequate opportunity to be represented at the election and participate thereat.

The modalities for ensuring a free and fair election may be indicated by the petitioner society by filing a supplementary affidavit. Such supplementary affidavit may

also include a copy of letter dated July 11, 2019 issued by the respondents to the society.

It is hoped that the society and the Administration consult each other so as to allay inter-se misgivings both as to the representative character of the petitioner society and the fairness of the election process.

The matter will appear on July 18, 2019.

(Sanjib Banerjee, J.)