

2013 (1) GLR 715

GUJARAT HIGH COURT

Hon'ble Judges:D.H.Waghela and G.B.Shah JJ.

Vadodara District Milk Producers Co.Union Limited Versus State Of Gujarat

SPECIAL CIVIL APPLICATION No. 8886 of 2012 ; *J.Date :- JULY 20, 2012

- [GUJARAT CO-OPERATIVE SOCIETIES ACT, 1961](#) Section - [145Z\(2\)](#), [161](#)

Gujarat Co-operative Societies Act, 1961 - S. 145Z(2), 161 - election - whether meeting required to be presided over by Collector - held, meeting of the Committee is to be held for purpose of election of the officers and it is required to be presided over by Collector or an officer nominated by him in that behalf - order accordingly - application allowed.

Imp.Para: [[4](#)]

Equivalent Citation(s):

2013 (1) GLR 715 : 2013 (1) GCD 186

JUDGMENT :-

D.H.WAGHELA, J.

1 RULE. Learned Government Pleader appearing with learned Assistant Government Pleader waives service for respondents No.1, 2 and 3. Learned counsel Mr K.K. Nanavati has appeared and waives service for respondent No.4. The petition is heard for final disposal, by consent and at the request of the parties.

2 The short question involved in the petition is whether respondent No.2, the Collector was required to be directed to preside over the election required to be held under the provisions of section 145-Z (2) of the Gujarat Cooperative Societies Act, 1961 (for short, "the Act"). There is no dispute about the facts that respondent No.4 has already written to the Collector that it is registered under the Act and its bye-laws provide for election of the Chairman of the Board of Directors for a period of three years. The last election was conducted on 28.6.2009 and the Chairman was elected uncontested by Resolution dated 26.6.2009. It is further stated in its letter dated 7.6.2012 by respondent No.4 that as per section 145-Z (2) of the Act, the election of the officer or officers of respondent No.4 has to be held in pursuance of its bye-laws and the meeting

has to be presided over by the Collector or an officer nominated by him in that behalf. Therefore, the written request is made to suggest the date convenient for conducting the election of the Chairman and to issue necessary orders in respect to presiding over the meeting of the Board for the purpose of election of the Chairman.

3 At one stage it was submitted for the respondent that the State Government has, in exercise of its powers under section 161 of the Act, exempted all the Specified Societies from holding election upto 31.12.2012, but thereafter it was fairly conceded that that Resolution dated 11.7.2012 did not apply in the facts of the present case. By filing an affidavit of the Joint Secretary (Appeal), Agriculture and Cooperation Department of the State Government, it was submitted that the Registrar, Cooperative Societies has issued directions to several Specified Societies to make appropriate changes in their bye-laws and by virtue of the aforesaid Government Resolution dated 11.7.2012 elections of the Managing Committees of several Societies affiliated to respondent No.4 had not taken place. It was on that basis submitted that the Board of Directors constituted in terms of the bye-laws of respondent No.4 and the Chairman to be elected by such Managing Committee would not be truly representative of the hundreds of primary level societies and thousands of their constituents.

4 It was however, seen from the scheme and the provisions of the Act that a special provision is made in the form of section 145-Z to ensure autonomy in the management of such specified societies to which the provision applies and it is in fact incumbent upon such society to hold election of the officer or officers of such society as provided in its bye-laws and the special requirement is that when a meeting of the Committee is held for the purpose of such election of the officers, the meeting has to be presided over by the Collector or an officer nominated by him in that behalf. On a plain reading of the provisions, it would clearly appear that even as the specified society has no discretion in the matter of holding election of the officers according to its bye-laws, consequently it would be incumbent upon the Collector to preside over the meeting held for election of the officers. Neither the provisions of section 145-Z nor the bye-laws of respondent No.4 are in any way called into question and, therefore, they have to be given full effect and must be implemented in letter and spirit. Therefore, the only course open to the Court is to issue direction to the Collector concerned to preside over the meeting as may be held by respondent No.4 or nominate an officer to preside over such meeting. It is true, as submitted by learned Government Pleader that the State Government or the District Registrar is not required to take any steps in the matter of such election and in fact even the Collector is not required to initiate the process of election. But it is for respondent No.4 to hold such meeting in consultation and

cooperation with the Collector concerned for which letter as aforesaid has already been written by respondent No.4. Therefore, petition is allowed with the direction that, respondent No.2 shall, pursuant to the aforesaid letter dated 7.6.2012 of respondent No.4, convey the date convenient to him within two weeks from today and such date for holding election shall preferably be within a period of one month from today. Rule is made absolute accordingly with no order as to costs. Direct Service is permitted.