

OFFICE ORDER

Section 34 of the H.P. Co-operative Societies Act, 1968 postulates the constitution of managing committee of a co-operative society. Sub section (2) of that section, in an explicit manner, describes as to how it shall be constituted. It provides for the sources from which the managing committee can be constituted, namely:-

- a) election from amongst members;
- b) nominees of other cooperative societies or institutions if provided in the bye laws;
- c) govt. nominees, if any, nominated under section 35;
- d) appointment made by the Registrar under section 34-A.

Except above, there is no specific provision under the law which entails a person to be placed on the managing committee either through election, or appointment, or nomination. However, it has been observed that the bye-laws of certain Apex and Secondary level co-operative societies in the State provide for a constitution, which is different from the constitution of Managing Committee under the Act, with Registrar Co-operative Societies or his nominee as one of the member of such committee. It has been noticed that the nominee appointed by the Registrar long time back, invariably attends the meetings of the Managing Committee, takes part in the discussions and becomes party to the decisions of the board/managing committee. In my considered view this nomination is without any authority, jurisdiction and object when examined in the context of statutory provisions. Further, it has been observed that the officers attending the meetings of the managing committee of societies as Registrar's nominee sometimes land into an awkward and perverse situation when the veracity and propriety of decisions of the committee is tested legally.


It has to be kept in mind that the Registrar Cooperative Societies, being the supervisory and statutory authority in respect of cooperative societies under the Act and the Rules made thereunder, has to see that the such societies work under the established principles, within four corners of law as well as the directions and guidelines of various authorities of the State and Central Govt.

Thus the duty of the Registrar and the Officers subordinate to him is more of a regulatory in nature to plug and check the wrong actions on the part of the management rather

than becoming part of it. It is to be noted that bye-laws framed under the Cooperative Societies Act, cannot have the force of law. The bye-laws are always a matter of domestic concern and are applicable to the society and its members only and, therefore, cannot travel beyond this scope. The bye-laws of a co-operative society is always subordinate to the Act and the Rules under which it is to be framed and thus it cannot over power the statute or the rules framed thereunder. Merely because a provision contrary to the Act is contained in the bye-laws, to the effect that the Registrar or his nominee shall also be members of the managing committee, does not make it sine qua non for the Registrar or his nominee to attend the meetings of the managing committee and take part in the deliberations. Thus, the presence of the Registrar or its nominee in the domestic matters of the society and its committee is neither legally correct nor required or advisable.

In view of the foregoing, it is deemed expedient to issue necessary instructions to all the officers subordinate to the Registrar to refrain from attending the meetings of the managing committees of cooperative society forthwith in the capacity of nominees of the Registrar, notwithstanding the existence of a provision to this effect in the Bye-laws, unless specifically authorised in accordance with law on case to case basis. Necessary directions are being issued separately to Cooperative Societies for amending their bye-laws in conformity with the provisions of the Act.

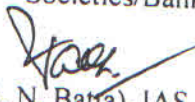
These instructions shall be brought to the notice of all field functionaries for strict compliance.


(Dr. R. N. Batta), IAS
Registrar Cooperative Societies
Himachal Pradesh
31st May, 2018

Ends. No. As above

Copy for information and necessary compliance to:-

1. The Additional Registrar Cooperative Societies, Dharamshala Himachal Pradesh.
2. The Additional Registrar (Admn.) Cooperative Societies, Himachal Pradesh.
3. All the Joint Registrars Cooperative Societies, Himachal Pradesh.
4. All the Deputy Registrars Cooperative Societies, Himachal Pradesh.
5. All the Branch officers of this Directorate.
6. All the Assistant Registrars Cooperative Societies, Himachal Pradesh.
7. Managing Directors/ Chief Executive Officers of all Apex Cooperative Banks/Institutions and Central/Secondary Cooperative Societies/Banks for information and necessary action.
8. Guard File


(Dr. R. N. Batta), IAS
Registrar Cooperative Societies
Himachal Pradesh