

No. L-11016/15/2008 -L&M
Government of India
Ministry of Agriculture & Farmers' Welfare
Department of Agriculture, Cooperation & Farmers' Welfare

Krishi Bhavan, New Delhi.

ORDER

This office has received letter no.105/Samiti/Lucknow dated 16.08.2016 from Cane Development & Sugar Industries Commissioner/ Registrar, Cooperative Cane & Sugar Mill Societies, U.P. He has forwarded a letter dt. 27.07.2016 of M.D. U.P. cooperative Sugar Mills Federation Ltd. containing the proposal to develop the defunct Kisan Sahakari Cheeni Mill Ltd. Majhola, Pilibhit.

2. The matter of applicability of deemed registration under Section 103 of MSCS Act, 2002 of the society has been examined by the Hon'ble High Court of Allahabad in Civil Misc. No.61489/2007 Milkayat Singh and others Vs. Union of India and vide order dated 26/9/2008 Hon'ble High Court of Allahabad has opined that Kisan Sahakari Cheeni Mill Ltd. Majhola, Pilibhit is multi state cooperative society u/s 103 of the MSCS Act, 2002 with area of operation confined to the states of U.P. & Uttarakhand. The State of U.P. challenged the said order by way of a Civil Appeal No.7050-7051/2010 (State of UP Vs. Milkayat Singh and others) before the Supreme Court, which is pending as of date. However, there is no stay by Hon'ble Supreme Court on the operation of the order of High Court. In the meantime, Hon'ble Supreme Court of India in a similar matter has also taken view on the societies affected by the reorganization of the State in Civil Appeal Nos. 292-294 of 2005, Naresh Shankar Srivastava Vs. State of UP and others and vide order dated 6th May, 2009 has declared such societies as multi state cooperative societies.

3. In view of the above, this authority is of the view that certificate of registration be awarded to the Society under Multi State Cooperative Societies Act, 2002. However the Society shall ensure compliance of the following immediately after the issuance of the certificate :-

- i. That, the elections of the Board of Directors(BoDs) society shall be initiated within two months from the date of issue of registration certificate. Since, it appears that there is no elected board in the society for a long period, therefore by virtue of provisions of section 45(6) of the MSCS Act, 2002, the elections shall be conducted by the Central Registrar and for that purpose the Returning Officer to conduct the elections shall be appointed by the Central Registrar separately. The Returning Officer so appointed shall conduct the elections of the BoDs and subsequently elections of the Chairperson and Vice Chairperson, as per the schedule annexed to the Multi State Cooperative Societies, Rules, 2002.



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- ii. After completion of the elections of the board, the society shall be required to submit an amendment application as per the provisions of section 11 of the MSCS Act, 2002 in order to get the bye-laws registered as per the provisions of the MSCS Act, 2002. As defined under Section 103 of the MSCS Act, 2002, the existing bye-laws not inconsistent with the provisions of the Act, shall continue to be enforce until altered or rescinded. The newly elected Board shall convene a General Body meeting within one month from the date of assumption of office, for the purpose of amending the bye-laws of the Society as per provisions of Section 11 of the MSCS Act, 2002. The Society shall submit the proposed amended bye-laws to this office within 60 days from the date of General Body meeting.
- iii. The general body of the Society is the supreme authority with regard to taking decisions on the important issues relating to the society including utilization of its assets. Any proposal for utilization of the assets of the society in a particular manner including the proposal for leasing out assets has to be placed before the general body and no action can be initiated without the approval of general body by the majority prescribed under the MSCS Act, 2002 and rules made there under. Provided further that such decisions taken by the general body should be consistent with the provisions of the MSCS Act, 2002 and Rules made there under. Any scheme for leasing/transfer of assets and liabilities of a cooperative societies can be taken up only after approval from the general body as per provision of the MSCS Act and Rules including provisions specified under section 17 of the MSCS Act.
- iv. Certificate of registration to the society shall be subject to further orders of the Hon'ble Supreme Court in the Civil Appeal No.7050-7051/2010, State of UP Vs. Milkiyat Singh and others.

Given under my hand and seal this the 19th day of September, 2016.



Ashish Bhutani
(Ashish Kumar Bhutani) 19/9/2016

Joint Secretary to the Government of India
&
Central Registrar of Cooperative Societies.

To,
Managing Director
Kisan Co-operative Sugar Factory Limited
Majhola, District Pilibhit, 262302 Uttar Pradesh