

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15366 of 2026
Date of Decision: 3.9.2026

Vijay Kumar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Chaman Negi, Advocate.

For the Respondent: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, J. *(Oral)*

Surcharge proceedings under Section 69(2) of the Himachal Pradesh Cooperative Societies Act, 1968 (the Act in short) were initiated against the petitioner and one another person. Vide order dated 13.03.2019, respondent No. 2 decided those proceedings. As per the order passed, petitioner and one another were held liable for committing embezzlement of Rs. 13,96,000/-. Both the officials (including the petitioner) were directed to deposit Rs. 6,98,000/- each with respondent No. 3-Bank. Failure to deposit was to entail recovery proceedings as arrears of land revenue.

2. Petitioner and one another instituted separate appeals against the order dated 13.03.2019. Petitioner instituted Appeal No. 20/2019 against the aforesaid order under Section 93 of the Act along with an application under Section 5 of the Limitation Act. The Joint Secretary (Cooperation) to the Government of Himachal Pradesh, dismissed the appeal vide order dated 27.04.2022, holding the appeal to be barred by limitation and Section 5 of the Limitation Act being not applicable to the proceedings under H.P. Cooperative Societies Act, 1968. Petitioner feels aggrieved against order dated 27.04.2022, hence this writ petition.

3. The reasoning assigned by respondent No.4 in the impugned orders is not in consonance with law. In **CMPMO No. 361 of 2024**, titled as **Jogindera Central Co-operative Bank Ltd. versus Addl. Registrar (Mon.) Co-operative Societies & Others**, (along with connected matters) decided on 19.5.2025, it was held that provisions of Limitation Act in terms of Section 49 of the H.P. Co-operative Societies Act of 1968 are excluded in its applicability to the proceedings taken under Sections 2 CMPMO No. 361 of 2024, decided alongwith connected matters on 19.05.2025 3 69, 73 and 88 of the Act and are not applicable to all other provisions of the Act including Sections 93, 94 etc. Relevant para from the judgment is as under:-

“18. In view of aforesaid discussions and for the reasons stated hereinabove, findings regarding non-applicability of the provisions of Limitation Act including Section 5 thereof to the proceedings conducted under the Act of 1968 more particularly Section 93 and Rules framed thereunder are perverse and accordingly set aside and it is specially held that the provisions of the Limitation Act in terms of Section 49 of the Act of 1968 are excluded to its applicability to proceedings taken under Sections 69, 73 and 88 of the Act of 1968 and are not applicable to all other provisions of the Act of 1968 including Sections 93, 94 etc. The questions of law is answered accordingly.”

4. In view of above, this writ petition is allowed. Impugned order dated 27.04.2022 is set aside. Matter is remanded to the learned Appellate Authority/ respondent No. 1 for considering the application moved by the petitioner under Section 5 of the Limitation Act on its own merits. Parties are directed to appear before Respondent No. 1 / Appellate Authority 08.09.2026. In the aforesaid terms, present petition is disposed of along with pending miscellaneous application(s), if any.

September 3, 2026

(manjit)

**(Sandeep Sharma),
Judge**