

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.16969 of 2026
Date of Decision: 28.09.2026

Sham Kumar

.....Petitioner

Versus

State of Himachal Pradesh & Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Surinder Saklani, Advocate.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar,
Additional Advocates General with Mr. Ravi
Chauhan & Mr. Anish Banshtu, Deputy
Advocates General, for the respondents-
State.

Sandeep Sharma, J. *(Oral)*

Precisely, the case of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Surinder Saklani, learned counsel for the petitioner, is that no opportunity of being heard was ever afforded by the learned court below while deciding the application filed under Section 5 of the Limitation Act along with appeal under Section 93 of the Himachal Pradesh Co-operative Societies Act, 1968. While making this Court peruse copy of order dated 22.07.2026 passed by Joint Registrar (Marketing), Co-operative Societies (Annexure P-5), learned counsel for the petitioner states that on afore date, reply was filed on behalf of proforma respondent No. 4 to the application filed under Section 5 of the Limitation Act, but thereafter, no opportunity of being heard was ever

afforded to the petitioner herein, rather learned court below straightaway reserved the case on the maintainability aspect and subsequently, vide order dated 06.08.2026, the appeal having been filed by the petitioner came to be dismissed on the ground of limitation.

2. Having regard to the nature of the prayer and order proposed to be passed in the instant proceedings, this Court sees no necessity to call for reply from respondents No. 1 to 3, who are otherwise represented by learned Additional Advocate General. Since this Court, at this juncture, does not propose to pass any order which may prove to be prejudicial to respondent No. 4, notice to respondent No. 4 is also dispensed with.

3. Having heard learned counsel for the parties and perused material available on record, this Court finds that being aggrieved and dissatisfied with order dated 11.04.2022 passed by learned Arbitrator, petitioner herein preferred an appeal under Section 93 of the Himachal Pradesh Co-operative Societies Act, 1968, but since there was an inordinate delay in filing the appeal, an application under Section 5 of the Limitation Act also came to be filed.

4. On 24.06.2026, application was taken up for consideration. On the afore date, respondent No. 4 filed reply to the application under Section 5 of the Limitation Act. Learned court below, while directing ARCS, Una, to make available the complete record of

arbitration, adjourned the matter to 22.07.2026, on which date proforma respondent No. 4 submitted reply against the application under Section 5 of the Limitation Act and thereafter straightaway proceeded to reserve the application on the maintainability aspect. Subsequently, vide order dated 06.08.2026, appeal having been filed by the petitioner came to be dismissed on the ground of limitation.

5. Having perused order dated 22.07.2026, this Court finds force in the submission of learned counsel for the petitioner that no opportunity of being heard was ever afforded to the petitioner or to file rejoinder, if any, to the reply filed by respondent No. 4, rather on that date, learned court below straightaway proceeded to reserve the matter on the maintainability aspect.

6. Since careful perusal of order dated 22.07.2026 reveals that neither an opportunity was granted to the petitioner to file rejoinder to the reply filed by respondent No. 4 nor was he afforded an opportunity of being heard, great prejudice has been caused to him. Though careful perusal of order dated 06.08.2026, whereby appeal having been filed by the petitioner came to be dismissed on the ground of limitation, suggests that petitioner was afforded an opportunity of being heard, but as has been noticed hereinabove, order dated 22.07.2026, on which date the matter came to be reserved, clearly reveals that no arguments were heard, rather learned court below

straightaway proceeded to reserve the dispute on the maintainability aspect.

7. Consequently, in view of the above, this Court, without going into the merits of the case, deems it fit to dispose of the same with a direction to the learned court below to decide the application under Section 5 of the Limitation Act afresh by affording an opportunity of being heard to the petitioner as well as other stakeholders. Ordered accordingly.

8. In view of the above, impugned order dated 06.08.2026 (Annexure P-6) is quashed and set aside with a further direction to the petitioner to remain present before the learned court below on 20.10.2026, enabling it to decide the application afresh within a period of four weeks from today. Needless to say, the authority concerned, while doing the needful, shall afford an opportunity to the petitioner and other stakeholders.

9. The petition stands disposed of in the aforesaid terms, along with all pending applications.

September 28, 2026
(sunil)

(Sandeep Sharma)
Judge