

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-11565-2012 (O&M)
Date of decision : 13.03.2015

KV Sharma

...Petitioner

Versus

The Financial Commissioner and Principal Secretary and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. DV Sharma, Sr. Advocate,
with Ms. Shivani Sharma, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Gobind Dhanda, Advocate,
for respondent Nos.3 and 4.

JITENDRA CHAUHAN, J. (Oral)

By way of the present petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought quashing of the order dated 28.02.2002, passed by the Additional Registrar, Cooperative Societies, Haryana (Annexure P-23), whereby, the decision of the General Body of Swagrah Cooperative Housing Society Ltd. (for short, 'the Society') to remove the petitioner from the Society's membership was upheld on account of non-payment of instalment and disobeying the directions of the General Body and Managing Committee of the Society, as well as order dated 30.08.2011, passed by

the Financial Commissioner and Principal Secretary to Government Haryana, Cooperation Department, Chandigarh (Annexure P-30), vide which the decision as held in Annexure P-23 was upheld.

Upon resignation of the original member, named, R.M. Singla, the petitioner was made member of the society in question.

It is contended that the membership of the petitioner from the Society had been cancelled illegally and arbitrarily. Despite repeated requests, he was never informed about the amount which was due towards him. No opportunity was given to the petitioner to examine the record produced by the Society before respondent No.2.

On the other hand, the learned counsel for respondent Nos.3 and 4, submits that except the petitioner, all other members of the society accepted the decision of cost price. The petitioner did not contribute either financially or physically. Flat No.17, earlier allotted to the petitioner, has now been re-allotted to Mrs. Tenu Jolly, the respondent No.7, after cancellation of his membership. The amount deposited by the petitioner/RM Singla, has been remitted to the petitioner through a demand draft, which also stands encashed.

Heard.

The main grouse of the petitioner against the Society is twofold. Firstly, the price of the dwelling unit was enhanced exorbitantly and secondly, the petitioner was not provided with the

details of the accounts and the Society also did not intimate him the amount due to him after deducting the amount already deposited by RM Singla.

As far as the factual matrix goes, the membership of the petitioner was cancelled by the General Body in its meeting held on 25.06.2000, as the society had been suffering on account of non-payment by the petitioner. It was also resolved that the new member be inducted in his place and the amount deposited by RM Singla, which was subsequently transferred in the name of the petitioner, be refunded to the petitioner. This resolution was confirmed/re-affirmed on 26.01.2002 by the General Body by passing a resolution by majority. The amount of Rs.4,54,200/-, stands paid to the petitioner through demand draft dated 20.04.2002.

The new member enrolled in place of the petitioner, namely, Smt. Teenu Jolly, was allotted Flat No.17, and in April, 2002, she took the possession of the flat after depositing the entire amount of Rs.11,25,000/-, towards cost of the flat. Now, all the 20 flats raised by the society stand allotted and occupied by the respective members/allottees.

The stand of the petitioner that society/respondent did not inform regarding the balance amount to be paid by him also stands falsified from Annexure P-11, wherein, the petitioner had raised

question with regard to the cost of the flat and the legal notice, Annexure P-17, served by the petitioner, whereby, the petitioner sought explanation as to why a demand of Rs.9,34,200/- was raised by the society. The above annexures go to establish that the issues raised by the petitioner in the instant petition are against the stand taken by him, while raising his grouse against the respondent-society.

The petitioner has nowhere asserted of having made any payment in excess to what RM Singla, the original member, had paid to the Society, prior to the petitioner's induction as a member in place of RM Singla. All the members honoured the decisions taken by the society for the benefit of its members except the petitioner. All the 20 flats available in the society have been allotted and occupied by the allottees. It being a cooperative society, the petitioner was expected to cooperate and contribute towards the development of the society.

In these circumstances, this Court does not find any ground to interfere in the well-reasoned orders passed by the authorities below. Consequently, the present writ petition is hereby dismissed.

13.03.2015

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(JITENDRA CHAUHAN)
JUDGE