

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 11.09.2015

C.W.P.No.19178 of 2015

Ram Singh

...Petitioner

Versus

Principal Secretary to Government of Haryana & others ...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. S.S.Dalal, Advocate, for the petitioner.

HEMANT GUPTA, J.

Challenge in the present writ petition is to the orders dated 12.06.2009 (Annexure P-1) passed by the Board of Directors; 11.08.2011 (Annexure P-3) passed in appeal by the Registrar, Co-operative Societies & 29.01.2015 (Annexure P-4) passed in revision by the Principal Secretary Government of Haryana.

Initially, in pursuance of three charge-sheets, the Managing Director, Haryana State Cooperative Supply and Marketing Federation Limited, Panchkula (hereinafter to be referred as 'HAFED') imposed (i) punishment of removal from service as well as recovery of Rs.9,58,847.45 vide order dated 26.07.2002; (ii) punishment of stoppage of four increments with cumulative effect coupled with recovery of Rs.2,29,900.40 was reduced to recovery of Rs.1,81,925.86 vide order dated 04.04.2003; and (iii) punishment of penalty of Rs.64,621.70 vide order dated 23.02.2005 in respect of three charge-sheets served upon the petitioner.

In appeals against the said orders, the Board of Administrators directed the office to examine the case in detail and thereafter, ordered to be put for consideration. Thereafter, the Standing Committee examined all the three cases and put up the report before the Board of Administrators, which was considered in its meeting held on 05.06.2009. The Board of Administration upheld the orders of punishment of removal from service, but reduced the amount of recovery to Rs.3,23,034/-. Aggrieved against the said order, the petitioner filed an appeal before the Registrar, Cooperative Societies, Haryana. The Additional Registrar (Marketing) vide its order dated 11.08.2011 reduced the amount of recovery by 10% to Rs.2,90,731/-. Further revision before the revisional jurisdiction of the State Government under Section 115 of the Haryana Cooperative Societies Act, 1984 remained unsuccessful vide order dated 29.01.2015.

The sole argument raised by the learned counsel for the petitioner is that the Registrar, Cooperative Societies, Haryana as well as the Principal Secretary to Government of Haryana are Members of the Board of Administrators, therefore, the remedy of appeal and the revision is illusory, as the Registrar and the Principal Secretary have acted as Judges in their own case as they were party in the decision making process, which led to removal of the petitioner.

We have heard learned counsel for the petitioner at length and find no merit in the present writ petition. The order of removal from service was passed in the year 2002. It is not the case of the petitioner that either of the Officers, who passed an order as Additional Registrar or/and as the Principal Secretary were the members of the Board of Administrators in the year 2002. It is also not the case of the petitioner that they were members of the Board of

Administrators, when the order was passed after considering the Committee's report on 12.06.2009.

Still further, the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 shows that the competent authority to impose penalty of removal from service is the Administrative Committee. An appeal lies to Board of Directors in terms of Rule 20, whereas revision lies to the Registrar. In terms of bye-laws 25, the Board of Directors is to hear and decide appeals.

We do not find any merit in the argument raised that the order passed by the Additional Registrar in appeal or by the Principal Secretary in revision violate the principle of natural justice, as they were Members of the Board of Administrators to the decision of removal of the petitioner. The Members of the Board of Administrators are ex-officio. It is not the case of the petitioner that the incumbents of the holders of the office of the Registrar and the Principal Secretary who passed the impugned orders were members of the Board of Administrators at the relevant time. Still further, it will be a question of fact, as to whether the Registrar or the Principal Secretary participated in the meeting of the Board of Administrators, when the matter of removal of the petitioner was being considered. In view of the fact that the Officers manning the posts of Registrar or the Principal Secretary were not participating in the decision making process, the petitioner cannot be permitted to raise any grievance at this stage. No such objection was raised when the appeal or revision were taken up for hearing.

Even in respect of the Officers manning such posts, as part of the Board of Administrators, still it should not be a case of office of the Registrar and the Principal Secretary, as a Judge in their own case. The decision taken in administrative capacity as a Member of the Board is distinct from exercising

the quasi judicial powers. However, the said question need not to be conclusively decided in this petition, as factually none of the Officers holding the office of Registrar and the Principal Secretary were, in fact, actually present at the time of decision of the Board of Administrators.

Consequently, we do not find any merit in the present writ petition. The same is dismissed.

(HEMANT GUPTA)
JUDGE

11.09.2015
Vimal

(RAJ RAHUL GARG)
JUDGE