IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.25667 of 2015
Date of Decision: **December 08, 2015**

Satinder Singh ...Petitioner

versus

Principal Secretary and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.Harit Sharma, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J.

On 03.03.1998, petitioner Satinder Singh was appointed as Chowkidar in the Murthal Primary Cooperative Agricultural Credit Society Limited, Murthal – respondent No.4. Vide resolution dated 21.07.2010 (Annexure P-2), he was promoted to the post of Salesman in the Society. The said resolution was recommended to be rescinded by the Assistant Registrar, Cooperative Societies, Sonepat vide letter dated 30.9.2013, upon which the Deputy Registrar – respondent No.3 passed order dated 22.10.2013 (Annexure P-3) rescinding the resolution in question, vide which the petitioner had been promoted as Salesman.

Aggrieved, the petitioner filed statutory appeal under Section 114 of the Haryana Cooperative Societies Act, 1984, which was also dismissed vide order dated 27.5.2014 (Annexure P-7) by respondent No.2. Thereafter, he filed revision petition before respondent No.1, which was also dismissed vide order dated 24.9.2015 (Annexure P-8).

Challenging the orders dated 22.10.2013, 27.5.2014 and 24.9.2015 (Annexures P-3, P-7 and P-8), the petitioner has filed the instant petition.

Learned counsel for the petitioner has contended that no opportunity of hearing was given to the petitioner before rescinding the resolution dated 21.7.2010. In this regard he has placed reliance on a decision of this Court in **CWP No.12972 of 1993** titled **Karam Chand vs. The Samana Cooperative Marketing-cum-processing Society Limited**, decided on 14.9.1994.

I have heard Learned counsel for the petitioner and gone through the record of the case.

Section 27 of the Haryana Cooperative Societies Act, 1984 which deals with rescinding of Resolution reads as under:-

> *"**Section 27: Rescinding of Resolution: (**1) The Registrar may by order in writing suspend the resolution of a Managing committee or of a sub-committee of a Cooperative Society if in his opinion the resolution is in exceeds of the powers conferred by this Act, Rules of Bye Law or the execution of resolution will be contrary to the interest of the society or the interest of the members thereof or is*

likely to cause waste or damage of the funds of the society.

(2) Where the Registrar makes any order under Sub Section (1), he may ***after giving the committee or sub-committee, as the case may be, an opportunity of being heard, rescind such resolution*** *or may order that such resolution may continue in force with or without modification permanently or for such period as he may think fit.*

Provided that such resolution may be rescinded or modified even if the same could not be suspended because of its having been acted upon."

A perusal of the order dated 22.10.2013 (Annexure P-3) reveals that before rescinding the resolution in question, notices were issued to all the Members of the Managing Committee of the Society as required by Section 27. While appearing before respondent No.3, the Administrator of the respondent Society stated that the members of the Committee had given in writing that the resolution dated 27.1.2010 granting promotion to the petitioner as Salesman is totally against the Rules and they had prayed for cancellation of the same. Respondent No.3 also perused the records of the Society and found that the promotion of the petitioner was against the norms of the Society as a Chowkidar cannot be promoted to the post of Salesman. It was also noted that there was no vacant post of salesman in the Society and also no permission of the Department was sought before promoting the petitioner.

In the appellate order 27.5.2014 (Annexure P-7) the factual position of the Society was recorded as under:-

> *"... ... I am of the view that there is no need of providing opportunity of hearing to appellant under Section 27 of Act as it is not required as per provisions of this Section. However, appellant has been heard in the appeal and thus opportunity has been provided. The Society is running in loss of Rs.48,94,798/- and will not be able to bear the salary of Clerk. There are already 4 Salesman working in the Society and there is no more sanctioned post on which promotion can be made... ... ..."*

It was noticed that the Society was running in heavy losses to the extent of Rs.48,94,798/- and it would not be able to bear the salary of Clerk. There were already 4 Salesman working in the Society and there was no more sanctioned post on which promotion could be made. Further approval from the department was not obtained. There was no provision whereby a Chowkidar could be promoted as Salesman.

Further, in the revisional order it has been noticed that while passing the resolution dated 21.7.2010, nothing was discussed by the Managing Committee qua the business turn over and sanctioned staff strength in the Society. The petitioner could not establish as to how he was eligible for promotion to the post of Salesman when there was no post of Salesman. It was further noticed that as per Rule 8 of the Primary Cooperative Credit & Service Societies Staff Service Rules, 1992 the appointment made in violation of the prescribed norms of the staffing pattern will be invalid/void ab-initio.

The above facts have not been disputed by the petitioner in the petition. Thus, there is no escape from the conclusion that the promotion of the petitioner was totally de hors the rules, it would impose an unbearable financial burden on the Society which was already running into losses and the resolution was rightly rescinded.

In these circumstances the fact that the petitioner was not given an opportunity of hearing before the order Annexure P-3 was passed would not, of itself, be sufficient to render that order to be void. The petitioner has availed of his remedies of appeal and revision, and could not point out any illegality in the view taken.

Accordingly there is no merit in the petition and the same is dismissed in limine.

December 08, 2015 **(HARINDER SINGH SIDHU)**
JUDGE

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