

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

(1)

CWP No. 310 of 2014

Date of decision: 28.05.2015

The Satluj Cooperative House Building Society Ltd.

...Petitioner

Versus

Financial Commissioner (Cooperation), Punjab, Chandigarh and
others

...Respondents

(2)

CWP No. 312 of 2014

Date of decision: 28.05.2015

The Satluj Cooperative House Building Society Ltd.

...Petitioner

Versus

Financial Commissioner (Cooperation), Punjab, Chandigarh and
others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Sehra, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Satbir Singh Rathore, Advocate for respondent No.4.

Jitendra Chauhan, J. (Oral)

The above writ petitions bearing Nos. 310 and 312 of
2014 under Article 226/227 of the Constitution of India for issuance

of a writ in the nature of certiorari quashing the impugned orders dated 08.08.2013 (Annexure P-4), passed by respondent No.1, in Revision Petition Nos. 20 and 21 of 2012 titled as Santokh Singh Vs. The Addl. Registrar. These writ petitions being disposed of by this single judgment as common question of law and facts are involved in these petitions.

The facts are being taken from CWP No. 312 of 2014. The Satluj Cooperative House Building Society Limited, Ludhiana (for short 'Society') is registered under the provisions of Punjab Cooperative Societies Act, 1961 (for brevity 'the Act'). The Management of the society vests in the duly elected Committee members and as per Section 30 of the Act, General Body is the supreme body. The meeting of the General Body was held on 21.08.2005 and the impugned resolution Annexure P-1, was allegedly passed by the General Body of the society. The respondent No.4 Santokh Singh has filed a petition under Rule 80 read with Rule 6 of Appendix-B of Punjab Cooperative Societies Rules, 1963 for setting aside the resolution dated 21.08.2005. The Deputy Registrar, Cooperative Societies, Ludhiana dismissed the same as time barred. Respondent No.4 had filed a petition under Section 69 of the Act, which was dismissed as not maintainable by respondent No.2. The respondent No.4 had filed second revision petition under Section 69 of the Act before respondent No.1, who had accepted the

said revision petition and had remanded the case to Deputy Registrar, Cooperative Societies, Ludhiana to hear and decide the petition on merits without considering the point of limitation. Hence this writ petition has been filed by the society impugning the order dated 08.08.2013 (Annexure P-4).

The learned counsel for the petitioner contended that the impugned order (Annexure P-4) is not sustainable in the eyes of law as the respondent No.4 had challenged the resolution of the General Body dated 21.08.2005, on 17.02.2011, after a lapse of 05 years and 05 months. The learned counsel further contended that the respondent No.4 has failed to show any sufficient cause to file the case.

On the other hand, the learned counsel for respondent No.4 as well as the State counsel support the decision dated 08.08.2013, passed by respondent No.1.

I have heard the rival contentions of learned counsel for the parties.

The main law point involved in the writ petitions are as under:-

- i. Whether the impugned order (Annexure P-4) passed by respondent No.1 is illegal?
- ii. Whether respondent No.1 can condone the delay of five years against the provisions of Article 137 of the Limitation Act?

In this case, it is alleged that out of 631 members of the society, less than 1/4th members attended the General Body meeting on 03.10.2004 and 21.08.2005. As per Rule 24 of the bye-laws, the quorum for the meeting shall be one fourth of the total number of members or 500 whichever is less. There is serious doubt about the calling of the General Body meeting as per procedure laid down in the bye-laws. In one of the meetings, an expenditure of approximately Rs.11 lacs, while in the other meeting, an expenditure of approximately Rs. 18 lacs had been shown to be approved by the General Body. Each member of the society invests money in the society and every member has right to see whether their money is properly utilized for the real development of the society. A great prejudice has been caused to the large number of the members of the society. The respondent No.1 is a quasi judicial authority. The authority has rightly exercised its discretion to ignore or condone the delay looking into the larger interest of the members of the society.

In Ashok Kumar Vs. Sita Ram, 2001(1) Apex Court Journal 681, in para No. 10, it has been held as under:-

“The position is too well settled to admit of any controversy that the finding of fact recorded by the final Court of fact should not ordinarily be interfered with by the High Court in exercise of writ jurisdiction, unless the Court is satisfied that the finding is vitiated by manifest

error of law or is patently perverse. The High Court should not interfere with a finding of fact simply because it feels persuaded to take a different view on the material on record.”

In para No. 17 of the above judgment, it has been held as under:-

“The question that remains to be considered is whether the High Court in exercise of writ jurisdiction was justified in setting aside the order of the Appellate Authority. The order passed by the Appellate Authority did not suffer from any serious illegality, nor can it be said to have taken a view of the matter which no reasonable person was likely to take. In that view of the matter there was no justification for the High Court to interfere with the order in exercise of its writ jurisdiction. In a matter like the present case where orders passed by the statutory Authority vested with power to act quasi judicially is challenged before the High Court, the role of the Court is supervisory and corrective. In exercise of such jurisdiction, the High Court is not expected to interfere with the final order passed by the Statutory Authority unless the order suffers from manifest error and if it is allowed to stand it would amount to perpetuation of grave injustice. The Court should bear in mind that it is not acting as yet another Appellate Court in the matter. We are constrained to observe that in the present case the High Court has failed to keep the salutary principles in mind while deciding the case.”

This Court has read the contents of Annexure P-4. The findings recorded by the authority are not vitiated by manifest error of law or are patently perverse. No other view is possible. There is no illegality or infirmity in the order on the facts and circumstances of the case, therefore, this Court is refrain itself from interfering in the well reasoned order Annexure P-4. Accordingly, both the petitions No. 310 and 312 of 2014 are dismissed.

28.05.2015

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(JITENDRA CHAUHAN)
JUDGE