

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

LPA No.1512 of 2015(O&M)

Date of decision:22.12.2015

Krishna

....Appellant

VERSUS

Saroj and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. R.N. Lohan, Advocate for the appellant.

Mr. Bhoop Singh, Advocate for respondent No.1.

Mr. Vivek Saini, Deputy A.G. Haryana for respondents
No.2 to 4.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 11.09.2015 whereby the writ petition filed by respondent No.1 was allowed and the order dated 03.09.2015 passed by the State Government was set aside.

The appellant was one of the Members of the Board of Directors of Jind Cooperative Sugar Mills Limited, Jind. The appellant and all other Members of the Board were debarred from contesting elections for the reason that the Board has failed to take steps for conduct of the elections before the expiry of the term of the Board of Directors in terms of Section 28 of Haryana Co-operative Societies Act 1984. A perusal of the order passed by the Deputy Registrar on 19.09.2014

(Annexure P-2) debarring the appellant shows that the appellant has not filed reply to the show cause notice within the stipulated time. It is admitted that the elections were not convened before the expiry of the term of the Board of Directors.

Aggrieved against the order of Deputy Registrar (Annexure P-2), the appellant filed an appeal before the Registrar, Cooperative Societies, Haryana, though the appeal was not maintainable before the Registrar as the Deputy Registrar Was exercising the powers of the Registrar. In terms of the appeal filed, the Registrar, Cooperative Societies has granted stay on 25.03.2015 and thereafter the elections were conducted on 09.04.2015 wherein the appellant was elected as a Member of the Board of Directors of the Sugar Mill. It was the revision which was then preferred before the State Government in terms of Section 115 of the Haryana Cooperative Societies Act, 1984 (for short 'the Act'). It is thereafter, the order of the State Government and conduct of the elections was challenged by respondent No.1 in a writ petition, the writ petition stands allowed by the order impugned in the present appeal.

The sole argument of learned counsel for the appellant is that in respect of debarring all other Members, the matter is pending before the Deputy Registrar for fresh decision after its remand by the State Government. Therefore, the order of the Deputy Registrar in the present case should also be set aside with direction to the Deputy Registrar to decide the claim of the Members of the Board of the Directors afresh. It is also contended that the order dated 03.09.2015 was not subject matter of challenge in the writ petition; therefore, the same could not be set aside by the learned Single Bench.

Section 28 of the Act mandates the conduct of the elections before the expiry of the period of Board of Directors. The petitioner was Member of the Board of Directors and thus failed to carry out the mandatory provision of the statute of conduct of the elections. Therefore, the necessary consequence was to bar all the Members of the Board who have failed to take steps for conduct of elections so as to comply with the mandatory provisions of the statute.

Since, the action has been taken in terms of the provisions of the statute by the Deputy Registrar exercising the powers of the Registrar, therefore, we do not find that there is any error in the order passed by learned Single Bench. The conduct of the elections is mandatory and the consequences are provided in Section 28(3) of the Act.

In respect of the argument that the order dated 03.09.2015 was not subject matter of challenge, suffice it to state that the writ petition was filed on 06.05.2015 whereas the order dated 03.09.2015 came to be passed after the filing of the writ petition and therefore, was produced by the State before the learned Single Bench. It was the subsequent event, which has been rightly taken into consideration by learned Single Bench.

In view thereof, we do not find any error in the order passed by learned Single Bench which may warrant interference in the present intra-Court appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

DECEMBER 22, 2015

‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE