

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6246/2011**

Date of decision : 28th July, 2015

GOPI CHAND SHARMA Petitioner
Through: Mr. Sunil Sabharwal, Adv.

versus

DELHI NAGRIK SEHKARI BANK LTD AND ANR
..... Respondent
Through: Mr. Anil Kumar, Adv. for R-1

CORAM:
HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MR. JUSTICE I.S.MEHTA

GITA MITTAL, J (ORAL)

1. With the consent of both sides, we have heard learned counsels for final hearing in` this writ petition.
2. The petitioner was an office bearer of the respondent no.1/bank. The bank appears to have had certain complaints against his functioning. Consequently, the Board of Directors of the respondent no. 1/bank appears to have passed a resolution dated 29th November, 2007 concluding that the petitioner had acted

fraudulently and in a manner which brought not only disrepute to the bank but was detrimental to its proper working. It was consequently resolved to expel the petitioner and his son, both of whom were members of the respondent-bank, from the membership of the Bank. The Bank conveyed this resolution on 24th December, 2007 to the office of the Registrar of Cooperative Societies to proceed in the matter in accordance with law.

3. Our attention is drawn to a letter dated 24th June, 2008 issued by the office of the Registrar of Cooperative Societies to the respondent no. 1 with a copy endorsed to the petitioner with regard to the aforesaid resolution of the bank requiring it to provide all documents in support at the earliest. Instead of complying with this demand, the respondent no.1/bank had issued a communication dated 27th June, 2008 addressed to the petitioner informing him that his membership of the bank stands cancelled. The deposit made by the petitioner towards his membership was also refunded alongwith the same communication.

4. Aggrieved by this action, the petitioner filed an appeal under Section 112(i)(f) read with Section 40(4) of the Delhi Cooperative Societies Act, 2003 before the Delhi Cooperative Tribunal. After a detailed hearing, the Tribunal has rejected the appeal by the order dated 11th August, 2011. The petitioner has assailed this order of 11th August, 2011 of the Tribunal by way of the present writ petition inter alia on the ground that in terms of the proviso to

Section 40, the petitioner was entitled to a hearing before the Registrar of Cooperative Societies before approving the resolution. The petitioner has been deprived of such a hearing. It is contended that in fact, the expulsion of the petitioner as communicated by the letter dated 27th June, 2008 has the effect of completely by-passing the procedure prescribed under Section 40 of the Delhi Cooperative Societies Act, 2003.

5. We have heard learned counsel for the parties on this matter. In the facts noted above, the office of the Registrar of Cooperative Societies had admittedly addressed the letter dated 24th June, 2008 to the respondent/society calling upon it to furnish the documents in support of the resolution dated 29th November, 2007. Instead of complying with such a demand from the office of the Registrar of Cooperative Societies, the respondent no. 1 has taken the expulsion as approved in accordance with sub-section (2) of Section 40 and the impugned communication dated 27th June, 2008 has been passed.

6. Our attention is drawn to the finding of the Tribunal in the impugned order of 11th August, 2011 wherein the Tribunal has noted that the petitioner was entitled to an opportunity of being heard by the competent authorities of the management before taking the extreme step of expulsion. This was an aspect which would have been considered by the office of the Registrar of Cooperative Societies in case it had proceeded in the matter in

accordance with Section 40 of the Delhi Cooperative Societies Act, 2003. It appears that before the office of the Registrar of Cooperative Societies could conclude its consideration in accordance with law, the respondent no. 1 precipitated the matter and issued the letter dated 27th June, 2008 to the petitioner. This being the admitted position, the dismissal of the appeal by the impugned order dated 11th August, 2011 has to be held to be contrary to the statutory provision and cannot be sustained.

In view of the above, we direct as follows :-

- (i) The order dated 11th August, 2011 of the Delhi Cooperative Societies as well as the communication dated 27th June, 2008 issued by the respondent no. 1/bank are hereby set aside and quashed.
- (ii) A direction is issued to the Registrar of Cooperative Societies to proceed in the matter in furtherance of its letter dated 24th June, 2008 issued to the respondent no.1/bank.
- (iii) The respondent no.1 shall ensure that all relevant material required by the office of the respondent no. 2 by its letter dated 24th June, 2008 are placed before it within six weeks from today.
- (iv) The respondent no. 1 shall thereafter proceed in the matter in accordance with law.
- (v) The parties shall appear before the respondent no. 2 for further proceedings on 8th September, 2015 at 3 p.m.

This writ petition is allowed in the above terms.

We make it clear that we have not heard the parties on the merits of the case and have not expressed any opinion thereon.

Dasti.

GITA MITTAL, J

I.S.MEHTA, J

JULY 28, 2015

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