

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 3002 of 1999 (O&M)
Date of Decision: 15.9.2016

Balihar Singh

.....Petitioner

Vs.

The Assistant Registrar Cooperative Societies, Patiala and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : None for the petitioner.

Mr. Yatinder Sharma, Additional A.G. Punjab.

None for the private respondents.

RAMESHWAR SINGH MALIK J. (ORAL)

Perusal of record of the case shows that proceedings of meeting dated 20.2.1999 (Annexure P-2), whereby petitioner was removed from the Presidentship of the respondent-Society, were challenged before this Court.

While issuing notice of motion vide order dated 5.3.1999, a Division Bench of this Court stayed the operation of resolution dated 20.2.1999 (Annexure P-2). Thereafter, writ petition was admitted for regular hearing, vide order dated 18.9.1999. Civil miscellaneous application No. 8386 of 1999 was moved, seeking vacation of abovesaid interim order. After hearing learned counsel for the parties, abovesaid miscellaneous

application was disposed of, vide a detailed order dated 9.8.2000, which reads as under:-

“In this application, prayer made is to vacate interim order dated 5.3.1999 whereby operation of Annexure P-2 has been stayed.

Vide Annexure, P-2, a resolution of no confidence against Shri Balihar Singh, namely, the petitioner was passed and he was removed from the office of Presidentship and Shri Mahal Singh, Committee Member was elected as President of the Managing Committee of the Bank. One of the challenges to the said resolution is on the ground that in the Agenda, there was no item in regard to the considering of resolution of no confidence against Balihar Singh. It is alleged that Item No.7 against which resolution of no confidence was considered and passed, in fact, related to the consideration of re-assigning of the offices to Committee Members. Learned counsel appearing on behalf of the applicant contended that in the writ petition, challenge to the order is only on technicalities whereas counsel appearing on behalf of the writ petitioner has contended that neither there was any Agenda for considering the resolution of no confidence against the writ petitioner nor Panjab State Cooperative Societies Act, 1961 has any provision for moving or passing of no confidence motion against the office bearers of the Managing Committee. Shri Lakhanpal, counsel for the applicant, however, contended that there is a provision in the bye-laws for removal of the office bearers of the Managing Committee by passing a no confidence motion.

Be that as it may, the fact remains that resolution was passed without there being any Agenda for considering such a resolution. This being the case, I am prima facie of the view that order dated 5.3.1998 whereby operation of Annexure, P-2, has been stayed, does not call

for any interference. However, it is clarified that this shall not debar the respondents from moving or passing resolution of no confidence motion against the writ petitioner in accordance with law.

With the aforesaid clarification, this civil miscellaneous application stands disposed of.”

However, after some time, petitioner moved civil miscellaneous application No. 20899 of 2000, seeking stay of operation of the abovesaid order dated 9.8.2000 and the proceedings of No Confidence Motion against the petitioner. However, said prayer made on behalf of the petitioner was declined by this Court vide another detailed order dated 14.9.2000, which reads as under:-

In this application, prayer made is to stay operation of notice dated 1.9.2000 and the proceedings of No Confidence Motion.

Vide notice dated 1.9.2000, the members of the Primary Co-operative Agriculture Development Bank Limited, Patran, District Patiala (hereinafter referred to as Co-operative Bank) have been informed that the meeting of the Managing Committee shall be held on 18.9.2000 at 11 A.M. to discuss the items in the Agenda. One of the items of the Agenda is to consider the resolution of No Confidence Motion moved against the writ petitioner by the members of the Managing Committee of the Co-operative Bank. Earlier in the meeting held on 20.2.1999, vote of No Confidence was moved against the writ petitioner removing him from the chairmanship of the Co-operative Bank, but vide order dated 5.3.1999, a Division Bench of this Court had stayed the operation of resolution of No Confidence Motion passed against the writ petitioner. Subsequently, vide order dated 18.9.1999, the writ petition was admitted and interim order dated 5.3.1999 was allowed to continue. In the writ petition, challenge to the No Confidence Motion passed on 20.2.1999

was on the ground that the same could not be passed without there being any Agenda in this regard. Subsequently, Civil Misc. Nos. 2954 and 8386 of 1999 were filed for vacating order dated 5.3.1999 whereby operation of resolution, Annexure P-2, was stayed. On 9.8.2000, this Court prima-facie found that resolution of No Confidence Motion was passed against the writ petitioner without there being any Agenda for considering such a resolution and accordingly, order dated 5.3.1999 whereby operation of Annexure P-2 was stayed, was not vacated. It was however, clarified that this shall not debar the respondents from moving or passing resolution of No Confidence Motion against the writ petition in accordance with law. With this clarification, Civil Misc. Applications seeking vacation of stay order dated 5.3.1999 were disposed of. It is on the basis of the clarification given vide order dated 9.8.2000 that notice dated 1.9.2000 for passing No Confidence Motion against the writ petitioner has been issued to the members of the managing committee of the Co-operative bank and therefore, I am of the view that no case is made out for staying operation of notice dated 1.9.2000. Accordingly, prayer in this regard is declined."

Thereafter, two civil miscellaneous applications bearing Nos.24565 and 24566 of 2000 were filed on behalf of the petitioner. It seems that vide resolution No. 2 dated 18.9.2000, No Confidence Motion was carried out against the petitioner vide Annexure P-6, which was sought to be stayed by the petitioner vide these two civil miscellaneous applications. When these applications came up for hearing before this Court on 9.11.2000, learned counsel for the applicant-petitioner stated that these applications may be dismissed as withdrawn, so as to enable the applicant-petitioner to file an election petition. Accordingly following order was passed by this Court on 9.11.2000:-

“Learned counsel says that the applications may be dismissed as withdrawn, so as to enable the applicant to file an election petition.

Allowed as prayed for.

The CMs shall stand dismissed as withdrawn.”

In view of the abovesaid material developments having taken place, particularly the later No Confidence Motion having been passed against the petitioner, vide Annexure P-6, present writ petition does not survive any further. This seems to be the reason that neither petitioner nor private respondents are interested in pursuing this petition.

In view of the above, instant writ petition is ordered to be disposed of, as having been rendered infructuous.

15.9.2016
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No