

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

**CWP No.23370 of 2016 (O&M)
Date of decision : November 10, 2016**

Gurmail Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S. Kang, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner seeks quashing of the order dated 07.10.2013 (Annexure P-7) passed by respondent No.3-the Deputy Registrar, Cooperative Societies, Ludhiana and order dated 03.09.2015 (Annexure P-8) passed by respondent No.2-the Joint Registrar, Cooperative Societies, Patiala Division, Patiala, District Patiala and revisional order dated 10.10.2016 (Annexure P-9) passed by respondent No.1-the Special Secretary, Co-operation, Punjab.

Petitioner was working as Secretary of the Bhairawal Kalan, Co-operative Agriculture Service Society Ltd., Bhairawal Kalan, Tehsil Jagraon, District Ludhiana (in short 'the Society') since 30.10.1987. He retired from service on 31.08.2016 on attaining the age of 60 years. The said Society is registered under the Punjab Cooperative Societies Act, 1961 (in short 'the Act') and is governed by the provisions of the Act, Punjab Cooperative Societies Rules, 1963 and its bye-laws registered by the Registrar Cooperative Societies, Punjab. The management of the Society

vests in its Managing Committee, consisting of 9 members elected by the share-holder members of the Society Quorum of the meeting was 1/3rd members of the Committee. The Secretary of the Society has no role in passing of the Resolution.

It comes out that one Manjit Singh, Vice-President of the Society filed a petition under Section 55 and 56 of the Act read with Rule 80 of the Punjab Cooperative Societies Rules, 1963 for setting aside the Resolution dated 12.03.2013 and the General Body meeting dated 03.06.2013. In the said petition, it was stated that the present petitioner had fallen ill and he wanted to make the medical claim of ₹5,04,798/- from the Society. The petitioner was told that the medical claim cannot be given as per service rules. It was alleged against the present petitioner Gurmail Singh, Secretary that he wrote bogus Resolution dated 12.03.2013 on a blank paper in the proceedings book. MLCs of the members of the Society were prepared on 11.05.2013 and proceedings thereof are entered at pages 5 to 11 of the proceedings book. At the time of preparing MLCs, Secretary left the pages 12 to 15 blank and at page 16, he got the signatures of the Members by telling that their MLCs are being made. The signatures of 170 Members on pages 16 to 18 were obtained and thereafter other Resolution was entered on pages 12 to 15, which were left blank. He also cleverly entered General Body Resolution at page 14, dated 13.06.2013 approving payment of medical claim of ₹5,04,798/-. On the space left, he entered society's income and expenditure and got it passed. In this way, by entering bogus Resolution of General Body dishonestly caused loss of ₹5,04,798/-. The Resolution dated 12.03.2013 passed by the managing committee is

illegal and General Body Resolution dated 03.06.2013 is completely wrong and without any basis.

The Deputy Registrar after hearing the present petitioner and the opposite party held that the proceedings taken in the general meeting were not legal. It was also held that the present petitioner Gurmail Singh, Secretary of the Society is guilty of tampering with the record of the Society and for entering agenda for general meeting on 8 blank lines afterwards for obtaining benefits in illegal manner. Therefore, a directions was also issued to the Managing Committee to take disciplinary action against him and for tampering with the record of the Society, the police case be got registered against him. The General Body Resolution dated 03.06.2013 was accordingly set aside.

The appeal and revision filed before the Joint Registrar as well as Special Secretary of the Cooperation, Punjab, respectively, was dismissed vide order dated 03.09.2015 (Annexure P-8) and order dated 10.10.2016 (Annexure P-9) respectively.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

Learned counsel for the petitioner has argued that Sections 55 and 56 of the Act are regarding the arbitration proceedings. In this case, the evidence was not recorded. It is also stated that the petitioner was not heard and the orders passed by the Cooperative Society-Authorities are illegal.

It is also argued that the speaking order was not passed. The order of the Deputy Registrar merges in the order passed by the Joint Registrar as well the Special Secretary.

I am of the view that leaving aside the Sections under which the application is filed, the Deputy Registrar Cooperative Societies had set aside the Resolution. Learned counsel for the petitioner was repeatedly asked as to whether he can show the Rules to this Court under which the Secretary of the Society is entitled to medical reimbursement but he failed to point out such rules. In the absence of any rule, the General Body meeting or Managing Committee cannot pass the Resolution granting medical reimbursement to the petitioner. The authorities have also gone through the proceedings book and have found that the some entries were made on the pages which were earlier left blank and thereafter the Resolution was entered on the blank pages after obtaining the signatures of the Members of the Society.

I am of the view that the petitioner has not come to the Court with clean hands. The person, who himself is a wrong doer is not entitled to any relief on any ground whatsoever. In this case, the allegations against the petitioner are serious. He is otherwise not entitled to the medical reimbursement. Therefore, the Resolution of the General Body meeting dated 12.03.2013 and the Managing Committee and approved by General Body meeting dated 03.06.2013 were rightly set aside, being contrary to rules and law. Consequently, the present petition is dismissed in limini.

(KULDIP SINGH)
JUDGE

November 10, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: No