

Sr. No.787

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

CWP NO.28586-2013(O&M)

Date of Decision: 07.11.2016

Mohali Self Supporting Cooperative House Building Society Ltd.

.....Petitioner

vs.

Registrar Cooperative Societies Punjab and another

.....Respondents

CORAM HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present:- None for the petitioner.

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

-:-

RAMESHWAR SINGH MALIK, J

Feeling aggrieved against the impugned communication dated 28.05.2013 (Annexure P1), passed by the Registrar Cooperative Societies, Punjab, thereby granting approval for conversion of the petitioner society, registered under the Punjab Cooperative Societies Act, 1961 for its registration under Self Supporting Act, 2006 and registration thereunder, however, subject to deletion of byelaw no.9 of the petitioner society, petitioner has approached this Court by way of present writ petition under Article 226 and 227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing of the impugned order.

Notice of motion was issued and in compliance thereof, written statement was filed on behalf of respondent no.1. Petitioner did not file any replication. Thereafter, vide order dated 05.08.2014, the writ petition was admitted for regular hearing. That is how, this Court is seized of the matter.

Bare perusal of the impugned communication Annexure P1

would show that the Deputy Registrar, Cooperative Society Mohali, exercising the power of Registrar Cooperative Societies, Punjab granted approval to the petitioner society, which was registered under the Punjab Cooperative Societies Act, 1961, for its conversion and registration under the Punjab Self Supporting Act, 2006, however, subject to the condition that byelaw no.9 which deals with Delegate General Body shall be deleted. Before registration of the petitioner society under the Punjab Self Supporting Act, 2006, an undertaking shall be taken from the petitioner society that as and when model byelaws are framed by the Registrar Cooperative Societies, Punjab, the same shall be applicable on the petitioner society as well.

Byelaw no.9 which is part of Annexure P3 and available at page 57 of the paper book reads as under:-

“IX DELEGATE GENERAL BODY

Constitution:- The delegate General Body shall consist of Board of Directors and fifteen members of the Delegate General Body who are elected as delegates by the General Body of the Society.

The authorization once given to a Delegate shall continue unless the same is revoked by the General Body.

(ii) Powers and Functions:- The Delegate General Body shall enjoy and exercise all powers, which are vested in the General Body.

All decisions taken by the Delegate General Body of the Society would be deemed to be the

decisions of the General Body of the Society.”

No replication was filed on behalf of the petitioner to above said written statement. It is also relevant to note here that petitioner society has not levelled any allegation of malafide against any official of the respondent department. The offending part of the impugned order Annexure P1 is based on the bonafide apprehension of the office of Registrar Cooperative Societies, Punjab that in case byelaw no.9, as proposed by the petitioner society, is approved as it is, it may be misused against the interest of the common member of the society. It has also been made clear that the model byelaws framed by the office of the Registrar Cooperative Society, Punjab shall be applicable to the petitioner society as well. In such a situation, no prejudice of any kind whatsoever has been caused to the petitioner society, which may warrant interference at the hands of this Court, while exercising its writ jurisdiction under Article 226 and 227 of the Constitution of India.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned communication Annexure P1 has not been found suffering from patent illegality or perversity, the same deserves to be upheld. The writ petition having been found wholly misconceived, bereft of merits and without any substance, it must fail. No ground has been made out.

However, should there be any confusion, it is clarified that the petitioner society shall be at liberty to adopt the model byelaws framed by the office of Registrar Cooperative Societies, Punjab and may also seek

Registrar Cooperative Societies, Punjab.

With the above said observations made, present writ petition
stands disposed of.

November 07, 2016

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(RAMESHWAR SINGH MALIK)
JUDGE

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