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

+ **W.P.(C) 10575/2015**

N P PATEL

..... Petitioner

Through: **Mr.Gurinder Pal Singh, Advocate**

versus

CENTRAL REGISTRAR OF COOPERATIVE SOCIETIES & ORS.

..... Respondents

Through: **Mr.Gaurav Sarin, Sr.Panel Counsel
with Mr.Ajitesh K. Kir and
Ms.Harnain Kaur, Advocates and
Mr.Vinod Giri, Dy.Dir. for R-1.
Mr.Motish K.Singh, Advocate for
R-2/IFFCO
Mr.Himinder Lal and Ms.Rajni Ohri
Lal, Advocates for R-3/NAFED.**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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02.02.2016

1. Learned counsel for the respondents produces the records.
2. With the consent of counsel for the petitioner was heard finally.
3. The petitioner was a Director of National Agricultural Cooperative Marketing Federation of India Limited (NAFED) and Vice Chairman of Indian Farmers Fertilizers Cooperative Limited (IFFCO) on 23.04.2015. He had attended Board of Directors meetings of both these cooperative societies on 23.04.2015 and was paid ₹23,200/- as his TA/DA. He also received ₹17560 through IFFCO on 15.05.2015 for TA/DA purposes to attend the meeting held on that day. He apparently encashed the cheque received from IFFCO. He claims receipt of double payment for attending those

meetings of the two bodies, a fact which was brought to his notice on 24.06.2015, pursuant to which, on the same day he refunded TA/DA amount of ₹23200/- received from NAFED back to them. In these circumstances a complaint was made against him on 18.09.2015, with respect to alleged irregularity. Acting on the said complaint on 29.10.2015, the Central Registrar of Multi State Cooperative Societies, a respondent in these proceedings, issued the impugned order. The said order in short was premised upon Section 43 (1) (C) of the Multi State Cooperative Societies Act, 2002.

4. On the previous date, we had required the counsel to produce the original files. The same have been produced. Barring the complaint made against the petitioner and the refund by him of the excess amount received by way of double payment, there is no other material on record. Section 43 (1) (C) is relevant for the purpose and inter alia reads as follows:

“43. Disqualifications for being a member of board (1) No member of any multi-state cooperative society or nominee of a member, society or a national cooperative society shall be eligible for being chosen as, or for being, a member of the board of such multi-state cooperative society or a national cooperative society, or of any other cooperative society to which the multi-state cooperatives society is affiliated, if such member-

(a) xxxx xxxx xxxx

(b) xxxx xxxx xxxx

(c) has been convicted for an offence involving moral turpitude;”

5. It is evident from reading of the above provision that it is only when there is a conviction for the act or misconduct that amounts to

moral turpitude that the power to remove an individual from the Board of Directors of the Multi State Cooperative Societies can be invoked. In the present case there is no dispute that the amount of ₹23200/- was refunded well before (about 3 months) the complaint was made.

6. In these circumstances, the petitioner's explanation that he claimed both the amounts and encashed the cheque purely by mistake was reasonable and could not have been ruled out. Furthermore more importantly there is no precedent culminating in a conviction. Mere allegation could not have been treated as "conviction" for an offence of moral turpitude so as to empower the Central Registrar to make the impugned order.

7. For the above reasons, the impugned order dated 29.10.2015 is hereby quashed.

The petition is allowed in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

FEBRUARY 02, 2016

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