

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

**Date of Decision: April 24, 2017**

1. **CWP No.10206 of 2015 (O&M)**

**Vijender Kumar & another**

...Petitioners

Versus

**State of Haryana & others**

...Respondents

2. **CWP No.15588 of 2016 (O&M)**

**Shiv Kumar**

...Petitioner

Versus

**State of Haryana & others**

...Respondents

3. **CWP No.12732 of 2016**

**Som Nath**

...Petitioner

Versus

**State of Haryana & others**

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

Present: Mr.Vinod S. Bhardwaj, Advocate,  
for the petitioners (in CWP No.10206 of 2015).

Mr.Ramesh Goyat, Advocate,  
for the petitioners (in CWP Nos.15588 & 12732 of 2016).

Mr.Rajbir Singh, AAG, Haryana,  
for the State.

Mr.Rajvir Singh Sihag, Advocate,  
for respondent No.4-Panchkula Coop.Bank  
(in CWP Nos.12732 & 15588 of 2016).

Ms.Kshitija Mittal, Advocate for  
Mr.Pardeep Solath, Advocate,  
for respondent Nos.4 & 5 (in CWP No.10206 of 2015).

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**AMIT RAWAL, J. (Oral)**

This order of mine shall dispose of three Civil Writ Petitions bearing No.10206 of 2015, 12732 and 15588 of 2016 as the common questions of law and fact are involved. The facts are being taken from CWP No.10206 of 2015.

Mr.Vinod S. Bhardwaj, learned counsel for the petitioners submits that as per the provisions of Section 28 of the Haryana Cooperative Societies Act, 2013 (for short “the Act”) and Rule 25 of the Haryana Cooperative Societies Rules, 1989 (for short “1989 Rules”), for the purpose of preparation of the list of zones and voters, the Manager of a Cooperative Society of which another Cooperative Society is a member shall at least one twenty days before the expiry of the tenure of a Committee or of the Administrator, as the case may be, require by a notice in writing every member Cooperative Society to appoint a representative subject to the provisions of Section 21 of the Act, to participate in the election of the Managing Committee of the Cooperative Society and within thirty days of receipt of notice under sub-para (1) a member society shall send the name and address of the representative together with a copy of resolution appointing the representative. The Zonal Committee shall consist of Deputy Registrar, Incharge of the Bank and two members of the Committee nominated by the Committee of the Society concerned or the Administrator or the Administrators as the case may be and the quorum for any meeting of Zonal Committee shall be “two members”.

He further submits that the process for holding the elections of the Managing Committee of the Bank was initiated, which is reflected from Annexure P-1 and the agenda was ordered to be tabled in the meeting

scheduled on 10.1.2015. Vide Annexure P-3 dated 16.2.2015, Item No.3, i.e., to consider to constitute a Zonal Committee for approving list of zones & voters for constituting the next Board of Directors of the Bank, was considered and it was resolved that Zonal Committee shall consist of the following members:-

- 1) The Deputy Registrar, Cooperative Societies, Kurukshetra (Govt.Nominee);
- 2) Sh.Rakesh Kumar, Chairman; and
- 3) Sh.Kuldeep Kumar, Director.

Vide Annexure P-5 dated 27.2.2015, the General Manager of the Panchkula Central Co-operative Bank Ltd. notified to the members, aforementioned, of holding of the meeting of the Zonal Committee on 9.3.2013 at 2.30 PM. The contents of the letters read as under:-

- “1. *The Deputy Registrar,  
Cooperative Societies, Haryana,  
Kurukshetra.*
2. *Sh.Rakesh Kumar, Chairman  
V.P.O.Barwala,  
Panchkula.*
3. *Sh.Kuldeep Kumar,  
c/o Aggarwal Cloth House, VPO Raipur Rani,  
District Panchkula.*

*Dear Sirs,*

*Meeting of Zonal Committee of the Bank fixed for  
09.03.2015 at 2.30 p.m.*

*As required under Rule 25 of the Haryana Cooperative Societies Rules, 1989 and rule Appendix “A” 3(3) of the Coop. Societies Election Rules, a meeting of the Zonal Committee of The Panchkula Central Coop.Bank Ltd.Panchkula is scheduled to be held on 09.03.2015 at 2.30 p.m.in the premises of the bank at Bays No.39-40, Sec-02 Panchkula. The agenda of the*

*meeting will be as under:*

*To consider to approve the tentative list of Zones & Voters and also to fix the date & place for its exhibition and to fix the date, place and time for the hearing of the objections thereon. (The tentative list of Zones & Voters will be placed before the Zonal Committee at the time of the meeting.*

*You are, therefore, requested to make it convenient to attend the aforesaid meeting on the date, time and venue mentioned above.*

*Thanking you,*

*Yours faithfully,*

**GENERAL MANAGER”**

He further submits that as a precautionary measure, a clarification Annexure P-6 dated 3.3.2015 was issued by the General Manager, whereby the following words “tentative list of Zones & Member Societies of the Bank, as per Act & Rules” were added. The core question involved is as to whether as per Rule 110 of 1989 Rules, seven days notice of the meeting of the smaller body is to be given. Since date, whether seven days would be considered from 27.2.2015 or 3.3.2015. On 9.3.2015, Zonal Committee was constituted and agenda was placed before it. The agenda notes of the Zonal Committee held on 9.3.2015 are at page 63 of the paper book and the proceedings of the same, Annexure P-7 reveal that the Deputy Registrar, one of the members of the Zonal Committee, objected to having not sent the agenda of the notice within seven days and the following decision was taken:-

*“The General Manager of the bank is given the right, according to the said decision of formation of zones and their reservation, for participation in elections of all the agricultural and non agricultural Societies which are member of bank, for sending proposal in relation to appointment of representatives,*

*for requesting and display of proposed zone and electors list at proper places according to rules and to receive objections and to carry other necessary proceedings and it is ordered that he by means of newspaper advertisements and at other proper places as per rules displays them. To do it effectively the proceedings be carried immediately. While constituting zones of non agricultural Societies, the shareholder Societies were kept in list till the end of bank hours on 9.03.2015. The objections received by the General Manager upto 4 pm dated 25.03.2015, they be kept by him before the zonal committee meeting dated 26.03.2015 so that hearing be conducted on them and herein decided that the next zonal committee meeting be called on dated 26.03.2015 at 11 a.m.at Bank head office so that hearing be conducted on received objections.”*

He further submits that election notice, Annexure P-8 dated 12.3.2015, was published in Dainik Tribune, whereby objections were noticed to be received on or before 25.3.2015 at 4.00 PM along with the evidence and vide Annexure P-9, both the members of the Zonal Committee decided the objections. However, before that, on 26.3.2015, one of the members being Deputy Registrar had stayed further proceedings of the Committee, which, he could not do being a member. The General Manager of the Bank was reported that the Deputy Registrar, vide order dated 10.3.2015, had stayed further proceedings of the aforementioned Managing Committee. By giving the aforementioned facts, he submits that a person, being member of the Society, cannot usurp his own power being derived in his official capacity by acting as an appellate/quasi judicial authority. At the best, in case he was aggrieved of the aforementioned decision rendered by other two members, though the quorum was two, he could have represented to the Registrar for taking into consideration the same, but not in the manner and mode as indicated above. It is in this context, the Administrator came

to be appointed as the term of the electing body was over, for, in case the election is not held within time period, the members are debarred from contesting the same for a period of six years.

The other two writ petitions are on behalf of the members of the society for not considering the objections, which, according to Mr.Bhardwaj are not maintainable as at the best, only the Societies, who are the members of the principal society, have a right to submit their objections and election process cannot be stalled in this manner and it is in this aspect of the matter, CWP No.10206 of 2015 has been filed seeking the following relief:-

*“Petition under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction in the nature of Mandamus directing the respondents to ensure that the election to the Panchkula Central Co-operative Bank Limited and its Board of Directors is held within time frame and in accordance with the voter list so finalized and zones so determined AND/OR;*

*Further for issuance of an appropriate writ order or direction in the nature of Mandamus for setting aside the order passed by the Deputy Registrar Co-operative Societies, whereby he has held that the meeting dated 09.03.2015 and 26.03.2015 is void, abnatio and invalid as the same is illegal in as much as the Deputy Registrar Co-operative Societies was himself the member of the zonal committee and as such, he could not have acted as a Quasi Judicial Authority/Appellate Authority against the decision taken by the Committee of which he is a nominated member AND/OR;*

*Further for issuance of such other appropriate writ order or direction in the nature of Mandamus directing the respondents to treat the members of the Managing Committee eligible for the purpose of contesting elections to the Board of Directors of the Panchkula Central Co-operative Bank Limited and not to disqualify them on account of the fact that the*

*Managing Committee could not conduct the election within the period of its office AND/OR;*

*Further for issuance of such other appropriate orders, writ or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in interest of justice and fair play.”*

On the last date, the matter was adjourned on the premise that there was a specific averment in sub-para (kk) of para 6 of the written statement filed on behalf of the Bank, wherein it was mentioned that the General Manager had though received the objections but did not place it before the Committee and, therefore, the entire election process, according to the respondents, is vitiated. He submits that the election process be started from where it had stalled as the Deputy Registrar would not have any jurisdiction to usurp his power and pass the order in the manner and mode as indicated above and the writ petitions filed by the other members are not maintainable. At the best, the petitioner society, being the principal body, can file the same.

Mr.Rajvir Singh Sihag, Advocate, for respondent No.4-Panchkula Coop.Bank in CWP Nos.12732 & 15588 of 2016 and Ms.Kshitija Mittal, Advocate for Mr.Pardeep Solath, Advocate, for respondent Nos.4 & 5 in CWP No.10206 of 2015 have shown the record to establish that certain objections filed were received by the General Manager, which were never placed before the Committee. Two of the objections are of the society and the rest are on behalf of the individual members of the respective societies, particularly with regard to the objection submitted by the President of Morni Hills PACS Ltd. Panchkula and another one is Mouli PACS Ltd. They further submit that the society was not aware of the objections and it was duty of respondent No.5 to place the same

before it. Whatever objections have been submitted, have been considered vide Annexure P-9 and, therefore, the process of election has to begun afresh. The quorum, according to the aforementioned provisions of law is “two” and if a third member has a different opinion, he could have represented the Registrar.

I have heard the learned counsel for the parties and appraised the paper book.

The procedure and the provisions of the Act and 1989 Rules are not longer in dispute. Notice (Annexure P-5) dated 27.2.2015 had initiated the election process and the letter dated 3.3.2015 (Annexure P-6) had added two words, as indicated above. Contents of Annexures P-6 read thus:-

- “1. *The Deputy Registrar,  
Cooperative Societies, Haryana,  
Kurukshetra.*
2. *Sh.Rakesh Kumar, Chairman  
V.P.O.Barwala,  
Panchkula.*
3. *Sh.Kuldeep Kumar,  
c/o Aggarwal Cloth House, VPO Raipur Rani,  
District Panchkula.*

*Dear Sirs,*

*Meeting of Zonal Committee of the Bank fixed for  
09.03.2015 at 2.30 p.m—**Corrigendum thereof***

*In continuation to this office letter No.P&D/2014-  
15/12703-705 dated 27.02.2015 on the above cited subject in  
accordance of RCS Letter Endst.no./9/5/2013/EA/39-84 dated  
02.01.2015. Read as under:-*

*To consider to approve the tentative list of Zones &  
Member Societies of the Bank, as per Act & Rules and also to  
fix the date, place and time for the hearing of the objections*

*thereon to finalize. Agenda Note alongwith tentative list of member societies is enclosed as Annexure-A(1 to 11) for your kind information and perusal please.*

*Thanking you,*

*Yours faithfully,*

**GENERAL MANAGER”**

The members of the Committee are also in dispute. The Deputy Registrar, being member of the Zonal Committee, had stayed the order. At the best, he could have raised the objection with regard to the procedure being adopted even though the rules do not envisage any violation thereof as the minimum quorum is “two” and the proceedings were attended by Rakesh Chhabra and Kuldeep Aggarwal. It is settled law that no one can be the judge of his own cause. At the best, one of the members could have written to the Registrar for the procedure. Even otherwise, whatever the objections have been received on behalf of the members of the Society, they have been dealt with vide Annexure P-9. It appears to be an intentional act of one of the members to stay the election process, for, the Administrator would take the reign of the society and assume the power. The assumption of power and that too an absolute has never been appreciated by any of the Courts. It affects the democratic set up of the country, much less any of the bodies constituted thereunder.

Resultantly, the order of the Deputy Registrar of staying the proceedings is totally erroneous, much less arbitrary and hereby set-aside and CWP No.10206 of 2015 is allowed.

Since during the interregnum, Administrator has been appointed, he is directed to start the election process from the stage it was stayed in accordance with the bye-laws and the provisions of the 2013 Act and 1989 Rules.

As regards the other writ petitions, I am of the view that the petitioners therein, being the members of the societies, cannot have possible grievance. The other societies, which are the members of the principal body, have not approached this Court. Thus, the writ petitions on behalf of the members having no locus, are not maintainable. Resultantly, CWP Nos.12732 and 15588 of 2016 are dismissed.

**April 24, 2017**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

|                                  |               |
|----------------------------------|---------------|
| <b>Whether speaking/reasoned</b> | <b>Yes/No</b> |
| <b>Whether Reportable:</b>       | <b>Yes/No</b> |