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

CWP-12807-2016

Date of decision : 31.05.2017

Gurjit Singh

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Harbans Sharma, Advocate
for the petitioner.

Ms. Monica Chhibber Sharma, DAG, Punjab.

None for respondent No.4.

AMIT RAWAL, J. (ORAL)

Mr. Harbans Sharma, learned counsel appearing on behalf of the petitioner submits that in pursuance to the election to the Managing Committee of respondent No.4/Society, the petitioner was elected as member of the Managing Committee and thereafter, in 2013 became the President. The Secretary of the Society/respondent No.4 issued an agenda for the meeting of the Managing Committee to be held on 22.04.2016 for passing a no confidence motion. The Joint Registrar, Cooperative Societies, granted the stay on the aforementioned agenda, vide order dated 21.04.2016, which was vacated on 18.05.2016. On 20.05.2016, a fresh agenda was issued for holding the meeting of the Managing Committee, but the same agenda is violation of Rule 80 of the Punjab Cooperative Societies Rules 1963, which reads as under:-

"80-. Special Rule : *Notwithstanding any thing contained in these Rules, the procedure contained in this Rule shall apply to a Cooperative Society whose working Capital exceeds ₹ 50,000/- (i) at least fifteen days clear notice, specifying the date, place, time and agenda for a meeting of a General Body/Committee and at least seven days clear notice for a meeting of any smaller body set up by either of them, whether convened by the Registrar, the President or otherwise, shall be given to all the members of the General Body/Committee or smaller body, as the case may be;*

Provide that a shorter notice may be given to all the members of the General Body/Committee or Smaller body as the case may be, with the permission of the Registrar of under his direction

(ii) That no proper agenda was issued for the meeting of Managing Committee dated 06.06.2016 and the agenda issued was illegal."

There is no provisions in the Punjab Cooperative Societies Act or the Rules framed thereunder, for passing a no confidence motion against the President. The fresh agenda dated 06.06.2016 (Annexure P-2) is, thus, in violation of the aforementioned Rules and the same is liable to be set aside. In support of his contentions, he relies upon the *ratio decidendi* culled out by the Full Bench of this Court rendered in **"Jagdev Singh V/s Registrar, Cooperative Societies, Haryana and others" 1991 (99) PLR 237.**

He further submits that agenda dated 20.05.2016 for the meeting to be held on 06.06.2016 was not circulated to all the members of the Managing Committee including the petitioner, therefore, there is violation of the Rules *ibid*.

Reply on behalf of the private respondent(s) has not been filed so far and today, there is no representation and accordingly, I proceed to

decide the present writ petition on merits.

I have heard the learned counsel for the petitioner and appraised the paper book and of the view that as per the *ratio decidendi* culled out by the Full Bench of this Court in **Jagdev Singh's case** (supra), there is no provision in the Act or the Rules for passing no confidence motion against the President of the Managing Committee. In my view, Resolution dated 06.06.2016 (Annexure P-1) and impugned Agenda (Annexure P-2) are not sustainable in the eyes of law and cannot be passed by the other members of the Managing Committee. In case of any grievance, they have other remedy, but not passing "No Confidence Motion". Even *prima facie*, it does not establish that the agenda was circulated to all the members including the petitioner, namely, Gurjit Singh as no proof of the same has been placed on record.

Keeping in view the aforementioned facts, Resolution dated 06.06.2016 (Annexure P-1) and impugned Agenda (Annexure P-2) are hereby set aside being vitiated in law, much less, opaque and arbitrary.

Resultantly, the present writ petition stands allowed.

31.05.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**