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

CWP-23156-2013

Date of decision : 21.02.2017

Wing Commander (Retd.) Chiranjiv Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Binderjit Singh, Advocate
for the petitioners.

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

Mr. A.S. Khaira, Advocate
for respondent No.7.

Mr. Ashwani Prashar, Advocate
for respondent Nos.8 to 13.

AMIT RAWAL, J. (ORAL)

The petitioners are seeking quashing of the order dated 10.09.2012 (Annexure P-6) rendered by the Deputy Registrar, Cooperative Societies, Roopnagar, (hereinafter called 'the Society'), whereby on the basis of the complaint, the matter was referred to the Registrar, Cooperatives Societies, Punjab, with regard to the determination of the maintenance charges and as well as the order dated 25.07.2013 (Annexure P-13) of the Financial Commissioner (Cooperation), Punjab, whereby the Financial Commissioner (Cooperation), has directed the Registrar, Cooperative Societies, Punjab to comply with the orders dated 15.11.2012 within two months.

Mr. Binderjit Singh, learned counsel appearing on behalf of the petitioners submits that the last meeting of the Society/respondent No.7 was held on 30.03.2008 for the purpose of holding the elections on 04.10.2008 as the term expired in 2008. The election was held on 04.10.2008, which was challenged and vide order dated 27.04.2010 (Annexure P-1), the same was set aside on certain grounds (i) that no notice of election programme was circulated among the members, (ii) even, it was also found that majority of the members has been declared unnecessarily as defaulters. The appeal preferred by the private respondent(s) against the order dated 27.04.2010 (Annexure P-1) was dismissed vide order dated 21.09.2010 (Annexure P-3). The revision petition was also dismissed vide order dated 31.03.2011. The maintenance charges assessed by the Deputy Registrar are totally erroneous and in the meantime, a complaint was submitted to the Registrar, who had appointed the Deputy Registrar to hold an inquiry and the Deputy Registrar, vide impugned order dated 10.09.2012 (Annexure P-6), assessed the maintenance charges. The Administrator had fixed the election programme on 31.08.2012 for holding the election on 13.10.2012. The aforementioned order was challenged by the petitioners vide revision petition bearing No.292 of 2012 (Annexure P-7) and the Additional Registrar, Cooperative Societies, Punjab, allowed the petitioners to participate in the election process by issuing a direction that a separate list of defaulter members should be prepared. The aforementioned order was assailed by the private respondent(s) before the Financial Commissioner (Cooperation), Punjab in revision petition bearing No.342 of 2012 and vide order dated 15.11.2012, the Financial Commissioner, modified the order of the Additional Registrar, allowing the defaulter members to vote by holding

that the issue of members, which were the subject matter of the arbitration case was not disputed, but instead the dispute was with regard to the ineligible voters. In order to sort out the aforementioned fact, the election programme was ordered to be postponed by a month and in the meantime, the Registrar, Cooperative Societies, Punjab, was directed immediately assessed/determined the backlog of the maintenance charges. The private respondent(s) again approached the office of the Financial Commissioner against the action taken by the Registrar on the complaint of the petitioners dated 05.04.2013, but the said revision petition has been allowed by holding that until and unless the direction containing in the order dated 15.11.2012, is complied, the election programme should not be held.

He further submits that the Society is being run without any managing committee and the Administrator is unnecessarily sitting over the matters and spending the funds of the Society. The Society cannot remain headless and the elections have to be held. There is no harm in issuing the direction for holding the General Body Meeting under the aegis of any former Judge of this Court instead of Registrar or any other Officer.

Per contra, Mr. Ashwani Prashar, learned counsel appearing on behalf of the private respondent Nos.8 to 13 submits that the writ petition is not maintainable as there is no challenge to the order dated 15.11.2012 (Annexure P-8), much less, the order dated 10.09.2012 (Annexure P-6) is revisable. The petitioners have not availed the remedy.

On merits, he does not dispute the fact rendered by Mr. Binderjit Singh with regard to the elections being again put into motion for 13.10.2012 was challenged, but the fact remains that the election programme was kept in abeyance till the adjudication of the list of defaulter

members for assessment of the maintenance charges. The petitioners could not have approached the Registrar again without challenging the order dated 15.11.2012. The Registrar was, thus, having no jurisdiction to entertain the complaint and order for election programme to be conducted on 16.06.2013. It is, in this backdrop of the matter, the answering respondent(s) were constrained to invoke the revisional jurisdiction of the Financial Commissioner which entailed into passing of the order dated 25.07.2013 (Annexure P-13), thus, no prejudice or harm was caused. The petitioners are unnecessarily prolonging the holding of the election of the Society by adopting all possible delaying tactics. The filing of the writ petition is nothing, but a settlement of personal ego/arrogance, which should not be brought into in the manner and mode as indicated above, thus, urges this Court for dismissal of the writ petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Binderjit Singh, for, the order dated 15.11.2012 (Annexure P-8) is a most innocuous. For the sake of brevity, the operative part of the same reads as under:-

"I, however, partially modify the order of the Additional Registrar (A), Cooperative Societies, Punjab, who allowed the defaulter members to vote. The issue of members who are in arbitration case relating to the money to be paid to PUDA is not being disputed here. The issue here is to determine, who are ineligible voters based on the default of maintenance charges. I order that the present election programme may be postponed by about a month. In the interim, Registrar, Cooperative Societies, Punjab may immediately have the backlog of maintenance charges determined and audited. The

list of dues from all the members may thereafter be prominently published and intimated to members of the Society. All such defaulting members may be allowed 10 days' time to deposit the amounts due as determined by the representative of the Registrar, Cooperative Societies, Punjab. Those who clear the default within the specified time would become eligible voters and should be allowed to vote while the others would be rendered as defaulters and thus, become ineligible to vote."

But the petitioners did not rest here, despite the aforementioned order which had been passed on 15.11.2012, after almost lapse of five months, moved an application dated 05.04.2013 before the Registrar, Cooperative Societies, Punjab, for conducting the Special General meeting which was ordered to be held on 16.06.2013.

Feeling aggrieved of the aforementioned order, rightly so, the private respondent(s) invoked the jurisdiction of the Financial Commissioner (Cooperation), Punjab, who set aside the order dated 24.05.2013 (Annexure P-11) i.e. Agenda with regard to the General Meeting scheduled to be held on 16.06.2013. No explanation has come forth as to how the petitioners were/are aggrieved of the order dated 25.07.2013 (Annexure P-13) in the absence of the challenge to the order dated 15.11.2012. The entire thrust of the petitioners is to delay the adjudication of the *lis* for determining the maintenance charges and resultantly, the elections of the Society in sorting out the list of the defaulter members. The direction given by the Financial Commissioner, Cooperation, Punjab in determining the maintenance charges by affording the opportunities to the defaulter members is a most innocuous.

In my view, the grievance of the petitioners is wholly misplaced, much less, untenable. The challenge to the orders, aforementioned, i.e. Annexures P-6 and P-13, is wholly misconceived.

No ground is made for interference.

The Registrar, Cooperative Societies, Punjab, who has been directed to determine the maintenance charges, shall afford an opportunity to all the members with regard to the determination of the maintenance charges and also give effective opportunities to the defaulter members to comply with the same and after undertaking of such exercise, pass an order for initiating the election process.

CWP is dismissed.

21.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No