IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17945 of 2017
Date of decision: 11.10.2017

Gurpratap Singh .... Petitioner

versus

The Registrar, Cooperative Societies & ors. .... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

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

Ms. Deepali Puri, Addl. AG, Punjab.

Mr. Parvinder Singh, Advocate
for respondent No.3.

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Rakesh Kumar Jain, J.(Oral)

The Punjab State Cooperative Labour and Construction Federation Ltd., Chandigarh (for short 'Labourfed') is a cooperative society registered under the provisions of the Punjab Cooperative Societies Act, 1961 (hereinafter referred as 'the Act'). There are 17 Labour and Construction Unions in the State of Punjab, which are also cooperative societies, registered under the Act and member of the Labourfed. The management of the Labourfed vests in a Board of Directors which is constituted in accordance with the provisions of the Act, Rules and Bye-laws. As per Section 26 (1C) of the Act, the outgoing Board is to arrange elections within 90 days before the expiry of the tenure. The election program was sent to the Registrar Cooperative Societies, Punjab. Since he did not approve the election programme, therefore, one Parvinder Singh,

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who was the Vice-Chairman of the Labourfed filed CWP No.22677 of 2015 against the alleged action/inaction of the Registrar in not approving the election programme and the writ petition was allowed vide order dated 16.11.2015 with a direction to the Registrar to approve the election programme within a period of 15 days. The election programme was thus approved vide letter No.2614-17A dated 03.12.2015. The nomination papers were to be filled on 04.01.2016. The scrutiny of the nomination papers was held on 05.01.2016 and the voting took place on 11.01.2016.

The petitioner filed the nomination paper to contest the election from Zone No.4 being the representative of Gurdaspur District Cooperative Labour and Construction Union Ltd., Gurdaspur. He was the only candidate from Zone No.4. Since the petitioner was apprehending that his nomination paper could be rejected, therefore, he filed CWP No.27610 of 2015. That writ petition was adjourned for hearing on 15.01.2016 and in the meantime, the nomination paper were rejected. Ultimately, the writ petition was disposed of as infructuous with a direction that the copy of order rejecting the nomination papers be supplied to the petitioner.

After obtaining the order of rejection of nomination paper on 27.01.2016, petitioner filed CWP No.1968 of 2016 challenging the said order, which was allowed on 27.04.2017 and the order of rejecting the nomination paper was set aside. Thereafter, the petitioner, who is the only candidate from Zone No.4, has to be elected without there being any other contesting candidate but respondent No.1 did not appoint any person as the Returning Officer. Therefore, the present petition has been filed seeking mandamus to direct respondent No.1 to appoint either himself or any other

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person for the purpose of declaration of result of the election being the only candidate from Zone No.4.

Separate replies have been filed on behalf of respondents No.1 and 2 and 3 respectively.

In the reply filed by the State and other respondents, preliminary submission has been made that respondent No.1 is in the process of filing LPA against the order passed in CWP No.1968 of 2016, which was decided on 27.04.2017 but so far the same has not been done.

Learned State counsel has also not been able to give any number of LPA to the Court or much less any order of stay.

Be that as it may, the fact remains that as on today, the order of CWP No.1968 of 2016 is operative and thus, the petitioner is to be considered a contesting candidate from Zone no.4 for the post of Director as the sole candidate and in such circumstances, the petitioner has to be declared elected but the said declaration has to be made only by the Returning Officer, who has to be appointed by the Registrar in terms of Rule 1(b) of the Punjab Cooperative Societies Rules, 1963.

I have heard learned counsel for the parties and after examining the available material and with their able assistance, I am of the considered opinion that there is an error on the part of the respondents much less respondent No.1 for not appointing the Returning Officer, to declare the result of election, in view of the orders dated 27.04.2017 of Zone No.4 in which the petitioner is the only candidate and there is no opposition.

Accordingly, the present petition is allowed and direction is issued to respondent No.1 to appoint the Returning Officer within a period

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of 7 days from today, who would further declare the result of the election within a period of 15 days thereafter.

11.10.2017 **(Rakesh Kumar Jain)**
sonia **Judge**

1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No

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