

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

CWP No.2108 of 2017

Date of Decision.16.05.2017

The Karnal Cooperative Multipurpose Society Ltd. and others
.....Petitioners

Vs

State of Haryana and others
.....Respondents

Present: Mr. C.R. Dahiya, Advocate
for the petitioners.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Sandeep Moudgil, Advocate
for respondent No.5.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioners are aggrieved of the impugned notice/resolution & letter (Annexure P-1 to P-3) whereby the Karnal Central Cooperative Bank Limited informed that meeting of the Zonal Committee for election of the Board of Directors of the Karnal Central Cooperative Bank Ltd., Karnal will be held on 26.08.2016 in the premises of the Karnal Central Cooperative Bank Ltd. at the Mall Karnal under the chairmanship of Deputy Registrar, Cooperative Societies, Karnal.

Mr. C.R. Dahiya, learned counsel appearing on behalf of the petitioners submits that there is no adherence to Rule 25 of the Haryana Cooperative Societies Rules, 1989 where in regard to the preparation of list of zones, there has to be clear cut 120 days notice before the expiry of the tenure of a committee or of the Administrator, as the case may be, so that every member of the Cooperative Society can appoint a representative,

participate in the election of the managing committee of the Cooperative Societies. The aforementioned provisions of the Rule have not been adhered to/followed and on 26.08.2016 zones have been framed out. He has also pointed out to this Court summary of zones at page No.29 of paper book where there is no equal distribution of Zone Nos.8, 9 and 10 as there are 124, 126 and 338 societies *viz-a-viz* every other zone has only 11 and 12 cooperative societies, thus, urges this Court that even despite availment of the alternative remedy, if a notice is without jurisdiction, the aggrieved party can always approach this Court under Article 226 of the Constitution of India.

Mr. Sandeep Moudgil, learned counsel appearing on behalf of respondent No.5 submits that the petitioner has alternative remedy under Section 102 of the Haryana Cooperative Societies Act and therefore, the writ petition is not maintainable. Even otherwise, election process has begun and therefore, this Court should refrain itself from interfering into the aforementioned proceedings, as the petitioner has efficacious remedy of filing an election petition, thus, urges this Court for dismissal of the writ petition.

This Court, during the course of arguments, raised a query to Mr. Moudgil as to what further proceedings have taken place in pursuance of the Resolution dated 26.08.2016 (Annexure P-2) and the reply is that the objections have duly been invited.

I have heard learned counsel for the parties and appraised the paper book. Rule 25 as extracted on page 8 of the writ petition and impugned notice (Annexure P-1), read as under:-

“PART II

Rules for election for apex or central cooperative societies, the

primary cooperative land development banks, cane growers cooperative societies, the marketing or marketing-cum-processing societies, sugar mills and urban banks.

3. Preparation of list of Zones and Voters.- (1) *The Manager of a Cooperative Society of which another Cooperative Society of which another Cooperative Society is a member shall at list 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 provision of Section 21 of the Act, to participate in the election of Managing Committee of the Cooperative Society.*

(2) *Within 30 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.*

(3) *The Manager of every Cooperative Society except that of a Primary Cooperative Society (other than Primary Land Development Bank, the cane-growers cooperative society, marketing or marketing-cum-processing society, Sugar Mills and Urban Banks) shall at least ninety days before the expiry of tenure of the committee or of the Administrator, as the case may be, submit to the Zonal Committee, constituted under sub-para (4), a tentative list of zones and voters including the names of the representatives of the member Co-operative Societies under sub-para (2).*

(4) *The Zonal Committee shall:-*

(i) *for an Apex Cooperative Society, consists of:*

xxx xxx xxx

(ii) *for Central Cooperative Banks, consist of-*

(a) *Deputy Registrar, incharge of the Bank, and*

(b) *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*

(iii) *xx xx xx*

(5) *The quorum for any meeting of Zonal Committee shall be two members.*

(6) *On receipt of the tentative lists of zones and voters therein, the Zonal Committee shall, after due consideration of the matter, accord its approval to the tentative list of zones and votes.*

(7) *A notice shall be published in a daily newspaper having wide*

circulation in the area of operation of the cooperative societies informing the members of the Cooperative Societies, of the date of expiry of the tenure of the committee, preparation of the tentative lists of zones and voters, dates and places of exhibition of tentative lists, place of filing objections and date of hearing of objections to the tentative lists by the Zonal Committee.

(8) The Manager, shall exhibit the tentative of Zones and voter approved by the Zonal Committee for a period of not less than fifteen days; at-

(a) the registered office and the branch office, if any, of the Cooperative Society;

(b) the office of the Assistant Registrar and the Deputy Registrar of Cooperative Society concerned, and

(c) any other common places in the area of operation of the Cooperative Society, as the Zonal Committee may direct.

(9) Any voter or share-holder of a Cooperative Society may, during the period of exhibition of the list, submit his objections to the list of zones and voters to the zonal committee on or before the date and time fixed for hearing of objections:-

Provided that such objections may also be filed with the Manager.

10. The Manager shall submit all the objections before the zonal committee on or before the date and time fixed hearing for the objections. The Zonal Committee shall prepare a final list of zones and voters, after considering the objections. In case during the consideration of the objections it is found that the name of any other voter has been included in the tentative voters list without a proper resolution or otherwise defective, or where a society has not appointed its representative under sub-para (1) and there are sufficient grounds for not doing so, within the time as may be specified, to appoint the representative for the purpose of including the name of the said representative as voter in the final voters list. In case the society does not do so within the specified period it shall have no right to vote in the election.

Provided that if any change is made in the lists, reasons therefor shall be recorded therein.

(11) Where the Committee during its tenure or the Administrator or the Administrators during the period of his or their appointment

under Section 33 and 34 of the Act, as the case may be fail(s) to finalize the lists of Zones and Voters, the Manager shall submit the tentative lists of zones and voters to the Registrar for finalization.

(12) On receipt of the tentative lists of zones and voters under sub-para (11), the Registrar shall finalise these lists in the manner specified in paras 6 to 10.”

“Annexure P-1

No.Inspection/2016-17/11564-66

Dated: 12.08.16

- 1. Deputy Registrar, Cooperative Societies, Karnal
Chairman Zonal Committee.*
- 2. Assistant Registrar, Cooperative Societies, Karnal
Member Zonal Committee.*
- 3. Managing Director or his nominee
The Haryana State Coop. Apex Bank Ltd.
Chandigarh, Member Zonal Committee.*

*Subject: Meeting of the Zonal Committee scheduled to be held on
26.8.2016 at 2.00 PM in the premises of the Bank.*

Dear Sir,

It is to inform you that the meeting of the Zonal Committee for the election of the Board of Directors of the Karnal Central Cooperative Bank Ltd., Karnal will be held on 26.08.2016 at 2.00 PM in the premises of the Karnal Central Coop. Bank Ltd., at the Mall Karnal under the chairmanship of Deputy Registrar, Cooperative Societies, Karnal to discuss the following agenda:

- 1. To consider to prepare the tentative list of zones.*

Therefore, you are requested to make it convenient to attend the meeting on the fixed date, time and venue.

Thanking you,”

On conjoint reading of the aforementioned Rule and notice, it is revealed that there is no compliance of 120 days advance notice of holding the election for Board of Directors of the Karnal Central Cooperative Bank Ltd. Thus, in my view, once there is no adherence and compliance to the Rules, the availment of alternative remedy would not be a valid objection for not entertaining the writ petition and this argument of Mr. Moudgil

election process has not begun as only objections qua the election have been invited. There has to be adherence to the rules so that every member of the committee could appoint a representative to espouse cause/vindicate grievance in the so-called meeting to be held for the purpose of holding of the election of Board of Directors by finalizing the zones.

Resultantly, the impugned notice/letter vide Annexure P-2 and P-3 not sustainable in the eyes of law are hereby set aside. However, this order of mine will not prevent the 5th respondent to initiate the process of election strictly in accordance with Rule 25 *ibid*. The writ petition stand allowed in the aforementioned terms.

(AMIT RAWAL)
JUDGE

May 16, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No