

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

CWP No.26245 of 2017

Date of Decision: November 17, 2017

Ravinderjit Singh and another

. . . . Petitioners

Vs.

State of Punjab and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.M.S. Kang, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed to challenge the order dated 24.10.2017 passed against both the petitioners, attached with the petition as Annexures P-6 & P-7, by which they have been removed from the membership of the committee in terms of an order passed under Section 27(1) of the Punjab Cooperative Societies Act, 1961 [for short 'the Act'].

Shorn of unnecessary details, the grievance of the petitioners is that they have been illegally removed from the membership of the committee.

At the outset, learned counsel for the petitioners has been asked as to how the present petition is maintainable in view of Section 68(1)(e) of the Act.

Learned counsel for the petitioners has submitted that since there is a complete violation of law, therefore, the writ petition is

maintainable and had it been a dispute regarding facts then the appeal would have been filed.

In support of his submissions, learned counsel for the petitioners has referred to two decisions of this Court rendered in the cases of *“Lakhwinder Singh Vs. State of Punjab”* 2001(3) RCR (Civil) 549 and *“The Uksi Cooperative Agricultural Service Societies Uksi Vs. The Assistant Registrar, Cooperative Societies, Package Programme, Ludhiana”* 1985 RRR 545.

I have heard learned counsel for the petitioners and examined the available record.

In para 21 of the writ petition, the petitioner has sought exemption from filing the appeal. Otherwise, Section 68(1)(e) of the Act provides that *“the appeal shall lie under this Section against an order made by the Registrar removing or suspending a committee or a member thereof under section 27 of the Act”*.

I am not in agreement with the submissions made by counsel for the petitioners that the appeal would have been filed had it been a dispute regarding facts. Since there is a statutory remedy of appeal available with the petitioners in which they may raise the issue both of law and facts for which the appellate authority is competent to decide, therefore, I do not respectfully agree with the view expressed in both the aforesaid cases cited by the counsel for the petitioners and I hereby hold that in the presence of the remedy of appeal available with the petitioners under the Statute, they cannot invoke the extraordinary jurisdiction of this Court provided under Article 226 of the Constitution of India.

With these observations, this petition is held to be not maintainable in the present form. However, the petitioner may, if so advised, avail his remedy of appeal, in accordance with law.

NOVEMBER 17, 2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No