

CWP-6694-2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

117

CWP-6694-2017.

Decided on: March 30, 2017.

Vijay Kumar

.. Petitioner(s)

VERSUS

State of Haryana and others

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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**PRESENT Mr.Fateh Saini, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Petitioner has filed the present writ petition seeking the issuance of a writ directing the official respondents to remove respondent No.5 Dinesh Kumar with immediate effect from the post of Clerk in the Kaulapur Primary Agriculture Cooperative Society, Kaulapur, District Kurukshetra, as his appointment to the post of clerk is contrary to the relevant instructions and provisions of law.

It has, inter alia, been argued by the counsel for the petitioner that respondent No.5 Dinesh Kumar, had filed a suit in the Court of Civil Judge, Kurukshetra, along with an application for interim injunction restraining the defendant, the Kaulapur Primary Agriculture Cooperative Society, Kaulapur, District Kurukshetra, from terminating the services

illegally without disclosing any reason. The application for interim application was allowed but in the appeal under Order 43 Rule (1) (r) of the Code of Civil Procedure, the interim injunction has been refused to respondent no.5. Respondent No.5 had filed a revision petition before the High Court. The said revision petition was dismissed on 3.2.2016.

Petitioner claims that in view of the interim injunction application of respondent No.5, having been dismissed finally, he is not entitled to continue in service especially in view of the circular of the Registrar, Cooperative Societies, Haryana, Annexure P1, dated 12.8.2013, prohibiting any appointment/recruitment in the Primary Agriculture Coop. Societies.

I have heard the learned counsel for the petitioner and carefully considered the contentions. The grievance of the petitioner is against the appointment of Dinesh Kumar as Clerk in the Kaulapur Primary Agriculture Cooperative Society, Kaulapur, District Kurukshetra. It is not the case of the petitioner that the Kaulapur Primary Agriculture Cooperative Society, Kaulapur, District Kurukshetra, is colluding with respondent No.5.

I do not find any force in the contention of the learned counsel for the petitioner that the Kaulapur Primary Agriculture Cooperative Society, Kaulapur, District Kurukshetra,, is colluding with Dinesh Kumar to permit him to continue illegally against the post of Clerk as Society had hotly contested the claim of respondent No.5, Dinesh Kumar in the civil suit and in the proceedings for interim relief. The Society had filed an appeal which was allowed by the learned Additional District Judge, Kurukshetra. Dissatisfied with the order of Addl. District Judge,

Kurukshera, Dinesh Kumar had filed a revision petition which was dismissed.

All the possible steps are being taken by the Cooperative Society to contest the claim of respondent No.5.

So far as the grievance of the petitioner in the present writ petition is concerned, I am of the opinion that the legality of the order of appointment of respondent No.5 is sub judice before the civil Court. Any observation made by this Court regarding his appointment or regarding his right to retain the post of Clerk would affect the case of respondent No.5 on merits. When a dispute is pending between the employer and employee before a civil Court, it will not be expedient in the interest of justice, to permit a parallel litigation in the High Court especially when the locus standi of the petitioner is debatable. Even if, the present petition is considered to be a petition for issuance of a writ in the nature of quo warranto, even then the adjudication on merits of the claim of respondent No.5, vis-a-vis the Society would be affected.

At this stage, counsel for the petitioner submits that he has submitted a representation, Annexure P6, to the Registrar, Cooperative Societies, Haryana, challenging the appointment of Dinesh Kumar as wrongly made and prays that his representation may be directed to be considered. Had the civil litigation pertaining to the civil rights of respondent No.5 been not pending before the Civil Court, the said relief could have been asked for by the petitioner.

I have considered the contention of the counsel for the petitioner for enforcement of the terms of the letter Annexure P1, issued by

CWP-6694-2017

the Registrar, Cooperative Societies, Haqryana, prohibiting the appointment/recruitment of employees in the Primary Agriculture Cooperative Societies and no opinion can be expressed, at this stage, whether the circular Annexure P1, would be having statutory legal enforceable status or said instructions would be only administrative instructions having the directive force.

The petition is, thus, not maintainable on account of pendency of the litigation regarding the same subject matter and is dismissed without prejudice to the other legal rights of the petitioner.

(M.M.S. BEDI)
JUDGE

March 30, 2017.
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Whether speaking / reasoned	Yes / No
Whether reportable:	Yes / No