

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

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**LPA No.629 of 2015 (O&M)**

**Date of Decision: 16.05.2017**

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Himtana Cooperative Agricultural Service Society Ltd. ... Appellant

VS.

Sajjan Singh & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

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Present: Mr. RK Sharma, Advocate for the appellant

Mr. MS Bedi, Advocate for respondent No.1

Mr. Rajesh Bhardwaj, Addl. AG Punjab

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**SURYA KANT, J. (Oral)**

(1) This Letters Patent Appeal is directed against the order dated 20.03.2015 whereby learned Single Judge allowed the writ petition and after quashing the resolution dated 22.10.2009 passed by the appellant-Society along with consequential order of termination of services of the first respondent as well as orders passed by the appellate and revisional authorities, a further direction has been issued to reinstate the first respondent along with 50% backwages and continuity in service though with liberty to the appellant-society to proceed afresh from the stage of inquiry report dated 15.06.2009 and take a final decision by way of speaking order.

(2) The first respondent was serving as Secretary in the appellant-Society. He was served with a charge-sheet followed by an enquiry conducted by three Members of the Managing Committee of the Society. The Enquiry Committee vide report dated 15.06.2009 found the first respondent guilty of charges whereupon the Managing Committee of the Society passed resolution dated 22.10.2009 and ordered termination of services of first

Cooperative Societies, Ludhiana. The revision petition was also dismissed by the Joint Registrar, Cooperative Societies, Patiala Division, Patiala. Thereafter he filed a petition under Section 69 of the Punjab Cooperative Societies Act, 1961 before the State Government which was also turned down on 20.02.2013.

(3) The above-stated orders have been set aside by learned Single Judge having found that the three members who constituted the Enquiry Committee were amongst the eight members of the Managing Committee who were present at the time when the enquiry report was accepted and decision to terminate services of first respondent was taken. Participation by those members in the said meeting has been viewed by learned Single Judge as violation of principles of natural justice, for those three members became judge in their own cause.

(4) The aggrieved Society has preferred this Intra Court Appeal.

(5) When this appeal came up for preliminary hearing on 27.04.2015, it was contended that since the first respondent was under suspension before termination of services and learned Single Judge ordered his reinstatement on a technical ground, namely, non compliance of principles of natural justice, he ought to have been treated as an employee under suspension after reinstatement, and in that event no backwages could be paid except Subsistence Allowance. This Court thus passed an interim order directing the appellant-Society to treat the first respondent under deemed suspension and pay him arrears of Subsistence Allowance whereupon the reinstatement as well as 50% backwages were stayed. It was further directed that the appellant-Society shall take further action in accordance with the directions issued by learned Single Judge.

(6) Learned counsel for the appellant-Society submits that in deference to the directions of learned Single Judge, the Managing Committee of the appellant-Society issued a notice to the first respondent and he was asked to appear before the Managing Committee but he refused to appear. Consequently, the matter was reconsidered and vide order dated 25.05.2015 his services have again been terminated. He informs that Subsistence Allowance was paid by way of cheque which has been encashed by the first respondent.

(7) Having heard learned counsel for the parties, we are of the considered view that since the first respondent was under suspension before his services were terminated vide resolution dated 22.10.2009, he was liable to be treated to be under suspension after his reinstatement pursuant to the order of learned Single Judge. In that event, the first respondent was entitled to be paid Subsistence Allowance only which has been eventually paid to him. Since the first respondent could not have been reinstated as directed by learned Single Judge, the direction to that extent was stayed. Meanwhile, the Society has reconsidered the matter in the light of the directions of the learned Single Judge and again has resolved to terminate his services. In this view of the matter, we are satisfied that there is nothing left to be complied with on behalf of the appellant-Society. The directions issued by learned Single Judge as also by this Court stand complied with.

(8) The first respondent, if so aggrieved by order of 25.05.2015 whereby his services have again terminated, may challenge the said order before an appropriate forum. Though there is delay of almost two years on the part of the first respondent, we however, in the peculiar facts and circumstances, grant liberty to file appeal within one month. If such an appeal

is filed, the Appellate Authority is directed to decide the same on merits and in accordance with law.

**(Surya Kant)**  
**Judge**

**16.05.2017**  
*vishal shonkar*

**(Sudip Ahluwalia)**  
**Judge**

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| 1. <i>Whether speaking/reasoned?</i> | <b>Yes</b> |
| 2. <i>Whether reportable?</i>        | <b>No</b>  |