

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

LPA No.2541 of 2016 (O&M)

Date of Decision : 09.01.2017

The Dharsul Khurd Primary Agriculture
Cooperative Society Limited

....Appellant

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

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

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MAHESH GROVER, J.

CM No.5277-LPA of 2016

Marginal delay of 30 days in filing the appeal is
condoned.

C.M.stands allowed.

CM No.5278-LPA of 2016

Allowed as prayed for.

LPA No.2541 of 2016

This appeal is directed against the judgment of the
learned Single Judge dated 25.10.2016.

The appellant Society through its general body
terminated the services of respondent No.3 even though it had no
power to do so, the said authority vesting in the Managing

Committee. The order was impugned in appeal which was accepted by the competent authority which led to the filing of writ petition by the appellant to contend that the appeal against the order of the general body was not maintainable.

The learned Single Judge noticed that the power to terminate the services vested with the Managing Committee and the order passed by the general body adverse to the employee was suffering from error of jurisdiction and concurring with the Appellate Authority dismissed the writ petition which is now the cause of grievance to the appellant where it is conceded before us that the general body did not have the jurisdiction to terminate the services of the employee but it is reasserted that the statutory provisions enable an appeal only against the order of the Managing Committee.

We are of the opinion that the instant appeal is totally frivolous. Once it is accepted that the general body of the society had no authority to take such a decision, the Society would have no legitimate argument to contend that the employee has no remedy of appeal against the adverse order passed against him. An order passed by an authority inherently lacking the jurisdiction to do so would be a ground available to an affected person and it would not lie in the mouth of that authority to dispute the statutory remedy. We are also of the opinion that a

wrong has been committed by the Society itself, and therefore, it cannot go on to plead justification of the same by stating that the employee would have no remedy of appeal. Such a person would naturally take remedy available to him under the statute. It is the resultant decision which would propel him to take the remedy of appeal by challenging the issue of competence of the authority to do so. It is not disputed that the remedy of appeal would be available to an employee against the order passed by the Committee.

Consequently, the present appeal is devoid of merit and is dismissed with costs of Rs.5,000/- to be deposited in the account of the Punjab and Haryana High Court Employees Welfare Association, Chandigarh within one month.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

09.01.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No