

In the High Court of Punjab and Haryana, at Chandigarh

Letters Patent Appeal No. 99 of 2017 (O&M)

Date of Decision: 23.01.2017

Kamal Sarkar and Others

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Mahesh Grover.
Hon'ble Mr. Justice Shekher Dhawan.**

Present: Mr. Rajesh Punj, Advocate
for the appellant(s).

Mahesh Grover, J.

The appellants impugn the order of writ Court dated 20.12.2016. As writ petitioners, the appellants had challenged the order dated 22.4.2014, passed by the Principal Secretary to Government of Haryana, Cooperation Department directing the Registrar, Cooperative Societies, Haryana to examine the conduct of the petitioners and to ensure the audit of the society.

The society faced serious allegations which were brought to the notice of the competent authority resulting in two orders of the same date i.e. 17.12.2013. One of these orders resulted in the appointment of Board of Administrators of the society for conducting fresh elections, in terms of Section 28 of the Haryana Cooperative Societies Act, 1984 (hereinafter referred to as “the Act”), while in the second order, there was a restraint on convening general body meeting of the society scheduled on 22.12.2013 for

conducting the elections.

Despite these two specific directions, contained in two different orders, the appellants proceeded to convene the general body meeting on 22.12.2013 and on a subsequent date i.e. 28.1.2014 impugned the order dated 17.12.2013 restricting the holding of general body meeting but did not impugn the order by which the Board of Administrators was appointed. The competent authority, described as respondent No.1 in the writ proceedings, declared the elections held by the society on 22.12.2013 as invalid which was the grievance expressed before the Writ Court. The learned Single Judge opined that in the absence of any challenge to the order dated 17.12.2013 appointing the Board of Administrators to conduct the elections and in view of the restraint order, the appellants could not have gone ahead with the elections. In this way, the order of the competent authority negating the elections and conduct of the society was upheld.

Learned counsel for appellant has raised similar arguments that were raised before the learned Single Judge to contend that once the elections have been held in accordance with law, they could not have been negated. He further contends that the order appointing the Board of Administrators is *void ab initio*, beyond jurisdiction and could not have been passed in view of the amended provisions of the Act and thus, contends that there was no necessity of challenging such an order.

We have heard learned counsel for the appellant and are of the opinion that the plea raised by the appellants is totally without any substance. Once an order was passed by the competent authority, appointing the Board of Administrators, it would imply that the general body

empowered to take decisions stood superseded. It is the conceded case that the appellant did not impugn this order and whether it was beyond jurisdiction; contrary to the provisions of the amended Act or *void ab initio* would have been grounds of challenge available to the appellants with conclusions left to the Appellate Authority empowered to hear such a challenge. Having not done so, the appellants cannot take upon themselves the jurisdiction or the authority to denounce the order dated 17.12.2013 appointing the Board of Administrators as *void ab initio*.

The whole process, therefore, undertaken by the appellants was completely beyond jurisdiction of the society in view of the injunction order passed on 17.12.2013.

We do not find any legal infirmity in the order passed by the learned Single Judge and consequently, we decline interference in the instant appeal for the reasons stated above. Dismissed.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

January 23, 2017

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No