

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.20898 of 2018

Date of Decision:-21.08.2018

Raj Kumar.

.....Petitioner.

Versus

Registrar Cooperative Societies, Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. H.S. Bedi, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner-Raj Kumar has filed the instant writ petition, praying for setting aside of the resolution dated 29.06.2012 (P-4) passed by respondentno.5-Society, whereby the petitioner who was working as salesman, has been removed from the service, on account of embezzlement of funds of the society.

Learned Counsel for the petitioner, who was working on the post of Fertilizer Salesman, was never handed over the charge of fertilizers, as one Madan Lal, Secretary of the Society used to look after the stock of fertilizer. It is further argued that on a special audit conducted by the society, it was found that a huge amount of Rs.22,74,025/- was embezzled, but in the said Special Audit Report it was found that only said Madan Lal was liable and not anyone. However, an inquiry was conducted by three members of the society, who found petitioner to be guilty and, therefore,

recommended his termination from services. Consequently, without following the due procedure a six member committee of the society, which included the three inquiry members passed an illegal resolution dated 29.06.2012 (**P-4**), ordering termination of services. It is submitted that the said committee could not have passed the impugned resolution as three members of the inquiry committee who had conducted the enquiry, cannot be part of the decision making authority to remove him from service. Finally, it is argued that after a long drawn litigation of appeals etc., the Joint Registrar has wrongly passed the impugned order dated 06.06.2018 (**P-9**), whereby it has set aside the order dated 02.04.2018 passed by Deputy Registrar who had re-instated petitioner into service and thereby upholding the decision of removal of the petitioner from service, by not considering the aforementioned facts as well as the due procedure, as prescribed under the Punjab State Cooperative Agricultural Service Society Service Rules, 1997.

I have heard learned Counsel for the petitioner at length and have also perused the paper book with his able assistance. However, I am of the view that present petition deserves to be dismissed.

It is admitted by the counsel for the petitioner and also mentioned in the impugned order dated 06.06.2018 (**P-9**) passed by Joint Registrar, Cooperative Societies that an FIR was registered against the petitioner and on the basis of the said FIR, criminal court at Nawanshahar has already taken cognizance against petitioner and the said case is still pending consideration there. In the impugned order, the Joint Registrar has noted the contention of respondent no.5-Society to the effect that in case petitioner is acquitted in the said case, then he would be entitled to

reinstatement in service and rightly so ,as till the time said case is not decided, the employer cannot be forced to accept the services of an employee who is tainted. Although the argument of counsel for petitioner that impugned resolution passed by the society is bad per se, may sound attractive, but keeping in view the fact that a criminal case is pending consideration before Criminal Court, it cannot be said that the action of the society to keep him out of service, and consequent approval by the Joint Registrar vide impugned order Annexure P-9, is bad in the eyes of law.

In view of the foregoing discussion, finding no merit in the present writ petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

August 21, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>