

C.M. NO.8468 OF 2018 (O&M)
C.W.P. NO.2800 OF 2018

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

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C.M. NO.8468 OF 2018 (O&M)
C.W.P. NO.2800 OF 2018
DATE OF DECISION: AUGUST 01, 2018

Zile Singh

.....Petitioner

VERSUS

The State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Pawan Kumar Mutneja &
Ms. Nikita Garg, Advocates,
for the petitioner.

Mr. Sandeep Singh Mann, Sr.DAG, Haryana,
for the State.

Mr. Vinod S. Bhardwaj &
Mr. Jagdeep Singh, Advocates,
for respondent Nos.4 to 7.

AUGUSTINE GEORGE MASIH, J. (ORAL)

In the present writ petition, petitioner has challenged the proceedings of general meeting of the share holders of the Panipat Cooperative Sugar Mills Limited, Panipat, dated 07.12.2009, Annexure P-2, the amended bye laws in pursuance of the meeting, order dated 05.09.2016 (Annexure P-8) passed by the Managing Director, Haryana Sugarcane, exercising the powers of Registrar, Cooperative Societies, Haryana, order dated 10.11.2016 (Annexure P-12) passed by the Registrar, Cooperative Societies, Haryana, Panchkula in an appeal filed by the

petitioner alongwith one Bhoop Singh and order dated 11.07.2017 (Annexure P-14) passed by the Additional Chief Secretary to Government, Haryana, Cooperation Department, Chandigarh, as also the information dated 25.05.2017 (Annexure P-15), which has been supplied by the Managing Director.

Learned counsel for the petitioner has primarily based his challenge to the proceedings of general body meeting dated 07.12.2009 (Annexure P-2) of the Panipat Cooperative Sugar Mills Limited by asserting that it is in violation of the provisions of Section 10 of the Haryana Cooperative Societies Act, 1984 (hereinafter referred to as “the 1984 Act”) with specific reference to sub-sections (2), (3) and (4), bye laws 8(ii) and (v) read with Section 16 of the 1984 Act and the rules framed thereunder. Counsel for the petitioner, on the basis of these provisions of the statutes and the bye laws, asserts that a clear 15 days notice is mandated for holding a general meeting, which he contends, has not been so given as there is a gap of only 11 effective days between the publication of the notice in the news paper on 27.11.2009 and the date of holding of the meeting i.e. 07.12.2009 and, therefore, the general meeting of the Society itself, being violative of the bye laws, would render the proceedings held therein to be illegal. He further asserts that as per the provisions of the bye laws, for the purpose of any amendment, there is requirement of presence of 2/3rd members of the Mill whereas this number of members were also not present on 07.12.2009, when the general meeting was held and, therefore, all the consequential orders as have been passed in pursuance of the said general meeting cannot sustain and deserve to be set-aside.

Upon notice having been served upon the respondents, the

factual assertions with regard to 15 days prior notice, which is mandated as per the bye laws for holding a meeting whereas there were only 11 effective days could not be disputed by learned counsel for respondent Nos.4 to 7. Further there also appears to be a conflict with regard to the provisions of the statute as contained in Section 10(2) of the 1984 Act, when seen in the context of the rules and the bye laws with regard to the presence of total number of members and voting in the General Meeting.

However, all these aspects are not being gone into at this stage keeping in view the fact that it is an admitted position that prior to the holding of the general meeting on 07.12.2009 (Annexure P-2), mandated 15 days notice was not given. Therefore, holding of said general meeting on 07.12.2009 is not in consonance with the bye laws of the Society and, thus, the proceedings of the said meeting are held to be illegal and consequently all subsequent orders/action taken thereon have to be held to be not in accordance with law and are accordingly quashed.

The writ petition stands allowed in the above terms.

It would, however, be open to the respondents, if so advised, to proceed with the matter in accordance with law.

August 01, 2018
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(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No