

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

CWP No.28975 of 2018

Date of Decision:-28.11.2018

**Jagjit Singh, Ex. Salesman, The Jaitu Multipurpose Cooperative
Society Ltd. Jaitu, District Faridkot.**

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. A.S. Khaira, Advocate for the Petitioners.

JASWANT SINGH, J.

Jagjit Singh, Ex-Salesman with respondent no.5-Cooperative Society, has preferred the instant writ petition, seeking quashing of order of termination dated 17.10.2012 (P-8) passed by respondent no.5-Society, Order dated 31.10.2014 (P-9) passed by respondent-Deputy Registrar, order dated 24.6.2015 (P-10) passed by Joint Registrar Co-operative Societies and Order dated 12.10.2017 (P-11) passed by Special Secretary (Appeals) whereby the order of termination has been affirmed by dismissing the appeals/revisions of petitioner.

Learned Counsel for the petitioner has argued that the inquiry report of the officer, which has been made basis for terminating the services of the petitioner, was passed without following the due procedure, as he was neither served with any charge sheet nor was given an opportunity to make

representation against the same. Consequently, it is argued that very foundation of the impugned orders is bad in the eyes of law as well as principles of natural justice and therefore, same are liable to be set aside. It has been further argued that no evidence was recorded in the instant case and consequently, petitioner had no opportunity to cross examine the witnesses before passing the order of termination and, therefore, major penalty awarded to the petitioner is without jurisdiction, which has been illegally upheld by the official respondents. Hence, prayer has been made for setting aside the impugned orders and direct the respondent no.5-Society to reinstate the petitioner.

After having scrutinized the arguments raised by the Learned Counsel for petitioner and perusing the paper book with his able assistance, this Court is of the opinion that instant writ petition is without any merit and therefore deserves to be dismissed.

Admittedly, prior to the passing of the impugned orders, services of the petitioner were terminated on the basis of an inquiry report. The said order of termination passed by respondent no.5-Society was upheld by the appellate as well as revisional authority. However, petitioner had, at that point of time, preferred CWP No.12530 of 2011, which was finally disposed off vide order dated 14.08.2012 by a co-ordinate bench of this Court. In the said order, a direction was issued to respondent to pass a fresh order, by making the inquiry report as the basis, since the proceedings conducted after the inquiry report was submitted, stood vitiated, being against the Rule 14 of The Punjab State Cooperative Agriculture Society Rules, 1997. Consequently, it is seen that the first argument raised by learned Counsel for the petitioner that the inquiry report itself is bad, is

without any merit, as the validity or otherwise of the inquiry report was gone into by the co-ordinate Bench while deciding the previous writ petition, and inquiry report was impliedly found to be correct. Admittedly, the said order of initiating fresh proceedings on the basis of inquiry report, was never challenged by the petitioner. Resultantly, it is held that the petitioner is estopped by his own act and conduct to challenge the inquiry proceedings, being barred by principle of constructive res-judicata.

As far as the second argument raised by learned Counsel for the petitioner that proceedings subsequent to inquiry have not been conducted as per settled law, it is seen that same is also without any substance. The departmental proceedings are quasi-judicial in nature and same have to be conducted by following principles of natural justice as well as the Statutory Rules. It is apparent that the petitioner was found guilty by the inquiry officer of having embezzled Rs.6.41 lakh of the members of the respondent no.5-Society, by not depositing the same in the bank. After remand of the case from this Court, a show cause notice dated 14.08.2012 was issued under Rule 14 of the Punjab State Cooperative Agriculture Society Rules, 1997, by directing the petitioner to reply to the charges levelled against him. Instead of giving para-wise reply, the petitioner submitted a general reply dated 27.09.2012, denying the same. A perusal of the Statutory Rule 14 of the 1997 Rules would show that there is no obligation upon the punishing authority to give the petitioner an opportunity to cross-examine the witnesses mentioned in the inquiry report. Rather, it is mentioned in the said Rule 14 that the punishing Authority is competent to pass an order imposing major penalty after considering the reply given by the employee.

Meaning thereby, the respondent no.5-Society was well within

its jurisdiction to consider the reply filed by the petitioner and thereafter pass the impugned speaking order dated 17.10.2012 (**P-8**). Thus, it does not lie in the mouth of the petitioner to allege that the Authorities below had wrongly passed the order of termination of his services as same Rule 14 was made basis by the petitioner in previous round of litigation to get the orders of his termination set aside.

In view of the above, finding no merit in the instant writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

November 28, 2018
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>