

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

114

Civil Writ Petition No.476 of 2019

Date of Decision: March 13th, 2019

Kawaljit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. D.V. Sharma, Senior Advocate
with Ms. Eshjyot Walia, Advocate
for the petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

Mr. N.S. Boparai, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

While issuing notice of motion on 11.01.2019, following order
was passed:-

“Petitioner has approached this Court challenging the order dated 31.12.2018 (Annexure P-7) passed by the Assistant Registrar, Cooperative Societies, Patiala, whereby he has said that the appeal preferred by the petitioner is not maintainable before him as he is not the competent authority and does not have the jurisdiction.

Learned senior counsel for the petitioner has referred to Section 68 of the Punjab Cooperative Societies Act, 1961, sub-section 1 (d) and sub-section 2 (e) of the said Act and thereafter the letter dated 09.06.1971 as reproduced in para 10 of the writ petition to contend that the Assistant Registrar of the circle concerned would be the competent authority to decide the appeal, which would be filed under clause (c) and (d) of sub-section 1 of Section 68. Further reliance has been placed upon the Division Bench judgment of this Court in Brij Lal Versus State of Punjab and others 1973 PLJ 462 to contend that the said letter, referred to above, has been duly considered and the Court has upheld the same and came to the conclusion that the Assistant Registrar,

Cooperative Societies would be the competent authority to hear the appeal under such circumstances in the light of the authorisation by the Registrar. He, thus, contends that the order dated 31.12.2018 (Annexure P-7) passed by the Assistant Registrar, Cooperative Societies, Patiala, is not sustainable and deserves to be set aside. Reference has also been made to the earlier order passed by the Assistant Registrar, Cooperative Societies, Patiala, whereby the case was adjourned sine die when the appeal was presented before him on 05.05.2016 (Annexure P-3). He contends that had the Assistant Registrar passed the said order on 05.05.2016 (Annexure P-3), the matter could have come to an end and the petitioner would have accordingly taken remedial steps. This action has been taken by respondent No.3 with an mala fide intention to deprive the petitioner his right of continuing as a Director of the Labourfed.

Notice of motion.

On the asking of the Court, Mr. Charanpreet Singh, Assistant Advocate General, Punjab, accepts notice on behalf of respondents 1 to 3.

Three copies of the writ petition be handed over to the counsel for the State during the course of the day under proper receipt.

Reply to the above assertions of learned senior counsel for the petitioner be submitted two days prior to the next date of hearing.

*Dasti notice be issued to respondent No.4 for **21.01.2019**.*

To be shown in the urgent list.”

Reply of respondent No.4 filed in Court, taken on record.

Copy supplied to the counsel for the petitioner.

On considering the submissions made by the counsel for the parties, what transpires is that the assertions as have been recorded by this Court with regard to the statutory provisions in the order dated 11.01.2019,

could not be rebutted by the counsel for the respondents. What has been

asserted by the counsel for the respondents is that there are certain orders which have been passed by the Assistant Registrar which would lead to a situation where there would be parallel proceedings and result in multiple litigation. It has further been asserted that the Assistant Registrar, in the light of those proceedings, has proceeded to pass the order dated 31.12.2018 (Annexure P-7).

Perusal of the order dated 31.12.2018 (Annexure P-7) passed by the Assistant Registrar, Cooperative Societies, Patiala, would show that the officer has abdicated his powers which have been conferred on him to decide the appeal as per the order/notification issued by the competent authority i.e. the Registrar as per the provisions of the statute, as recorded in the order dated 11.01.2019. The order is a totally non-speaking one and, therefore, cannot sustain in law. Although the counsel for the respondents have asserted that statutory remedy of appeal is provided but this Court keeping in view the above position, has exercised its extraordinary powers by entertaining the present petition.

In view of the above, the present petition is allowed.

The impugned order dated 31.12.2018 (Annexure P-7) passed by the Assistant Registrar, Cooperative Societies, Patiala, is hereby set aside.

Direction is issued to the Assistant Registrar, Cooperative Societies, Patiala, to consider and decide the appeal of the petitioner within a period of four weeks from today in accordance with law by passing a speaking order.

March 13th, 2019

Puneet

AUGUSTINE GEORGE MASIH)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No