

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

**CWP-11071-2019 (O&M)
Date of Decision:13.05.2019**

The Cooperative Bank Employees Federation ... Petitioner

Versus

Election Commission of India & others ... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Naveen Batra, Advocate for the petitioner.

 Mr. Namit Kumar, Advocate for respondent No.1.

 Mr. Sahil Sharma, DAG, Punjab.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

Two separate written statements one on behalf of respondent No.1 along with Annexures R-1/1 and R-2/1 and other on behalf of respondents No.2, 4 and 5 have been filed in Court today and the same are taken on record. Copies thereof have been supplied to counsel opposite.

With the consent of the counsel for the parties, matter is taken up for final disposal today itself.

Instant writ petition has been filed at the hands of the Cooperative Bank Employees Federation. Challenge is to the order/Circular dated 11.03.2019 (Annexure P-1) issued from the office of District Election Officer, Hoshiarpur and circulated to the heads of the concerned departments as per list attached including the various Central Cooperative Banks across the State for purposes of assigning election duty in view of the Lok Sabha elections 2019 which are slated to be held in Punjab on 19.05.2019.

The entire thrust of challenge laid to the impugned memo is that the

Cooperative Bank employees cannot be assigned election duty as the Election Commission of India lacks jurisdiction to issue such directives to the category of employees which do not fall within the term of government/semi government organizations. Counsel vehemently argues that the impugned memo is in conflict with the provisions of the Representation of Peoples Act, 1951 (in short 'the 1951 Act').

Counsel has placed heavy reliance upon a Division Bench judgment of the Gujarat High Court at Ahmedabad in **Bhavnagar District Cooperative Bank Limited Vs. State of Gujarat** and wherein having examined the scope of Section 159 of the 1951 Act, it was held that employees of a District Cooperative Bank registered under the Gujarat State Cooperative Societies Act, 1961 would not fall in any of the categories mentioned under Section 159(2) of the 1951 Act and as such the Election Commission could not issue a directive to assign the employees of the District Cooperative Bank for any election duty.

Even though the contention raised on behalf of the petitioner cannot be said to be without merit yet in the considered view of this Court, no intervention in the matter at this stage is called for.

Counsel for the petitioner/Federation concedes that in pursuance to the impugned memo/directive, employees of the Cooperative Banks have been deputed for training to discharge election duty and most of the employees have already completed such training and some of them are in the process of undergoing the same. The elections in Punjab are slated for 19.05.2019. The petitioner/Federation was aware of the impugned circular/directive and had even submitted representations to the District Electoral Officer concerned on 12.03.2019. Federation has chosen to approach this Court by way of filing of the instant writ petition only on 23.04.2019.

This Court is of the view that the impugned directive has been

issued in larger public interest. Timing would be crucial inasmuch as if this Court were to intervene in the matter, the respondent/authorities would then have to embark upon an exercise to assign election duty to another section of employees and in such an eventuality, such employees would have to be deputed for training to discharge responsibilities pertaining to election duty.

Keeping in view the extreme short time frame left prior to the elections which are now fixed for 19.05.2019, this Court declines to interfere in the matter.

Petition is dismissed.

The broad question raised on behalf of the petitioner/Federation is however kept open.

13.05.2019*harjeet***(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |