

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
108+222

**CM-10554-2019 &
CWP-13166-2016**

Date of decision: 11.12.2019

THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING
FEDERATION LIMITED, MARKFED HOUSE, CHANDIGARH
THROUGH ITS DISTRICT MANAGER, MARKFED MOGA

...PETITIONER

V/S

THE REGISTRAR COOPERATIVE SOCIETIES, PUNJAB, 17 BAYS
BUILDING, SECTOR 17 CHANDIGARH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Aseem Rai, Advocate,
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab
for respondents No. 1 and 2.

None for respondents No. 3 to 5.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-10554-2019

C.M. is allowed subject to just exceptions. Affidavit in terms
of order dated 13.03.2019 is taken on record.

CWP-13166-2016

Challenge in this writ petition is to the order dated 15.01.2014
(Annexure P-2) passed by The Additional Registrar (General), Cooperative
Societies, Punjab, Chandigarh-respondent No. 2 whereby the appeal
preferred by the petitioner has been dismissed on the ground that the same is
delayed by 491 days. Revision petition preferred by the petitioner against
the said order has also been dismissed by The Registrar, Cooperative

Societies, Punjab, Chandigarh-respondent No. 1 vide order dated 02.03.2015/08.04.2015 (Annexure P-3).

It is the contention of the learned counsel for the petitioner that the petitioner has initiated proceedings under the Arbitration Act as per the agreement between the parties for recovery of an amount of ₹48,86,675/- on account of misappropriation of the paddy stocks for the crop year 1997-98 by respondents No. 3 to 5. The Joint Registrar, Cooperative Societies, Ferozepur was appointed as the Arbitrator who pronounced the Award on 22.11.2010 (Annexure P-1) dismissing the said arbitration claim as projected by the petitioner. The said Award was challenged by the petitioner by filing an appeal under Section 68 of the Punjab Cooperative Societies Act, 1961, which was dismissed by the Additional Registrar (General), Cooperative Societies, Punjab vide order dated 15.01.2014 on the ground that the appeal was barred by limitation as the same had been filed after a lapse of 491 days whereas the limitation period for challenging an award in an appeal is 60 days. Revision preferred by the petitioner has also been dismissed on the same ground on 02.03.2015 (Annexure P-3) by the Registrar, Cooperative Societies, Punjab, Chandigarh. Counsel contends that because of the negligence/connivance of the officials of the petitioner, the appeal was initially not filed. There were various reasons for not filing the revision petition especially with regard to the reason that Parminder Singh, who was the dealing assistant of the petitioner-Markfed, was consistently on leave and the file was with him but ultimately, it was found that the delay has been caused and attributable to Gurcharan Singh, who was the dealing assistant who had filed the appeal after the delay. He already stood dismissed and, therefore, no further action has been taken

against him. That being so, with a view to avoid reoccurrence of such incident of delays, Instructions, vide letter dated 10.07.2013 have been issued by the Managing Director of the petitioner and thereafter, the guidelines to follow up the Court cases and providing the case/appeal details, instructions were issued to the General Manager, Liason Officer, New Delhi and State of Punjab on 08.01.2019. The Functional Heads of Markfed, Head Office Chandigarh has been advised to ask their concerned officials/officers working under their control to process their cases on priority so that there is no delay in taking action wherever required. It has also been stated that the disciplinary action will be taken against the employees as per the Conduct Rules in case of any delay in dealing with the matters.

Counsel has further asserted that the recovery, which is being sought to be effected from respondents No. 3 to 5, is public money and because of the delay, which is explained in the application, which was duly submitted to the appellate authority and the revisional authority, the said aspect has been ignored keeping in view the strict provisions of the Cooperative Societies Act. He, however, contends that the impugned order/award passed by the authorities under the Cooperative Societies Act be set aside and the case remanded back to the Additional Registrar (General) Cooperative Societies, Punjab, the appellate authority, for fresh decision in the matter on merits.

Notice of motion was issued in this case but despite service, none has put in appearance on behalf of respondents No. 3 to 5.

I have considered the submissions made by the learned counsel for the petitioner and on going through the records of the case, although

there is delay in filing the appeal and there is no provision for condonation of delay before the appellate authority as well as the revisional authority but keeping in view the peculiar facts and circumstances of the present case and the delay, as has been duly explained by the petitioner in filing the appeal with further steps taken so that such type of delay does not occur in future, the impugned orders dated 15.01.2014 (Annexure P-2) passed by The Additional Registrar (General), Cooperative Societies, Punjab, Chandigarh-respondent No. 2 and order dated 02.03.2015/08.04.2015 (Annexure P-3) passed by The Registrar, Cooperative Societies, Punjab, Chandigarh-respondent No. 1 is, hereby set aside to safeguard the interest of the public money which is ₹48,86,675/- which is alleged to be recovery which has to be effected from the private respondents.

In view of the above, by setting aside the impugned order dated 15.01.2014 (Annexure P-2) and order dated 02.03.2015/08.04.2015 (Annexure P-3), the case is remanded back to the Additional Registrar (General), Cooperative Societies, Punjab, Chandigarh for fresh decision on the appeal on merits by hearing the parties concerned.

December 11, 2019*pj***(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No