

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

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CIVIL WRIT PETITION NO.13823 OF 2018
DATE OF DECISION: APRIL 22, 2019

Subhash Chand and others

.....Petitioners

VERSUS

State of Haryana and others

....Respondents

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

Present: Mr. Satbir Gill, Advocate,
for the petitioners.

Mr. Pradeep Prakash Chahar, DAG, Haryana,
for the State.

Mr. Sharad Choudhary, Advocate,
for respondent No.3.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The petitioners have approached this Court, praying for issuance of a writ of mandamus directing respondent Nos.1 and 2 i.e. State of Haryana and Registrar, Cooperative Societies, Haryana, to initiate action in accordance with law on the enquiry report dated 26.05.2017, Annexure P-7, recommending action under Section 98 of the Haryana Cooperative Societies Act, 1984, on the ground that there has been bungling at the end of the bank and its officials relating to loan being handed over to EMU farmers who had been cheated by the Chairman of M/s Galaxy Agro Foods International, New Mandi, Sirsa-respondent No.4 in collusion and in

connivance with the officials of respondent No.3-the Sirsa Central Co-operative Bank Limited, Sirsa.

Without issuing notice to the respondents, copies were supplied to counsel for the State by this Court vide order dated 12.11.2018 and in pursuance thereof various orders were passed, including the one on 11.02.2019, which reads as under:-

“In pursuance to the order dated 12.11.2018 passed by this Court, short reply of the Additional Registrar, Cooperative Societies (Credit), Sirsa, has been filed in Court. Along with the said affidavit, order dated 17.01.2019 (Annexure R-2/1), which has been passed by the Registrar, Cooperative Societies, Haryana, has also been appended, wherein Shri Manoj Kumar Bansal, Chief Executive Officer, The Haryana State Cooperative Apex Bank Limited, Chandigarh, has been appointed as the Inquiry Office in the complaint, which has been filed by the petitioners.

Learned counsel for the petitioners has referred to the inquiry report of Inspector, Cooperative Societies, Ellenabd-II, who was appointed as an Inquiry Officer on the basis of a complaint submitted by the petitioners to the Chief Executive Officer on 08.04.2017. The inquiry report is dated 26.05.2017 (Annexure P-7), according to which it has been to a great extent found that the allegations of the petitioners that blank forms, and other documents including cheques were got signed from the persons, who were wanting the benefit of loan for raising an Emu Farm, which was never disbursed to them,

whereas they have been forced to face the litigation under Section 138 of the Negotiable Instruments Act at the behest of the bank, which has disbursed the said loan to the Chairman, M/s Galaxy Agro Foods International-respondent No.4, are correct. He, thus, contends that the second inquiry would not be required.

However, further detailed inquiry is held so that the true facts may come out.

Let the inquiry proceed and the Chief Executive Officer, the Haryana State Cooperative Bank Limited, Chandigarh, shall submit the inquiry report within the time as prayed for i.e. 15 days.

Let the inquiry report be also produced in this Court on 05.03.2019.”

In pursuance of the subsequent orders passed by this Court, affidavit of the Additional Registrar (Credit), Cooperative Societies, Haryana, dated 11.04.2019, was taken on record and the following order was passed on the said date:-

“Affidavit of the Additional Registrar (Credit), Cooperative Societies, Haryana has been filed in Court in compliance with the order dated 01.04.2019 passed by this Court. As per the said affidavit, on the basis of the enquiry report, which has been submitted by the Managing Director, The Haryana State Cooperative Apex Bank Ltd., Chandigarh, the competent authority i.e. Additional Registrar has accepted the said report. As per the said report, the loans were sanctioned and

disbursed as per Rules and all the documents of loan files were complete in all respects and no negligence or irregularity was observed on the part of the bank. It has further been stated that in the light of the above, no action is required to be initiated against any bank employee in the present matter. Counsel for the petitioners has been handed over a copy of the enquiry report. He prays for an adjournment. Adjourned to 22.04.2019.”

Counter affidavit to the said enquiry report has been filed in Court by the counsel for the petitioners in which it has been asserted that the enquiry was conducted by the Managing Director of the Haryana Apex Bank Limited, which is the parent bank of Central Cooperative Bank Limited, respondent No.3, against which the allegations have been made and the enquiry has been carried out by the Managing Director of the Bank with an intention to protect the employees of the Bank referred to above and, therefore, the enquiry report is not impartial and is rather biased.

Counsel for the petitioners states that in the light of the earlier enquiry which has been held, it is apparent that there were certain forms which were blank and, therefore, the findings as returned by the Enquiry Officer, cannot be accepted.

Having considered the facts and circumstances of the case this Court is of the considered view that further interference at this stage by this Court is not called for as there are disputed questions of facts which cannot be gone into by this court in exercise of its writ jurisdiction. However, it would be open to the petitioners to avail of their appropriate remedy in accordance with law, including criminal proceedings available to them.

The writ petition stands disposed of with the above observations.

**April 22, 2019
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

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