

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

214

Civil Writ Petition No.26941 of 2016
Date of Decision: April 29th, 2019

The Dhariwal Zamindara Co-operative Marketing Cum Processing Society
Ltd.

...Petitioner

Versus

Punjab State Co-operative Supply and Marketing Federation Ltd.
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Godara, Advocate
for Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Naresh Gopal Sharma, Advocate
for Mr. Mehardeep Singh, Advocate
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 06.10.2016 (Annexure P-3) passed by the Additional Registrar (Admn.), Cooperative Societies, Punjab, vide which the order dated 03.11.2015 (Annexure P-2) passed by the Joint Registrar, Cooperative Societies, Jalandhar, whereby the appeal preferred by the respondents was dismissed for being beyond the period of limitation prescribed under Section 68 of the Punjab Cooperative Societies Act, has been set aside.

2. It is the contention of learned counsel for the petitioner that the impugned order dated 06.10.2016 (Annexure P-3) passed by the Additional Registrar (Administration), Cooperative Societies, Punjab, cannot sustain in the light of the fact that the authorities did not have the power of condone the delay in filing an appeal which is beyond the period of limitation prescribed in Section 68 of the Punjab Cooperative Societies

appeal was beyond the period of limitation, it had no option but to dismiss it because of it being barred by limitation, which has been so done by the Joint Registrar, Cooperative Societies, Jalandhar, vide order dated 03.11.2015 (Annexure P-2). The Additional Registrar while passing the order dated 06.10.2016 has totally ignored this aspect, although referring to the order passed by this Court in LPA No.755 of 2015 titled as Balbir Singh Jammu Versus Financial Commissioner, Cooperation, Punjab and others decided on 13.07.2015. He, therefore, contends that the impugned order deserves to be set aside.

3. Learned counsel for the respondents, on the other hand, asserts that merely because the appeal was beyond the period of limitation, the same could not have been rejected by the Appellate Authority. He further contends that no mention has been made with regard to the merits of the case and the pleas, which have been raised by the respondents before the Appellate Authority. He, however, could not distinguish the judgment which has been passed by the Division Bench of this Court in Balbir Singh Jammu's case (*supra*).

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

5. Section 68 of the Punjab Cooperative Societies Act has been dealt by this Court with reference to the judgment passed by the Supreme Court in *Popat Bahiru Govardhane etc. Versus Special Land Acquisition Officer and another* 2013 (10) SCC 765 and on the basis of the principles laid down therein by the Hon'ble Supreme Court, the Division Bench of this Court in Balbir Singh Jammu's case has proceeded to hold that Section 68 of the Punjab Cooperative Societies Act does not

empower the Appellate Authority to condone the delay beyond the prescribed period. If that be so, any appeal which has been filed beyond the period of limitation before the Appellate Authority against an award passed under the Punjab Cooperative Societies Act, the said appeal cannot be entertained as the same is barred by limitation. The order dated 06.10.2016 (Annexure P-3), therefore, passed by the Additional Registrar (Administration), Cooperative Societies, Punjab, cannot sustain and the same is set aside upholding the order dated 03.11.2015 (Annexure P-2) passed by the Joint Registrar, Cooperative Societies, Jalandhar.

6. The writ petition stands allowed in above terms.

April 29th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No