

CWP-24869-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24869-2018

Date of Decision: 3rd October, 2019

Puncham Residents Welfare Association

...Petitioner

Versus

The Financial Commissioner, Cooperation Department,
Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep K. Sharma, Advocate
for the petitioner.

Mr. T.P.S. Chawla, DAG, Punjab.

Mr. Balwinder Singh Sehra, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner – Puncham Residents Welfare Association has approached this Court praying for issuance of a writ of *mandamus* directing the Financial Commissioner, Cooperation Department, Punjab – respondent No.1 and the Registrar, Cooperative Societies, Punjab – respondent No.2, to take immediate appropriate and necessary action on the enquiry report dated 05.12.2017 (Annexure P-4) submitted by the Joint Registrar, Cooperative Societies, Patiala, in pursuance to the order dated 22.05.2017 passed by this Court in CWP No.28056 of 2013, titled as 'Arvind Kapila & others Vs. State of Punjab & others' (Annexure P-3).

2. Petitioner asserted that on submission of the enquiry report

dated 05.12.2017 (Annexure P-4), no action has been taken by the official respondents as was directed by this Court in the order dated 22.05.2017 (Annexure P-4).

3. Upon notice having been issued to the respondents, an affidavit of the Deputy Registrar, Cooperative Societies, SAS Nagar, dated 30.09.2019, on behalf of respondents No.1 to 3 has been filed in Court. In para 4 of the said affidavit, it has been stated as follows:-

“That on the directions of the office of answering respondent the Society had raised the reference of dispute under sections 55/56 of the Punjab Cooperative Societies Act, 1961 for the recovery of Rs.11,75,48,536/- till 19.06.2018 along with interest @ 15% per annum till realization of the same before Registrar Cooperative Societies Punjab Chandigarh who had transferred the same to Additional Registrar (Admn.) Cooperative Societies Punjab Chandigarh for disposal of the same in accordance with law.”

4. In pursuance to above para 4 of the affidavit, learned counsel for the State as well as respondent No.4 submit that the present writ petition has been rendered infructuous as the arbitration proceedings have been initiated for recovering the amount of ₹ 11,75,48,536/-, as on 19.06.2018 along interest at the rate of 15% per annum till the date of realization of the same.

5. Learned counsel for the petitioner states that the money which

has been alleged to have been siphoned-out, for recovery of which the arbitration proceedings have been initiated, could not have been so done without the active cooperation and involvement of the officials of the Cooperation Department. His contention is that the order which has been passed by this Court in CWP No.28056 of 2013, titled as 'Arvind Kapila & others Vs. State of Punjab & others' (Annexure P-3) did not bar any action to be taken against the officials of the Cooperative Department, who had not performed their duties diligently or had connived with the then office bearers of the society. He contends that the spirit of the order should have been taken into consideration by the Registrar Cooperative Societies, Punjab, while proceeding in the matter further. He, therefore, prays that the Registrar Cooperative Societies, Punjab, may be called upon to take appropriate steps for finding out the involvement, if any, of the officials with the then office bearers of the society who were holding the responsibilities at the relevant time.

6. This prayer made by the learned counsel for the petitioner appears to be reasonable and just and therefore, direction is issued to the Financial Commissioner, Cooperation Department, Punjab – respondent No.1 and the Registrar Cooperative Societies, Punjab – respondent No.2 to look into this aspect especially in the light of the above report of the Joint Registrar Cooperative Societies, Patiala, dated 05.12.2017 (Annexure P-4) and if any involvement of the officers/officials of the Department of Cooperation is found, appropriate action in accordance with law be taken within a period of six months from today and report submitted to the

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Registrar (Judicial) of this Court to be put up before the Court for consideration.

7. The present writ petition stands disposed of with above observations/directions.

8. Copy of this order be sent to the Financial Commissioner, Cooperation Department, Punjab – respondent No.1 and the Registrar Cooperative Societies, Punjab – respondent No.2 for information and compliance forthwith by the Registry.

(AUGUSTINE GEORGE MASIH)
JUDGE

3rd October, 2019
Harish

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