

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

**CWP No.26520 of 2018 (O&M)**

**Date of decision:30.09.2019**

Bal Kishan and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Aman Pal, Advocate  
for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Pardeep Solath, Advocate  
for respondent no.4.

Mr. Jawahar Lal Goyal, Advocate and  
Mr. Vivek Aggarwal, Advocate  
for respondent no.5.

**AMIT RAWAL J. (Oral)**

Petitioners three in number have challenged order dated 14.09.2018 (Annexure P-14) vide which respondent no.2 accepted the appeal filed by respondent no.5 and set aside the order dated 03.07.2017 (Annexure P-9).

The facts which emanate from the pleadings of the parties are that General Body of respondent no.4-Society known as 'The Kamoda Cooperative Credit and Service Society Limited, Kamoda, Tehsil Pehowa, District Kurukshetra, vide resolution No.2 dated 10.08.2016 appointed petitioners no.1 and 3 on the posts of Salesman and Peon, respectively on

contract basis on D.C rates, whereas, vide resolution no.2 dated 26.08.2016, appointed petitioner no.2 (Annexures P-1 and P-2).

Before aforementioned resolution could be passed, General Body prior in time vide resolution dated 11.07.2016 sought approval of respondent no.3 i.e. Deputy Registrar, Cooperative Societies, Kurukshetra vide decision dated 20.07.2016 and 09.08.2016 (Annexures P-3 and P-4) accorded the approval and since then, as per the averments, petitioners have been discharging the duties. However, vide order dated 25.10.2016 (Annexure P-5), Deputy Registrar, Cooperative Societies, Kurukshetra rescinded the resolution dated 10.08.2016 taking the petitioners on the payroll of Society. Aggrieved against the aforementioned order, petitioners as per the provisions of Section 114 of Haryana Cooperative Societies Act, 1984 (for short "1984 Act") preferred an appeal before respondent no.2-Registrar Cooperative Society. Vide order dated 22.11.2016 (Annexure P-7), the matter was remanded to respondent no.3. On remand, order was recalled and the resolution dated 10.08.2016 was affirmed vide order dated 03.07.2017 (Annexure P-9). Society-respondent No.4 preferred an appeal No.41 of 2017 against the aforementioned order (Annexure P-10). Intriguingly respondent No.4-Ruda Ram claiming himself to be Member of Society also preferred an appeal (Annexure P-11). During pendency of two aforementioned appeals, Society filed an application for withdrawal of appeal which was allowed vide order dated 20.09.2018 (Annexure P-13) but appeal of respondent No.4 despite having taken objection qua maintainability and *locus standi* according to submission of Mr. Aman Pal,

Advocate has been allowed on the premise that General Body could not have passed the resolution.

Mr. Aman Pal, learned counsel appearing on behalf of the petitioners submits that though Managing Body has taken the petitioners on payroll w.e.f. 01.09.2019 as per the reply of Society but fact of matter is that order is bereft of objections taken qua maintainability of appeal as well as locus standi. Single member cannot avail the remedy of appeal as there is no provision under Section 114 of 1984 Act.

Per contra, Mr. Pardeep Solath, learned counsel appearing on behalf of respondent no.4 does not dispute the withdrawal of appeal preferred by Society vide order dated 20.09.2018 and as well as assumption of powers of Managing Body w.e.f. 08.09.2019.

Mr. Jawahar Lal Goyal and Mr. Vivek Aggarwal, learned counsel appearing on behalf of respondent no.5 submits that Society was suffering from financial crisis and persons while staking claim, was not on the payroll, therefore, there was mis-representation which gave cause to his client Rudh Ram, Member of Society to file an appeal. The petitioners do not have any requisite qualifications and there was emphatic bar vide notification dated 12.08.2013 (Annexure R-1) for recruitment, therefore, sanction of Deputy Registrar for appointment was bad in law as the entire process amounts to back door entry without following the proper procedure.

I have heard learned counsel for parties, appraised paper book and of view that it is a fit case where writ petition is liable to be allowed.

It is a matter of record that after the decision of appeal preferred by respondent no.5, Society-respondent no.4 withdrew the appeal. Resolution to withdraw the appeal at page 76 of paper book is dated 23.05.2018. For the sake of brevity, statement of counsel for Society reads as under:-

*“Sh. Pardeep Solath, counsel for appellant Society appeared and presented an application dated 20.09.2018 submitted by Sh. Shish Pal President of the General Body Meeting dated 23.05.2018. The applicant stated in his application that he do not want to pursue the present appeal and he wants to withdraw the same in view of resolution dated 23.05.2018 passed by the General Body Meeting of the Kamoda CCS Limited. The application also supported with affidavit duly attested by Notary and a copy of resolution dated 23.05.2018 is also attached with the application.*

*In view of the above, the request made by the applicant Society mentioned above, the present appal is hereby dismissed as withdrawn. Announced today in open Court. The file be consigned to the record room.*

*Sd/-*

*RCS*

*20.09.2018”*

Section 114 of 1984 Act do not envisage remedy of appeal to by any person, the expression “any person” is conspicuously wanting. It is

only the affected party or parties to the lis could have availed remedy. Even otherwise, single Member's grievance could not be entertained except service matter, i.e. as per the provisions of Section 102 of 1984 Act.

As far as majority of Members i.e.  $\frac{1}{4}$  having dispute with regard to working and management or financial position of the Society by passing a resolution, by majority of  $\frac{1}{3}$  can submit a complaint to the Registrar who has powers. Sub-section (1) of Section 98 of 1984 Act, reads as under:-

**98. Inquiry by Registrar:-**

*(1) The Registrar may on his own motion or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a society”*

Even if the Member wants to become a whistle blower being not a party to the lis, memo of party of appeal (dispute arising out of decision dated 25.10.2016) Annexure P-6, reads as under:-

- “1. Bal Krishan son of Amolak Ram resident of village Kamoda, District Kurukshetra.*
- 2. Ramesh Chand son of Sardar Ram resident of village Kamoda, District Kurukshetra.*
- 3. Sumeet Kumar son of Mahendra Singh resident of village Kamoda, District Kurukshetra.*

*...Appellants*

*Vs.*

- 1. Deputy Registrar, Cooperative Societies, Kurukshetra, Haryana.*
- 2. Kamoda Cooperative Debt and Service Committee Limited, Kurukshetra.*

*...Respondents”*

Even from the perusal of memo of parties of appeal preferred by Society, name of respondent no.5 is not reflected, which reads thus:-

*“The Kamoda CCS Limited Kamoda District Kurukshetra through its Prabandhak*

*.....Appellant*

- 1. Deputy Registrar, Cooperative Societies, Kurukshetra*
- 2. Bal Krishan son of Sh. Amolkh Ram working as Salesman, The Kamoda CCS Limited Kamoda, District Kurukshetra.*
- 3. Sumit Kumar son of Sh. Mohinder Singh working as Clerk, The Kamoda CCS Limited Kamoda, District Kurukshetra.*
- 4. Ramesh Chand son of Sh. Sardara Ram working as Peon, The Kamoda CCS Limited Kamoda, District Kurukshetra.*

*...Respondents”*

In such circumstances, I am of the view that impugned order passed by the Registrar is not sustainable on account of locus standi and maintainability of appeal.

The impugned order is set aside and writ petition is allowed. This order will not prevent the Managing Committee to take decision qua retention of petitioners at their own level in accordance with bye-laws.

(AMIT RAWAL)  
JUDGE

September 30, 2019  
savita  
Whether Speaking/Reasoned  
Whether Reportable

Yes/No  
Yes/No