

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9355-2015 (O&M)

Date of Decision: 05.09.2019

Kaur Singh

... Petitioner

vs.

Financial Commissioner and Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. N.P.S.Mann, Advocate
for the petitioner.

Mr. P.S.Bajwa, Additional Advocate General, Punjab.

Mr. Balwinder Singh Sehra, Advocate
for respondent No.3.

ARUN MONGA, J.

Inter alia, issuance of a writ in the nature of *certiorari* has been sought herein to quash impugned order dated 12.09.2013 (Annexure P-9) passed by respondent No.1-Financial Commissioner, Department of Cooperation, Government of Punjab (Revisional Authority). Vide the said revisional order, orders dated 05.11.2007 and 05.05.2011 (Annexures P-7 and P-8, respectively) passed by Assistant Registrar, Cooperative Societies, Dera Bassi and Additional Registrar (C) Cooperative Societies, Punjab, Chandigarh, have been set aside and a consequence thereof, award dated 21.06.2002 (Annexure P-4), rendered by the Arbitrator in the arbitration proceedings, initiated under Sections 55/56 of Punjab Cooperative Societies Act, 1961, has been restored, vide which, it was held that Resolution dated 01.06.1992 was passed without taking necessary permission from the Registrar, Cooperative Societies.

2. In the return filed on behalf of the respondent(s)-Society, dismissal of the petition has been sought on the ground that the very initial Resolution dated 01.06.1992 was got recorded by the Society in connivance with the petitioner and officials of the Society without taking any prior approval from the office of Registrar Cooperative Societies. There is nothing available on record to show that prior approval was obtained before passing of the said Resolution.

3. I have heard the rival contentions of the learned counsels and have perused the pleadings alongwith the relevant record and I am of the view that the writ petition is devoid of any merit and accordingly, no interference is called for by this Court in extraordinary writ jurisdiction vested under Article 226 of Constitution of India.

4. Conceded position that emerges on conjoint perusal of pleadings and the record appended therewith is that no notice was issued to the Committee Members of the Society before passing aforesaid Resolution dated 01.06.1992 which is mandatory, as per Punjab Cooperative Societies Rules framed under the Punjab Cooperative Societies Act. Relevant Rule 80 (i) of Punjab Cooperative Societies Rules is reproduced herein below:

“Special Rule- Notwithstanding anything contained in these rules, the procedure contained in this rule shall apply to a co-operative society whose working capital exceeds Rs.50,000.

(i) At least fifteen days' clear notice, specifying the date, place, time and agenda for a meeting of a general body/committee and at least seven days' clear notice for a meeting of any smaller body set up by either of them, whether convened by the Registrar, the President or otherwise, shall be given to all the members of the general body/committee or smaller body, as the case

may be:

Provided that a shorter notice may be given to all the members of the general body/committee or smaller body, as the case may be, with the permission of the Registrar or under his direction.

(i-a) The Registrar may, of his own motion or on a reference made to him, declare the proceedings of the meeting referred to in clause (i) as invalid, if he is satisfied that the meeting was held without proper notice or without all the members having received the notice for the meeting or if the meeting was not conducted at the appropriate place and time.

(ii) XXXXX

(iii) XXXXX”

5. The aforesaid Rule clearly reflects that it is mandatorily required on the part of the Society to issue notice to all its Members prior to passing of any Resolution.

6. Even otherwise, each primary cooperative agriculture service Society is an independent society. Being a separate legal entity, appointee of another primary agriculture service society cannot stake claim in another primary agriculture service society on the ground of his previous service rendered therein. Accordingly, claim of the petitioner to seek appointment in respondent No.3-Society is to be treated as a fresh claim and he could not have been given the benefit of continuity on the ground of having rendered service in another society in the past.

7. Petitioner's appointment was by way of a fresh selection and, therefore, the benefits conferred on him by aforesaid Resolution dated 01.06.1992 were rightly held to be not in accordance with law by an award dated 21.06.2002 (Annexure P-4) rendered by the Arbitrator, particularly, in view of the fact that no prior sanction of the said Resolution was sought

from the Office of Registrar Cooperative Societies.

8. In the aforesaid premise, writ petition is dismissed being devoid of any merit.
9. No order as to costs.
10. Pending miscellaneous application(s), if any, also stands disposed of.

05.09.2019
smriti

(ARUN MONGA)
JUDGE

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