

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

**CWP-20052-2013 (O&M)
Date of Decision: 19.08.2019.**

Satish Chander

... Petitioner

vs.

**Punjab State Cooperative Milk Producers Federation Ltd & Ors
.. Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. H.S.Dhindsa, Advocate, for the petitioner.

Mr. Ashwani Prashar, Advocate
for the respondent No.1 and 2.

None for respondent No.3.

ARUN MONGA, J.(ORAL)

Grievance of the petitioner is that he was not considered for promotion to the post of Deputy Manager (Engineering) despite his being the senior most Junior Engineer working with respondent No.2-Hoshiarpur District Cooperative Milk Producers Limited.

2. In the return filed by respondent No.2, at the very threshold, an objection was taken that the writ petition is not maintainable against answering respondent, as it is neither the state nor an instrumentality thereof, as envisaged under Article 12 of Constitution of India. On merits, it has been specifically averred that the petitioner was not eligible to the post of Deputy Manager (Engineering) and, therefore, the contention that he be promoted on the same, is not tenable, particularly, in view of the fact that

his candidature was considered at the time of finding a suitable candidate for the said post and was rejected.

3. Learned counsel for respondents No. 1 and 2 points out that alongwith his return, he has also appended the appointment letter dated 23.02.2013 whereby one Mr Hazoor Singh was appointed to the post of Deputy Manager (Engineering) by way of direct recruitment. He submits that notwithstanding, the said appointment has not been challenged by the petitioner till date.

4. Be that as it may, without adverting to the merits of the case and keeping in view that despite ample opportunity, no satisfactory response has been given by the petitioner to the preliminary objection that the writ petition is not maintainable against respondent No.2. In fact, order sheet reflects that learned counsel for the petitioner has been seeking repeated adjournment on one ground or the other to argue the case.

5. It seems that the reliance placed by respondent No.2 on a Division Bench judgment rendered by this Court in the case of **K.L.Arora and others vs. Registrar, Cooperative Societies, Punjab and others** reported as **2009 (4) RSJ, 735**, is misplaced in view of the fact that the same is distinguishable on the point of contribution of share money by the State of Punjab in the respective Cooperative Unions/Societies as in the case of respondent No.2 herein.

6. In fact, I am in respectful agreement with my learned brother **Rajiv Narain Raina, J** while interpreting the scope of Division Bench judgment in **K.L.Arora's** case (supra) in a later judgment rendered by him vide his decision dated 27.01.2012, titled as ***The Mann Sons Milk Producers Cooperative Society Limited vs. State of Punjab and others***,

wherein, he opined as below:

“In view of the various decisions of the Hon'ble Supreme Court and of this Court, as noticed here-in-above, this Court is of the considered view that the respondent-Faridkot District Cooperative Milk Producers Union Ltd. is not a public authority nor is it amenable to writ jurisdiction. The writ petition is consequently dismissed.”

7. In the present case also, it is the specific stand of respondent No.2 that he does not perform any sovereign functions. Share money of the State Government in the respondent No.2 is NIL. The State Government does not have either deep or pervasive control over the affairs of the Union/respondent No.2.

8. In this background, learned counsel for respondent No.2 also relies on a judgment rendered by Hon'ble Apex Court in case titled **General Manager, Kisan Sahkari Chini Mills Ltd., Sultanput, U.P. vs. Satrughan Nishad and others**, reported as **2003 (8) SC, 235**, wherein it has been held that even if share money of the Government is 50% and Government nominates three directors on the Board and appoints a person to be the Managing Director, even then the writ petition is not maintainable against the cooperative society. He further submits that the above view of Hon'ble Apex Court has been reiterated in the later judgment titled as **S.S.Rana vs. Registrar, Cooperative Societies and another**, reported as **JT 2006 (5) SC 186**, which has also been followed by this Court in case titled as **Som Nath and others vs. The Deputy Registrar Cooperative Societies, Hoshiarpur and others**, reported as **2012 (4) PLR, 262**.

9. In the aforesaid premise, the writ petition is dismissed as not maintainable against respondent No.2 and since no relief is claimed against

respondent No.1, therefore, no interference is called for in extraordinary writ jurisdiction under Article 226 of the Constitution of India. However, the petitioner is at liberty to pursue his other appropriate remedy, if so advised.

11. No order as to costs.

19.08.2019.
smriti

(ARUN MONGA)
JUDGE

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