

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

CWP No. 849 of 2020 (O & M)

Date of decision: 13.03.2020

Nazar Singh

....Petitioner(s)

Versus

Registrar, Cooperative Societies, Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Surinder Gandhi, Advocate,
for the petitioner.

Ms. Maloo Chahal, DAG, Punjab.

Mr. Ashwani Prashar, Advocate,
for respondent nos. 4 to 7.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order dated 27.09.2019 (Annexure P-5) which was passed by the Deputy Registrar while exercising the powers of the Registrar, Cooperative Societies. The petitioner has been dismissed from the Committee's Membership on the ground that upto the date of the issuance of the show cause notice, the instructions have not been followed.

A perusal of the paper book would go on to show that initially the petitioner had been suspended while issuing show cause notice also on 03.07.2019 from the post of the President of the Mohali Employees Cooperative House Building Societies Ltd., Mohali under Section 27(2) of the Punjab Cooperative Societies Act, 1961 on the ground that one Paramjit

Singh, an employee of the society was in possession of a recreation room and was residing in the Society's office. In reply to the show cause notice dated 17.07.2019 (Annexure P-2), the explanation was given as to how the said employee was in occupation on account of the meager pay being given to him and that he was Incharge of various duties of the society. A specific plea was taken that in view of the orders of the Inspector, Mohali, the office had been got vacated from the said employee which had been also checked by the Inspector. The relevant portion reads thus:-

“In spite of aforesaid circumstances, in accordance with the orders of the Inspector, Mohali, who is (Incharge) Inspector of our society, we got vacated the office of the Society from Shri Paramjit Singh, Supervisor and also got checked the same by the Inspector Sahib.”

In spite of that the impugned order had been passed even though noting that reply has been submitted but the same was never considered. Resultantly, the petitioner had been dismissed from the Committee's Membership of respondent no. 4. The specific case of the petitioner is that the reply was not taken into consideration.

As noticed above, the occupation of the society premises by the employee had been got vacated and as such the ground never existed when the order was passed. Even in the reply filed by the Assistant Registrar now, the plea taken is that the petitioner was in hand in glove with Paramjit Singh and it was never the intention of the petitioner to get the office of the Society vacated from the Supervisor.

Thus, it is apparent that the respondents have not applied their mind to the facts and circumstances of the case while passing the impugned

order. The basis on which the show cause notice was issued no longer subsisted and, therefore, the order of suspension and the order of removal is not justified.

An objection has been raised by Mr. Prashar that there is an alternative statutory remedy available to the petitioner.

It is settled principle that the extra ordinary writ jurisdiction can be invoked to remove injustice and misuse of power, which is apparent in the present case as an elected representative has been divested of his responsibility. Accordingly, the objection raised is misconceived and ill founded.

Accordingly, the order dated 27.09.2019 (Annexure P-5) is quashed qua the petitioner and the writ petition stands allowed.

13.03.2020
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No