

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

109

CWP-8148-2020

Date of decision: 17.06.2020

Sultan Singh

.....Petitioner

Versus

Registrar, Cooperative Societies, Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajeev Sharma, Advocate
 for the petitioner.

ARUN KUMAR TYAGI, J. (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present writ under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the impugned letter dated 03.06.2020 (Annexure P-8) whereby respondent No. 2- the Assistant Registrar, Cooperative Societies, Kurukshetra has prepared surcharge case under Section 101(1) of the Haryana Co-operative Societies Act, 1984 against the petitioner for recovery of amount of Rs. 5,91,195/- and also for quashing the impugned report dated 19.05.2020 (Annexure P-7) submitted by respondent No. 3- the Inspector, Cooperative Societies, Kurukshetra-II, District Kurukshetra on the basis of which the impugned order dated 03.06.2020 (Annexure P-8) has been passed.

I have heard learned Counsel for the petitioner who has reiterated factual submissions made in the petition.

In the present case, respondent No. 3 vide letter dated 19.05.2020 (Annexure P-7) submitted report to respondent No. 2 that amount of Rs. 5,91,195/- is recoverable from the petitioner and proceedings under Section 101(1) of the Haryana Co-operative Societies Act, 1984 may be initiated against him. Respondent No. 2

sent letter dated 03.06.2020 (Annexure P-8) to the petitioner that respondent No. 2 has prepared surcharge case against him as per Audit report dated 31.03.2019 which is to be heard on 18.06.2020 at 11.00 AM and accordingly asked the petitioner to submit his plea in respect of surcharge case on the fixed date, time and place.

Section 101 of the Haryana Co-operative Societies Act, 1984 reads as under :-

101. Surcharge (1) If it comes to the notice of the Registrar that any person who is or was entrusted with the organization or management of a co-operative society or who is or has at any time been a member of the committee, officer or an employee of the society, had made any payment contrary to this Act, the rules or bye-laws or has caused any deficiency in the assets of the society by misconduct or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to the society or has caused losses, or depleted profits of the society ignoring diligence of ordinary man of prudence or by acting against the interest of the society, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, enquire himself or direct any person authorized by him by an order in writing in this behalf to enquire into the conduct of such person. (2) Where an enquiry is made under sub-section (1), the Registrar may after giving the person concerned an opportunity of being heard, make an order in writing requiring him to repay or restore the money or property or any part thereof with interest at such rate, or to pay contribution and costs or compensation to such extent as the Registrar may consider just and equitable: [Provided that no surcharge proceedings shall be initiated under this section in respect of any act or omission in respect of a person against whom an enquiry is made except within five years of the date on which such act or omission was

committed. However, any proceedings pending under this section in any court or before any authority shall continue as if the provisions of the Haryana Cooperative Societies (Amendment) Act, 2006, were not passed.

In the present case, equally efficacious remedy is available to the petitioner of filing reply/objections before respondent No. 2 who will be bound to dispose of surcharge case by considering the reply filed/objections raised by the petitioner and granting opportunity of being heard to him. In case the petitioner feels aggrieved from the order passed by respondent No. 2, the petitioner has the remedy of filing appeal against the same under Section 114 (1) (j) of the Haryana Co-operative Societies Act, 1984.

Since, equally efficacious remedy is available to the petitioner the present writ petition is not maintainable. Accordingly, the present writ petition is disposed of with liberty to the petitioner to raise all objections before respondent No. 2 – the Assistant Registrar, Cooperative Societies, Kurukshetra who shall dispose of the same after giving him appropriate opportunity of being heard.

17.06.2020

kavneet singh

**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No