

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

CWP-8958-2020 (O&M)
Date of decision: 07.07.2020

Bhupinder Singh

...Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Harit Sharma, Advocate for the petitioner.

Mr. Suveer Sheokand, Addl. AG Punjab.

Ms. Sukhmani Patwalia, Advocate for respondent No. 6.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Prayer in the present petition under Article 226/227 of the Constitution is for issuance of a writ in the nature of certiorari or any other writ, order or direction, and for quashing the impugned order dated 16.06.2020 (Anneuxre P-8) passed by respondent No. 3 removing the petitioner from the post of Chairman, Ludhiana District Cooperative Milk Producers' Union Ltd., Ludhiana, under Section 24(1) of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as 'the Act').

Learned counsel for the petitioner specifically states that Bye Law 44 framed under the Act, stipulates that it is the General Manager, who has to call the meeting of the Board of Directors and the General Body and to prepare the balance-sheet. He prepared the balance-sheet and the meeting was to be held upto 30.09.2019 and 21.10.2019. A common meeting was called in the year 2020 and more members were added to the meeting in

March, 2020 after which pandemic Covid-19 situation came into force.

As regards the alternative remedy, learned counsel for the petitioner relies upon a Full Bench judgment of this Court in CWP-4922-1989, titled as 'Jasbir Singh and others Vs. Commissioner (Appeals) Jalandhar Division and others', decided on 14.07.2011, wherein the following directions were issued:

“In view of the above discussion, we reach to the following conclusion:-

(i) The State Government or the Registrar under Section 69 of the Punjab Act and the State Government under Section 115 of the Haryana Act can exercise its suo motu revisional jurisdiction on the application made by an aggrieved person, whether he is or not a party to the reference.

(ii) The remedy of revision is barred only in case where appeal against the impugned order lies under Section 68 of the Punjab Act or under Section 114 of the Haryana Act.

(iii) The remedy of revision is not barred in those cases where aggrieved person has a right of appeal under the Statutory Service Rules or Common Cadre Rules. An aggrieved party can challenge the order of Registrar or Deputy Registrar passed as an Appellate Authority under the Statutory Rules or Common Cadre Rules by filing a revision under Section 69 of the Punjab Act or under Section 115 of the Haryana Act as no remedy of appeal has been provided under Section 68 of the Punjab Act or under Section 114 of the Haryana Act against such order. But, if the appellate order is passed by the official of the Society and not by the Registrar or Deputy Registrar of the Co-operative Society, no revision is maintainable against such an order. The revision is maintainable only against the order passed by the authority under the Act or

a proceeding arising out of the Act and the Rules framed thereunder.

(iv) The remedy of revision either suo motu or otherwise cannot be invoked against an order passed by the Society. The said power can be exercised against the decision or order passed by the authority under the Act or a proceeding arising out of the Act or the Rules framed there-under.

(v) The suo motu power of revision cannot be exercised by the State Government or the Registrar, as the case may be, where a revision under Section 69 of the Punjab Act or under Section 115 of the Haryana Act itself is not maintainable either on the ground that against the impugned order an appeal has been provided under Section 68 of the Punjab Act or under Section 114 of the Haryana Act or on any other ground. In case the Government or the Registrar, as the case may be, exercise suo motu power of revision on the application of an aggrieved party or otherwise, it must be specifically so stated in the order itself.”

Learned counsel for the petitioner further states that the President, Madanpura Society has not summoned the general body meeting for the last many years. Instead CWP-12138-2019, titled as as '**Iqbal Singh Oberoi Vs. State of Punjab**', was filed for holding an inquiry into the affairs of Society as there were many other allegations. This Court, vide order dated 08.05.2019, disposed of the above said writ petition with a direction to the Registrar, Cooperative Societies to decide the representation of the petitioner therein within a period of three months.

Learned State counsel states that the present petition is not maintainable, as other alternative remedies are available to the petitioner.

The impugned order was passed on 16.06.2020 and thereafter, two meetings

were held, but the petitioner did not fix any date, place and time for the meeting to place on record the balance-sheet. He further states that as per Section 24 of the Act, if the Chairman fails to hold the meeting, the Registrar, Cooperative Societies is competent to remove him and that the order impugned in the present petition is perfectly legal and valid.

Learned counsel for respondent No. 6 states that the impugned order was passed on 16.06.2020 and the meeting is already fixed and that the petitioner has come to this Court after a considerable long time, to delay the meeting proceedings. She further states that as per Bye Law 42, it is the Chairman, who has the general control over the Union.

Learned counsel for the petitioner submits that Section 24 of the Act is directory in nature and not mandatory and, therefore, it cannot be said that the present petition is not maintainable.

In view of the above, this Court deems it appropriate to relegate the petitioner to approach the appropriate authority by way of filing the revision petition alongwith the stay application against the impugned order dated 16.06.2020, on or before 10.07.2020. On his doing so, the Revisional Authority shall consider the stay application on or before 17.07.2020.

Since the meeting is stated to be scheduled for 08.07.2020, it is directed that the same shall now be held on 04.08.2020 after giving 15 days prior notice.

Disposed of in the aforementioned terms.

(HARNARESH SINGH GILL)
JUDGE

07.07.2020

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No