

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9677-2020(O&M)

Date of decision: 17.07.2020

Amarjeet

.....Petitioner

Versus

State of Haryana and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Virender Singh, Advocate for the petitioner
Mr. Pawan Kumar, Advocate for respondent No.5

ANIL KSHETARPAL, J. (ORAL)

The petitioner has filed writ petition under Article 226/227
of the Constitution of India with following caption:-

“Civil Writ petition under Article
226/227 of the Constitution of India for the issuance
of a writ in the nature of Certiorari/Mandamus to
direct the respondents to conduct election of the
Karnal sugar Mill Cooperative Society as per
Cooperative Societies Act, 1994 and rules and Bye-
laws.

or/and

Further direct the respondents to amend
the voting lists and remove the names of the members
have already died as per rules and bye-laws of
Cooperative Society's Act, 1984.

or/and

Further direct the respondents to reschedule the elections of Karnal Sugar Mill Cooperative Society due to Hazardous health risk of the global pandemic covid-19 and further stay the elections process during the pendency of this writ petition or to issue any other writ order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

This Court has extracted the caption because the relief clause is not in consonance with the caption.

Be that as it may. The petitioner claims that he is an active member of Karnal Sugar Mill Cooperative Society Limited and elections for the members(Directors) of the Board of Directors of Karnal Sugar Mill Cooperative Society Limited are going to be held on 19.7.2020. The petitioner further claims that pursuant to the objections invited, he did submit objections but respondents have refused to take any remedial action. The respondents have also refused to hear the petitioner.

On notice issued, the respondent no.5 has filed reply pointing out that the objections filed by the petitioner were rejected in the meeting of the Zonal Committee held on 23.12.2019 and the order was communicated to the petitioner vide letter dated 3.1.2020. It has further been pointed out that in view of sub Section 2 of Section 28, the election process once started shall not be postponed and disputes, if any, pertaining to the election shall be entertained after the completion of the election process. In this case, notice inviting objections was published in

two newspaper on 12.11.2019 and since the objections filed by the petitioner were rejected, therefore, the writ petition is liable to be dismissed on the ground of delay.

This Court has considered the submissions of the learned counsel for the parties and with their able assistance gone through the paper book. From the reading of the writ petition, it is apparent that the petitioner has not disclosed that the objections filed by him have already been decided by the Zonal Committee on 23.12.2019 and the decision thereon was communicated to him vide letter dated 3.1.2020. He has not taken a stand that the aforesaid communication was never received. The election process started with the notice i.e Annexure P-1 dated 18.6.2020 whereby the election program was notified. It was notified that the nomination papers can be submitted on 7.7.2020 between 10 am to 3 p.m whereas the voting, if necessary, would take place on 19.7.2020. The present writ petition was filed on 9.7.2020. There is no explanation as to why the petitioner did not file the writ petition immediately on receipt of communication rejecting his objection petition in the month of January, 2020.

The Constitution of India was amended by the Constitution (97th Amendment) Act, 2011 while adding part IX-B dedicating a separate Chapter on the Cooperative Societies. Article 243 ZK provides that the election of a Board shall be conducted before the expiry of the term of the Board so as to ensure that the newly elected members of the Board assume office immediately on the expiry of terms of office of members of the outgoing Board. It has been pointed out that the term of outgoing

members is going to expire.

Keeping in view the aforesaid facts, the present writ petition is dismissed solely on the ground of delay and latches with liberty to the petitioner to avail the remedy (remedies) available under the Act after the elections.

With these observations, the writ petition is disposed of.

17.07.2020	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No