

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

**CWP No.11196 of 2020
Reserved on: 07.04.2021
Pronounced on: 07.05.2021**

Dilbagh Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Harbans Lal Sharma, Advocate for the petitioner.

Ms. Anu Pal, DAG, Punjab, for respondents No.1 to 5.

Mr. G.S. Lalli, Advocate for respondents No7 & 8.

(The proceedings have been conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J.

Challenge in the present writ petition filed under Article 226 of the Constitution of India is to the order dated 02.06.2020 (Annexure P-7), whereby the respondent No.3-Joint Registrar, Cooperative Societies, Patiala, set aside the order dated 17.12.2018 (Annexure P-3) passed by the Deputy Registrar, Barnala. Further direction as such is sought to record the petitioner as nominee of his brother Major Singh in the record of respondent No.6-Society and to grant him all consequential benefits.

2. While passing the impugned order and allowing the appeal of the father and son namely Major Singh and Jagseer Singh, it was noticed that the father had changed his nominee during his lifetime by submitting an application to the Society and, thus, there was no need of any notice or agenda of 15 days to be issued.

3. Counsel for the petitioner has, thus, contended that as per Rule 80 of the Punjab Cooperative Societies Rules, 1963 (for short '1963 Rules')

a 15 days clear notice had to be granted, specifying the date, place, time and agenda for the meeting of the General Body and 7 days clear notice was required for a meeting of smaller body set up and in the absence of any such notice having been issued, the resolution passed on 18.05.2018 had been rightly set aside by the Deputy Registrar on 17.12.2018 (Annexure P-3). It is submitted that the Managing Committee had been given the occasion to reconsider the case after completing the legal formalities and the order was wrongly interfered with by respondent No.3.

4. In the opinion of this Court, the argument is misplaced in as much as the petitioner is the brother of deceased respondent No.7-Major Singh who had at one point of time nominated him as his nominee. On the basis of Rule 19 of 1963 Rules, he had applied to the respondent-Society that he wanted to change his nominee in favour of his son. Relevant part of Rule 19 reads as under:-

“19. (1) **Nomination of heir** (s. 85 (2) (xx) (1)- Every member of co-operative society shall nominate a person or persons to whom his share or interest referred to in Section 21 or such sums out of share or interest as may be specified by the member, shall on the death of the member, be transferred or paid as laid down in the bye-laws.

(2) Such nomination may, from time to time, be revoked or modified by the member.”

5. It is on this basis the Managing Committee had accepted his request of change of nomination in favour of respondent No.8 and passed the necessary resolution on 18.05.2018 (Annexure P-1/A). The same had

been challenged on the ground that the petitioner had not been given any notice and the same had been passed illegally. The said petition under Section 55/56 of the Punjab Cooperative Societies Act, 1961 had been allowed by the Deputy Registrar, Barnala on the ground that notice had not been issued and the proceedings are liable to be set aside. It is not disputed that it is not the case of the original member of the Society that nomination has wrongly been changed at his back.

6. Nothing as such had been brought on record to show that the petitioner had any vested right as such and if Major Singh is wanted to nominate his son Jagseer Singh as nominee, he could not do so. The petitioner-brother has no locus-standi as such to oppose the said change in the nomination. Major Singh as noticed had filed the appeal alongwith his son which had been rightly allowed by the Joint Registrar vide impugned order dated 02.06.2020 (Annexure P-7), on the ground that in view of peculiar facts no notice was required and there was no need to issue the same.

7. The reasoning as such of the Appellate Authority in the opinion of this Court is well justified, keeping in view the fact that as per Rule 19 it is open to the Member to nominate a person regarding his share or interest, which is to be transferred on the death of the Member. As per Rule 19 (2), the nomination is liable to be revoked or modified by the concerned Member and the nominee has no indefeasible right as such to continue as a nominee. There is no such provision under the Rules that for the change of the nomination, the said nominee is to be intimated

before and thus, in such circumstances the fall back on Rule 80 is without any basis, as Rule 19 specifically talks about the rights of the nominee.

8. Keeping in view the above discussion, this Court is of the opinion that no case is made out to interfere in the well reasoned order passed by the Appellate Authority allowing the appeal of the father and son. Resultantly, there is no merit in the present writ petition and the same is dismissed.

07.05.2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No