

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
115 (PROCEEDINGS THROUGH V.C.)**

**LPA-865-2021 &
CM-2084-LPA-2021**

Date of decision: 30.11.2021

DILBAGH SINGH

...APPELLANT

VERSUS

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Harbans Sharma, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J.

LPA-865-2021

Challenge in this appeal is to the order dated 07.05.2021 passed by the learned Single Judge in a writ petition preferred by the appellant challenging the order dated 02.06.2020 (Annexure P-7) passed by The Joint Registrar, Cooperative Societies, Patiala-respondent No. 3 setting aside the order dated 17.12.2018 (Annexure P-3) passed by The Deputy Registrar, Cooperative Societies, Barnala-respondent No. 4, whereby petition under Section 55/56 of the Punjab Cooperative Societies Act, 1961 preferred by the appellant challenging the resolution dated 18.05.2018 (Annexure P-1-A) passed by The Jangiana Scheduled Caste Cooperative Land Owning Society Ltd., Jangiana-respondent No. 6 permitting the replacement of the name of the appellant as nominee of Major Singh son of Jugla Singh, younger brother of the appellant, to that of his own son, namely, Jagseer Singh son of Major Singh, was allowed.

2. The challenge to the said order of The Joint Registrar,

Cooperative Societies, Patiala-respondent No. 3 in the writ petition was based upon the assertion that a well reasoned order passed by The Deputy Registrar, Cooperative Societies, Barnala-respondent No. 4 had been set aside ignoring the finding that the nomination has been changed in violation of Rule 80 of the Punjab Cooperative Societies Rules, 1963 (hereinafter referred to as '1963 Rules'), which mandated clear notice to the members specifying the date, place, time and agenda for the meeting of a general body/committee and at least 7 days clear notice for meeting of any smaller body set up by either of them whether convened by the Registrar, President or otherwise. It was further asserted that the notice was mandated to be given to all the members of general body/committee or the smaller body, as the case may be, which having not been done, rendered the resolution impugned unsustainable.

3. Learned counsel for the appellant has submitted that the learned Single Judge has totally ignored the requirement of Rule 80 of the 1963 Rules where a specific procedure has been provided for calling for the meeting. Since the mandate has not been fulfilled, The Deputy Registrar has rightly proceeded to set aside the resolution dated 18.05.2018. Interference in the said order by the Appellate Authority i.e. The Joint Registrar, Cooperative Societies, Patiala vide order dated 02.06.2020 (Annexure P-7) is, thus, unsustainable.

4. We have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgment passed by the learned Single Judge but do not find ourselves in agreement with the contentions of the counsel for the appellant.

5. It is an admitted fact that Major Singh son of Jugla Singh-

respondent No. 7, who is younger brother of the appellant, is the member of The Jangiana Scheduled Caste Cooperative Land Owning Society Ltd.-respondent No. 6. Initially, the appellant was appointed the nominee of the said respondent No. 7. Thereafter, an application moved by Major Singh-respondent No. 7 for change of nominee was accepted by the Society and Jagseer Singh-respondent No. 8, who is his son, was appointed as a nominee by changing/replacing the name of the appellant as a nominee.

6. On an application moved by Major Singh for change of nominee to the Managing Committee of the respondent-Society, he proceeded to pass the resolution dated 18.05.2018 accepting the request of Major Singh relying upon Rule 19 of the 1963 Rules, which deals with the nomination of heir. The said Rule 19 reads as follows:-

“19. Nomination of heir

[(s.85 (2) (xx) (1)]-Every member of Cooperative 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.

3. The number of persons who may be nominated by a member shall not exceed the number of shares held by the member.

4. When a member of a cooperative society nominates more than one person, he shall, as far as practicable, specify the amount to be paid or transferred to each nominees in terms of whole share and the interest accruing thereon.

5. The record of nomination shall be kept by a co-operative society in such manner as may be laid down in the bye-laws.

6. The value of the share, or interest transferred or paid to a nominee or nominees shall be determined on the basis of the sum actually paid by the member to acquire such share or interest, unless the bye-laws provide for calculation on a different basis.”

7. A perusal of the above rule would show that the member of the Society could revoke or modify his nominee from time to time and, therefore, Major Singh has, in exercise of these powers conferred on him as a member of the Society, proceeded to change, revoke and modify his nominee. The resolution dated 18.05.2018 having been passed by the Managing Committee of the Society based upon the request of the member has been passed by the said Society in accordance with the rules.

8. There is nothing in the rules nor has it been argued on behalf of the appellant that once a nominee has been appointed, it confers an indefeasible right on him to continue as such. Further, there is nothing mentioned in the rules including Rule 80 of the 1963 Rules, on which reliance has been placed by the appellant, for challenging the resolution dated 18.05.2018 changing the nomination on the request of Major Singh in the name of Jagseer Singh in place of the appellant nor is there anything provided under the rules that the earlier nominee has to be issued notice of the said change which is sought to be brought about by the member of the Society of the nominee.

9. It is an admitted position that the nominee is not a member of the Society. If that be so, Rule 80, on which reliance has been placed by the

appellant, would not help the appellant as it will not be applicable to the case in hand as the said rule deals with the notice being issued to the members of the general body/committee or smaller body, as the case may be. Since no notice was required to be issued to the appellant under the Statute, the plea, which is being sought to be taken for challenging the resolution dated 18.05.2018, would not be available to the appellant. There being no right conferred on the appellant, the claim, as made by the appellant, being devoid of merit deserves rejection.

Further, under Rule 19 of the 1963 Rules, it being the discretion and sweet will of the member to appoint any person as his nominee or revoke or modify such nomination, the resolution, as passed by the Society dated 18.05.2018, cannot be said to be in violation of any statutory Rules.

10. Finding no illegality in the impugned order/judgment dated 07.05.2021 passed by the learned Single Judge, we dismiss the present appeal being devoid of merit.

CM-2084-LPA-2021

In view of the dismissal of the main appeal, the present application praying for stay has been rendered infructuous and the same is disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

(SANDEEP MOUDGIL)
JUDGE

November 30, 2021

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No