

104.

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

CWP-1678-2021

Date of Decision: 18.08.2022

GURMIT SINGH AND OTHERS

.... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dharam Vir Sharma, Senior Advocate, with
Mr. Tushar Sharma, Advocate,
for the petitioners.

Ms. Deepali Puri, Additional Advocate General, Punjab.

Mr. G.S. Brar, Advocate,
for respondent No.11.

Mr. Ashwani Prashar, Advocate,
for respondent No.12.

Mr. S.S. Bhinder, Advocate,
for respondents No.13 to 22.

JAISHREE THAKUR.J (Oral)

The instant writ petition has been filed with a prayer for issuance of a writ in the nature of mandamus or any other appropriate writ, order or direction to declare the petitioners as having been elected as members of the Managing Committee of Maluka Multipurpose Cooperative Agricultural Service Society Limited, Maluka, in the elections held on 11.01.2021; or in the alternative to issue a writ in the nature of mandamus directing the official respondents to hold the elections afresh, with a further

direction to the DGP, Punjab to take disciplinary action against SHO, Police Station Dayalpura, for interfering in the election process.

In a nutshell, the grievance of the petitioners herein is that the election program of the Managing Committee of the aforesaid Society was formulated and elections were scheduled to be held on 11.01.2021. However, without holding said elections, the Returning Officer postponed the said election process for 13.01.2021 citing the law and order situation. It is also submitted that as on date, neither the elections have been held nor the election result has been declared and communicated to the Secretary of the Society, which is required to be done as per the provisions of the Punjab Cooperative Societies Act.

At this stage, counsel appearing on behalf of respondent No.12 Society would support the contentions as raised by learned senior counsel that no elections were held and the Proceedings Book pertaining to the said election process has not been submitted back to the Society by the Returning Officer.

Mr. Bhinder, learned counsel appearing on behalf of the elected Committee Members would, on the other hand, contend that in fact the elections had duly taken place on 13.01.2021 and the result stood declared while submitting that the elected members were purposely not made party to these proceedings and they have to approach this Court at their own by way of moving an appropriate application under Order 1 Rule 10 CPC for this purpose.

Learned State counsel would rely upon written statement as filed and would submit that the instant writ petition would not be maintainable in

view of Rule 51 of the Punjab Cooperative Societies Rules, 1963 and Appendix 'C', Part 1, clause 12 attached to the Rules, contending that the Rules would stipulate that in case a dispute in connection with an election has arisen, the same has to be determined by the Registrar.

I have heard learned counsel for the parties and have perused the pleadings of the case.

The disputed question of facts would arise in the instant petition whether or not an election has taken place and, therefore, this Court would not have the jurisdiction to entertain the writ petition considering the fact that there is a dispute of facts.

Learned senior counsel appearing on behalf of the petitioners would like this Court to go into the photographs and CDs establishing that the Returning Officer was “hijacked” by the SHO who has been made a party to these proceedings and, therefore, it can safely be concluded that the elections were not held on 11.01.2021, whereas there is a contention that elections were duly held on 13.01.2021.

In the light of this dispute which has arisen as to whether or not the elections were duly held, a dispute has arisen and, therefore, under the provisions of Rule 51 read with Appendix 'C', Part 1, clause 12 of the Punjab Cooperative Societies Rules, 1963, this dispute is to be referred to the Registrar, Cooperative Societies for his determination who would decide the same in accordance with law.

In view of above, the present writ petition is disposed of by giving liberty to the petitioners herein to raise their dispute before the Registrar, Cooperative Societies, Punjab within a period of two weeks and in

case such a reference is made, the Registrar shall decide the matter in accordance with law.

Any observation made hereinabove are purely for the purpose of referring the matter to the Registrar and should not be construed to be an opinion on merits of the case.

(JAISHREE THAKUR)
JUDGE

18.08.2022

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No