

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

**CWP No.5906 of 2021(O&M)
Date of Decision.08.07.2022**

Kashmir Singh

...Petitioner

Vs

State of Punjab and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. Pawan Sharma, Sr. DAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

The present writ petition has been filed seeking a writ in the nature of certiorari for quashing order dated 23.05.2019 (Annexure P-7) passed by respondent No.4 whereby the petitioner has been removed as a member of the committee of respondent No.5-society, in violation of Section 27 of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as 1961 Act) and order dated 09.10.2020 (Annexure P-10) passed by respondent No.3, whereby appeal filed by the petitioner against order dated 23.05.2019 has been dismissed.

In brief, the facts are that the petitioner, who was a duly elected member of the Managing Committee of respondent No.5-The Old Friends Cooperative House Building Society Ltd., Jalandhar (hereinafter referred to as Society), was issued with a show cause notice dated 09.05.2018 on an allegation that he had got sale deeds of plots registered to non-members of the Society in violation of the Bye Laws. The petitioner was placed under suspension as well. In proceedings initiated against the petitioner under

Section 27(1) (b) of the 1961 Act, the petitioner was removed as a Committee Member of the Society by impugned order dated 23.05.2019.

Aggrieved with the said order, the petitioner approached this Court by way of filing CWP No.8542 of 2019, which was disposed of by an order dated 05.02.2020 directing the petitioner to file his appeal under Section 68(2) (b) of the 1961 Act. Pursuant thereto, the petitioner filed an appeal No.4/2020 before the Joint Registrar, Cooperative Societies, Jalandhar Division, Jalandhar, *inter alia*, raising the plea that after amendment to Section 27 of the 1961 Act, a proviso had been added to Section 27(1) (b) of thereof, which stipulated that Managing Committee or member of a committee can neither be placed under suspension nor superseded, if there is no government share capital or loan or financial assistance from the government or any guarantee given in favour of the society by the government. A specific plea was raised that there is no government share capital, loan or financial assistance as per the balance sheet for the year ending 31.03.2018 and therefore, the Managing Committee/its member could not have been placed under suspension nor superseded. It was on this ground that the order of the Deputy Registrar, Cooperative Societies was sought to be assailed. However, the Appellate Authority by an order dated 09.10.2020 dismissed the appeal, upholding the order of the Deputy Registrar, Cooperative Societies, Jalandhar, leading to file the instant writ petition.

Learned counsel appearing on behalf of the petitioner would argue that the impugned order itself is not sustainable on the ground that in similar circumstances, when other members had been removed by the

Deputy Registrar, Cooperative Societies under the same order i.e. 23.05.2019, they had challenged the same before the Joint Registrar, Cooperative Societies, Jalandhar Division, Jalandhar by relying upon the proviso to Section 27 (1) (b) of the 1961 Act to the effect that managing committee/members of a society could not be placed under suspension nor superseded if the government or any government agency had not advanced any share capital, loan or financial assistance. It is contended that relying upon the very same proviso, the appeal had been allowed. It is further argued that the appeal of the petitioner herein, which had been dismissed, was preferred subsequent to the decision taken by the very same authority that by virtue of provision to Section 27(1) (b), managing committee/member of a committee cannot be suspended or superseded.

I have heard learned counsel for the parties and have perused the paper book and find that order dated 09.10.2020 (P-10) is not sustainable. It would be relevant to point out that it is the same authority that had taken a decision dated 30.09.2020 i.e. 10 days prior to passing order dated 09.10.2020 holding that by virtue of proviso to Section 27 (1) (b) of the 1961 Act, a managing committee/committee member could not be superseded or suspended if there is no government share capital or loan or financial assistance from the government or any guarantee given in favour of the society by the government. It is strange as to how contradictory views are taken by respondent No.3 pertaining to similar issue raised in respect of same society and members, who stood removed by virtue of the same order i.e. order dated 23.05.2019. Consequently, the instant petition is allowed and the order dated 09.10.2020 is set aside. The matter is

remitted to respondent No.3 for taking a decision afresh within a period of two months from the date of receipt of certified copy of this order, which would be in consonance with the provisions of Section 27 (1) (b) of the 1961 Act.

(JAISHREE THAKUR)
JUDGE

July 08, 2022
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No