

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

CWP-7654-2020.

Date of Decision: 07.02.2022.

Saggar Singh

....Petitioner

Versus

The Registrar, Co-op. Societies, Punjab and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Argued by: Mr. Surinder Gandhi, Advocate for petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

Mr. Harjot Singh Bedi, Advocate for respondents No.4 to 8.

Lalit Batra, J.

Case has been taken up for hearing through Video Conferencing.

2. This Civil Writ Petition under Articles 226/227 of the Constitution of India has been moved for issuance of a writ in the nature of Certiorari seeking quashing of order dated 27.09.2019 (Annexure P/5) rendered by respondent No.2-Deputy Registrar, Co-operative Societies, SAS Nagar (Mohali) exercising the powers of respondent No.1-Registrar, Co-operative Societies, Punjab, Chandigarh, with further prayer for issuance of a writ in the nature of Mandamus directing respondents No.1 to 3 to restore services of the petitioner to the post of Secretary of The Mohali Employees Co-operatives House Building Societies Ltd., Mohali, District SAS Nagar.

3. Learned counsel for the petitioner *inter alia* contended that in a similar CWP No.849 of 2020, this Court has passed detailed order, wherein order dated 27.09.2019 impugned in the present petition was also challenged. He further contended that initially the petitioner, the then Secretary, had been suspended while issuing show cause notice on 03.07.2019 from the membership of the Mohali Employees Co-operative House Building Societies Ltd., Mohali, under Section 27(2) of the Punjab Co-operative Societies Act, 1961, on the ground that one Paramjit Singh, an employee of the society, was in possession of a Recreation Room and was residing in the Society's office and the petitioner has failed to get the office vacated despite repeated requests. In the reply dated 17.07.2019 (Annexure P-2) to the show cause notice dated 03.07.2019, the explanation was given as to in what manner Paramjit Singh was given one room by the then Managing Committee, vide its resolution on 21.11.2017, as said Paramjit Singh was responsible for supervision of round the clock the affairs of the society, whereas petitioner was not member of the Management Committee at that time. A specific plea was taken that in view of the orders of the Inspector, Mohali, the office has been got vacated from the said employee (Paramjit Singh), which has also been checked by the Inspector. The relevant portion of said reply reads as under:-

“On 18.12.2018 the Managing Committee has directed Paramjit Singh to vacate the office of the society, who has already vacated the office of the society. The Inspector, Mohali, who is (Incharge) Inspector of the society, has also checked the same.”

4. Learned counsel for petitioner further contended that despite the fact that the office of the society has already been got vacated, impugned order was passed on 27.09.2019 and it appears that reply to the show cause notice furnished at the instance of petitioner was never considered. Resultantly, petitioner had been dismissed from the Committee's Membership of the Mohali Employees Co-operative House Building Society Ltd., SAS Nagar, Mohali.

5. As noticed above, office of the society occupied by the employee (Paramjit Singh), had already been got vacated and as such ground raised in the show cause notice had ceased to exist at the time of passing of impugned order dated 27.09.2019.

6. Thus, it is apparent that the respondents have not applied their mind to the facts and circumstances of the case while passing the impugned order. The basis on which the show cause notice was issued no longer subsisted and, therefore, the order of suspension and the order of removal are not justified.

7. Learned counsel for respondents No.4 to 8 has raised objection that there is an alternative statutory remedy available to the petitioner.

8. In **CWP No. 849 of 2020** titled **“Nazar Singh Vs. The Registrar, Co-operatives Societies, Punjab, Sector-17, Chandigarh and others”** decided on 13.03.2020, a similar contention was raised regarding availability of statutory remedy and this Court observed as under:-

“An objection has been raised by Mr. Prashar that there is an alternative statutory remedy available to the petitioner.

It is settled principle that the extra ordinary writ jurisdiction can be invoked to remove injustice and misuse of power, which is apparent in the present case as an elected representative has been divested of his responsibility. Accordingly, the objection raised is misconceived and ill founded.

Accordingly, the order dated 27.09.2019 (Annexure P-5) is quashed qua the petitioner and the writ petition stands allowed.”

9. In view of above, as case of petitioner is on similar footing as that of **Nazar Singh's** case (supra), resultantly, the present petition is allowed and impugned order dated 27.09.2019 (Annexure P/5) is quashed qua the petitioner.

(LALIT BATRA)
JUDGE

07.02.2022
varinder prashad

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No