

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

LPA-871-2021

Date of decision:- 01.08.2022

Rajbir Singh Ahlawat

....Appellant

vs.

Registrar, Co-op Societies, Haryana and ors.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Ravinder Hooda, Advocate
for the appellant.

Ritu Bahri, J. (Oral)

This Letters Patent Appeal filed under clause X of Letters Patent, has been directed against judgment dated 09.04.2021 passed by the learned Single Judge in CWP No. 14713 of 2019 whereby the writ petition filed by petitioner/appellant (hereinafter to be referred as 'appellant') herein seeking quashing of order dated 18.05.2019 passed by respondent No. 3, vide which the appellant was ceased to be Chairman of respondent No. 3-Society w.e.f 18.05.2019 (A.N), was dismissed.

The appellant is a member of the Gochi Milk Producers Co-operative Society Limited (hereinafter referred to as 'the Society'). By virtue of having been elected as the Chairman of 'the Society', the appellant became a member of the Board of Directors of respondent no.3 i.e. 'the Union' . Thereafter, he was elected on 19.02.2018 as the Chairman of the Board of Directors of the Union by the Board itself. However, he was removed from the post of Chairman.

At the very outset, learned counsel for the appellant has argued that the impugned order dated 18.05.2019 passed by respondent No. 3, has

(for short 'Act 1894).

However, a bare perusal of the judgment dated 09.04.2021 passed by the learned Single Judge shows that respondent Nos. 2 and 3 took a stand that the provisions of Section 28 of Act 1894 is not applicable in the case of the appellant. It was pointed out that the appellant has ceased to be the member of the Board of Directors of the Union (respondent no.3) as he ceased to be the Chairman of the Society. It is further contended that the tenure of office bearers is governed by Section 30 and not by Section 28. It was further asserted that the appellant has also earned disqualification as per Rule 28 of the Haryana Cooperative Societies Rules, 1989 and Clause 17 and 17.1 of the Bye-laws being a chronic defaulter to the tune of Rs.21,47,028/- of the Jhajjar Central Co-operative Bank Limited, Branch Dighal, Jhajjar.

The argument of learned counsel for the appellant that as per Section 28 (4) of the Act 1894, the appellant was entitled to continue as Chairman for a period of 05 years was discarded, as respondent No. 3 which is a central society has notified and adopted its Bye-Laws. Under by-law 2 (e), the Union has been defined. Bye-law 7 provides for membership of the Union. It provides that primary Milk Producers Co-operative Societies would be entitled to become the member of the Union. By-law 7.4 provides that a registered Milk Producers Co-operative Society in the area of operation of the union shall apply in writing alongwith a copy of the resolution of their Managing Committee seeking admission as a member of 'the Union'. By-law 12 provides for organization and management of the Union. By-law 16 defines the Board of Directors, which is extracted as under:-

“16. Board of Directors.

16.1 The Board of Directors of the Union shall consist of:-

- a) Nine elected Chairman of the affiliated Societies*
- b) One nominee of the National Dairy Development Board so long as loan or interest of the above Board if not fully repaid.*
- c) One nominee of the Federation.*
- d) Chief Executive Officers of the Milk Union*
- e) Other members to be nominated/coopted as per provisions of the Act.”*

From the reading of Clause 16.1, the Board of the directors of the Union shall consist of 9 elected chairman of the affiliated societies apart from the nominee members and other members.

Bye-law 16.3 provides that the elected members of the Board shall hold the office for a period of three years and 1/3rd members shall retire by rotation every year. Further, Bye-law 16.2 provides that the election of the members of the Board of Directors shall be conducted in a manner given in the Election Rules contained in Annexure-A of these Byelaws.

Heard learned counsel for the appellant at length.

Reference at this stage can be made to Sections 28 and 30 of the Act of 1984 which are extracted as under:-

28. Election and tenure of committees:

(1) The members of the committee of a co-operative society shall be elected in the manner prescribed and no person shall be so elected unless he is a member of the society: Provided that at least one member belonging to the Scheduled Caste and one woman member shall also be represented through election in every committee of a co-operative society in the manner prescribed :

Provided further that at least one member belonging to Backward Class shall also be represented through election in

the committee, if their number is ten percentum or more of the total membership of the society, in the manner prescribed.

(2) The election process once started shall not be postponed and disputes, if any, pertaining to the election, shall be entertained after the completion of the election process, in accordance with the provisions of this Act.

Explanation:- The election process shall be deemed to have started from the date of the order of the Registrar fixing the date of election.

(3) The committee of each society shall, before the expiry of the term of its committee arrange for the election of a committee in accordance with its byelaws failing which the Registrar shall arrange to hold such elections within a period of ninety days after the expiry of the term of the committee at the cost of the society and the elected members of the outgoing committee shall be debarred from contesting the elections of the committee of any co-operative society for a period of five years from the date of the expiry of the term of the outgoing committee:

Provided that no such order shall be passed by the Registrar unless an opportunity of being heard has been given.

(4) The committee shall, unless removed earlier by the Registrar, hold office for a period of five years from the date of election : Provided that if tenure of a committee already constituted has expired on 1st day of January, 1995, or till the promulgation of the Haryana Cooperative Societies (Amendment) Ordinance, 1995, it shall be deemed to have been continued for a period of five years from the date of election:

Provided further that the tenure of the committee of Primary, Central & Apex Milk Producers Co-operative Societies shall be as specified in the Bye-laws of such societies. (5) Notwithstanding anything contained in the Bye-laws of a co-operative sugar mills, the members who are employees in the mills, shall constitute one separate zone for the purpose of election to the members of the committee thereof. In case no

such member has been elected, the members of the committee shall co-opt one such member. If no such member is elected or coopted as a member of the committee, the Registrar may nominate one such member as a member of the committee.

(6) No individual shall, at any time, be a member of a committee of more than two primary societies, one central society and one apex society : Provided that nothing in this sub-section shall apply to a member nominated under sub-section (1) of section 29 or to a member of the committee of an apex or central society nominated to serve on the committee of another apex or central society, as the case may be, in accordance with the provisions of their Bye-laws.

30. Election of office bearers:

Notwithstanding anything contained in the Bye-laws of a co-operative society, the members of the committee including those nominated under section 29, shall elect from amongst themselves office bearers within sixty days of the date of election of the members of the committee. The meeting for such election shall be summoned and presided over by the Presiding Officer appointed by the Registrar :

Provided that the election of office bearers shall not be postponed in case no person is nominated under section 29 to the said Committee :

Provided further that the election of office bearer of a primary, central and apex milk producers societies shall be conducted in accordance with their Bye-laws :

Provided further that where the Government have subscribed to the share capital of an apex co-operative society or co-operative sugar mill to the extent of ten lakh rupees or more the Government may, notwithstanding anything contained in the Bye-laws of the society, appoint one of the members nominated under section 29 as chairman of the committee of such society :

Provided further that no committee member shall be eligible for election as Chairman or Vice-Chairman of any co-

operative society if he has served as such, whether before or after or partly before and partly after the commencement of this Act, for a continuous period of ten years unless a period of not less than five years has expired since he last so served.”

It is not in dispute that the election of the office bearer is governed by Section 30 which provides that the election of the office bearers of a Primary, Central and Apex shall conducted in accordance with their bye-laws. As per bye-law 25.1, the election of a Chairman of the Board of Directors of Central Society/Union is to be held every year. Rule 36 provides that a Chairman elected shall not hold the office for a period exceeding 15 months from the date of his election as a Chairman. Thus, the appellant ceased to be a member of the Board of Directors with effect from 15.08.2019. Hence, in any case, the petitioner cannot continue as a Chairman because the Board of Directors elect the chairmen among themselves. Once the Director has ceased to be the Director of the Board of Directors of the Union then the appellant cannot continue under any circumstance. In the present case, Section 30 of Act of 1894 is applicable.

We do not find any merit to interfere in the order/judgment dated 09.04.2021 passed by the learned Single Judge.

This appeal is thus dismissed.

(RITU BAHRI)
JUDGE

01.08.2022

G Arora

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No