

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

CWP No.18482 of 2020 (O&M)

Date of Decision.18.08.2022

Ram Parkash Miglani

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate and
Mr. Kannan Malik, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

This is a writ petition that has been filed under Article 226/227 of the Constitution of India with the prayer to set aside order dated 01.02.2018 (P-22) passed by respondent No.3 whereby membership of the petitioner in the respondent-Society has been cancelled without affording due opportunity of hearing and respondent No.6 has been directed to be transposed as a member of the society in place of the petitioner herein.

Mr. D.S. Patwalia, learned senior counsel assisted by Mr. Gaurav Rana and Mr. Kannan Malik, Advocates, appearing on behalf of the petitioner would submit that the petitioner is a member of the Society named as Ram Shanti Coop. Group Housing Society Ltd. situated in Gurugram and has paid an amount of Rs.60 lakhs towards the said membership. The Deputy Registrar, Cooperative Societies by an order dated 02.06.2016 cancelled the membership of the petitioner along with others without giving due opportunity of hearing to the petitioner. This order was challenged in appeal bearing No.42 of 2016 before the Registrar,

Cooperative Societies, Haryana, who set aside the impugned order and remanded the matter back to the Deputy Registrar, Cooperative Societies, Gurugram with a direction to pass well reasoned and speaking order afresh based on record and pleadings of the parties, while also directing that proper opportunity of hearing be accorded to the appellant therein. This order was passed on 24.05.2017, however, the Deputy Registrar, Cooperative Societies vide order dated 12.01.2018 upheld his own order passed earlier. Against the order dated 12.01.2018 passed by the Deputy Registrar, the petitioner had filed appeal bearing No.25 of 2018 before the Registrar, Cooperative Societies, Haryana, which is still pending consideration. In the meantime, respondent No.6 had approached CM window by filing complaint against the petitioner, which was taken up by the Joint Registrar, Cooperative Societies, who issued notice to several persons other than the petitioner herein. By virtue of the order dated 01.02.2018 as passed by the Joint Registrar, membership of the petitioner stands cancelled and the complainant-Ramphal Jindal has been ordered to be transposed as member. The said Ramphal Jindal has already filed execution, which stands allowed on the basis of order dated 01.02.2018.

Learned counsel appearing on behalf of the respondent-State would submit that the impugned orders have been passed on due consideration of the facts of the case and there is no infirmity in the same.

I have heard learned counsel for the parties and have perused pleadings of the case. The facts as narrated in the writ petition are not in dispute. The question that arises for consideration is whether the authorities concerned are competent to pass any adverse order without giving a fair opportunity of hearing to the petitioner, who is going to be affected by any

such order passed. It is settled position of law that no person can be condemned unheard. The principle of *audi alteram partem* has been disregarded in the instant case, as would be evident from order dated 01.02.2018 passed by the Joint Registrar, Cooperative Societies, Haryana, who had not issued any notice to the petitioner. Even if a complaint had been received against the petitioner through CM window, it was incumbent upon the Joint Registrar to issue notice to the petitioner, which has apparently not been done. Therefore, keeping in view the fact that principles of natural justice have not been complied with in the instant case, order dated 01.02.2018 passed by the Joint Registrar, Cooperative Societies, Haryana whereby membership of the petitioner stands cancelled, is hereby set aside. As a consequence thereto, any order passed in pursuance to order dated 01.02.2018 is also set aside. In case, the Joint Registrar, Cooperative Societies would like to proceed on the complaint as received through CM window, he would be at liberty to do so but only after giving fair opportunity of hearing to the petitioner and putting the petitioner on notice in order to enable him to defend his case.

This order is also being passed keeping in mind that there is an appeal bearing No.25/2018 pending before the Registrar, Cooperative Societies on a similar issue, which would have been brought to the notice of the Joint Registrar, had the opportunity of hearing been given to the petitioner. While setting aside the impugned order dated 01.02.2018 and any subsequent order passed thereafter based on order dated 01.02.2018, it is directed that the appeal of the petitioner before the Registrar, Cooperative Societies be decided expeditiously and preferably within a period of three months from the date of receipt of certified copy of this order. The issue in

respect of membership of the petitioner and the allotment of flat in his name to be kept in abeyance till any decision is taken by the Registrar, Cooperative Societies on the appeal so filed.

With the aforesaid observations, the instant writ petition stands disposed of.

(JAISHREE THAKUR)
JUDGE

August 18, 2022

Pankaj*

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