

112.

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

CWP-2708-2023

Date of Decision: 10.02.2023

BALKAR SINGH AND OTHERS

.... Petitioners

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. A.P.S. Sandhu, Advocate,
for the petitioners.

JAISHREE THAKUR.J (Oral)

The petitioners herein seek issuance of a writ in the nature of mandamus directing the State authorities respondents No.1 to 6 not to allow respondents No.7 and 8 to participate in the upcoming election of Vice Chairman of the Board of Directors, as they are not eligible for the same.

Learned counsel appearing on behalf of the petitioners would contend that as per the Model Byelaws of respondent No.4-Shahabad Cooperative Sugar Mills Limited, Shahabad Markanda, there are four classes of members, namely, producer members, non-producer members, nominated members and State Government officers. As per clause 6, producer membership shall be open to individuals and cooperative institutions, who are growers of sugarcane. Furthermore, clause 8 provides for non-producer members to be open to 'Cooperative Societies' other than producers of sugarcane in the area of operation of the Society. He would argue that the

elections were held in 2021 and two members, namely, Baldev Singh and Narender Singh, respondents No.7 and 8 herein, came to be elected to be the Directors of the Board, whereas they were not eligible to be considered to be non-producer members as the terminology of 'non-producer members' pertains to only Cooperative Societies. It is argued that respondents No.7 and 8 were elected in their individual capacity. Moreover, their term would come to an end on expiry of one year of being on the Board. It is submitted that election to the post of Vice Chairman is in process and respondents No.7 and 8, being on the Board, would have a vote despite their term having expired.

Notice of motion.

At this stage, Mr. Anant Kataria, DAG, Haryana, who is present in Court, accepts notice on behalf of official respondents. Appearance has also been caused by Mr. Himanshu Raj, Advocate, on behalf of respondent No.4, Mr. R.S. Longia, Advocate, on behalf of respondent No.7 and Mr. J.P. Dhull, Advocate, on behalf of respondent No.8.

Let adequate number of copies of complete paper book be supplied to the respective counsel appearing on behalf of the respondents during the course of day.

Learned counsel appearing on behalf of the respondent No.4-Mill would submit that the petitioners participated in the election process which was held in 2021 and at that point of time, they did not raise any grievance about the election of respondents No.7 and 8 and in case, they had a grievance, they had a remedy of filing an election petition which they chose not to do so. The same would now be time barred. He would further submit that the term of the members of the Board is three years and not one year, as

has been argued by counsel for the petitioners, which is again countered by the counsel for the petitioners relying on clause 46. In support of his argument, he would rely upon a judgment of Constitution Bench of the Supreme Court in *Lakshmi Charan Sen and others Versus A.K.M. Hassan Uzzaman and others, 1985(4) SCC 689* wherein it has been held that once the election process has been initiated, the High Court should not interfere.

Be that as it may, since the petitioners have already approached the Registrar, Cooperative Societies, Haryana raising challenge to respondents No.7 and 8, being allowed to continue on the Board since their term has expired and the election process has already been initiated as voting for the post of Vice Chairman is to commence and concluded on 21.02.2023, let a decision be taken in the matter by the officer concerned. The petitioners herein to put in appearance before the Registrar, Cooperative Societies on 14.02.2023 at 11:30 AM and they are at liberty to raise all arguments as raised in this writ petition before the said authority who would take a decision expeditiously preferably within a period of two days thereafter.

Petition stands disposed of accordingly.

Parties shall be at liberty to raise all pleas before the Registrar, Cooperative Societies, as raised before this Court including maintainability of the proceedings initiated.

(JAISHREE THAKUR)
JUDGE

10.02.2023
sanjeev

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