

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

CWP No.6166 of 2020 (O&M)

Date of Decision.04.05.2023

Sachin Kaushik

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sachin Gupta Ladwa, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Rajesh Gupta, Advocate
for respondent No.5.

Mr. Subhash Ahuja, Advocate
for respondent No.7.

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JAISHREE THAKUR J. (ORAL)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India seeking a writ in the nature of certiorari for quashing order dated 11.02.2020 (Annexure P-6) passed by respondent No.3, which according to the petitioner, has been passed without giving due opportunity of hearing to the petitioner herein.

2. In brief, facts are that the Assistant Registrar, Cooperative Societies, Sonapat vide letter dated 28.05.2019 had directed to send out an agenda to all the committee members of respondent No.5-Society regarding the process of appointment on temporary basis at DC rate/minimum wages/daily commission basis and once the Assistant Registrar, Cooperative Societies, Sonapat had given its approval for appointment of Salesman, the Managing Committee held a meeting and approved appointment of the petitioner as such. The petitioner was appointed on the post of Salesman/Clerk on DC

rate, as the said post of Salesman had been vacated due to promotion of one Dilbag Singh. Pursuant to the resolution dated 31.05.2019, petitioner joined on 31.05.2019 itself. However, the Deputy Registrar, Cooperative Societies, Karnal vide letter dated 10.07.2019 addressed a letter regarding the appointment so made and asked the Inspector and Prabhandak of respondent No.5-Society to be present with record. Apprehending that the petitioner would be relieved from his services, he approached this Court by way of CWP No.19411 of 2019, which was disposed of with a direction that in case the department finds any irregularity in the appointment of petitioner, necessary action would be taken thereon by following principles of natural justice. However, without calling upon the petitioner, the Deputy Registrar, Cooperative Societies, Karnal vide the impugned order dated 11.02.2020 rescinded the resolution dated 31.05.2019 under provisions of Section 27 of the Haryana Cooperative Societies Act, 1989.

3. Learned counsel appearing for the petitioner would urge that the impugned order so passed is in direct violation of the direction as issued by this Court in CWP No.19411 of 2019, insofar as no due opportunity of hearing was given to the petitioner. The order so passed only took into account the submissions of various members of the Managing Committee, who in fact supported the case of the petitioner to the effect that appointment had been offered to the petitioner as a Salesman on account of the fact that Assistant Registrar, Cooperative Societies, Sonapat had given due permission. It is also contended that after the petitioner had joined as a Salesman, he has been given additional training as would be evident from Annexure A-1 appended with C.M. No.6423 of 2020.

4. Learned counsel appearing for respondent No.7 would submit that the petitioner herein has misread Annexure P-1, the communication as addressed by the Assistant Registrar, Cooperative Societies, Sonapat. A reading of said annexure would reflect that in fact, Assistant Registrar had only given permission to call an emergent meeting of the Society under provisions of Rule 110 of the Haryana Cooperative Societies Rules, 1989 and to circulate the agenda and take action as per the Haryana Cooperative Societies Act, 1984, Bye-laws and the Primary Agriculture Cooperative Societies Service Rules as amended. He would further argue that the petitioner herein has not availed of his remedy under Section 114 & 115 of the aforesaid Act by filing an appeal and a revision petition thereafter but instead approached this Court directly. It is further submitted that as per Rule 110 of the Haryana Cooperative Societies Rules, 1989, an emergent meeting can only be called after circulating an agenda to all the members at least before 15 clear days or 7 days respectively in advance, which was not done in the instant case. Approval to call for an emergent meeting was given on 28.05.2019 and the meeting was called on 31.05.2019 itself.

5. I have heard learned counsel for the parties and have perused the paper book and find that the writ petition itself is not maintainable at this stage. The petitioner herein has challenged the impugned order dated 11.02.2020 wherein the Deputy Registrar, Cooperative Societies, Karnal has taken note of the fact that there was no due permission given by the Assistant Registrar, Cooperative Societies, Sonapat to make any appointment. The only permission was to hold an emergent meeting by invoking Rule 110 of the Haryana Cooperative Societies Rules, 1989. A bare reading of Rule 110 would reflect that to call for an emergent meeting,

an agenda was required to be circulated to all members at least 7 or 15 days in advance and therefore, notice was not given as per the mandate of 1989 Rules. The petitioner has not availed his remedies available to him under the Act of 1984 by filing appeal under Section 114 and revision petition under Section 115 thereafter. Apart from this, it is worthwhile to note that services of the petitioner stand terminated, which have not been challenged so far. Once the very order of termination has not been challenged in these proceeding, this Court is not inclined to interfere.

6. Consequently, the instant writ petition stands dismissed. Since the petitioner stands relieved after having worked for the period from 31.05.2019 to 11.02.2020, salary and other benefits as due to him for the work done be released forthwith.

(JAISHREE THAKUR)
JUDGE

May 04, 2023
Pankaj*

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