227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10131-2018
Date of Decision: 16.03.2023

The Punjab State Co-operation Supply and Marketing Federation Ltd.

.......Petitioner

Vs.

Additional Registrar Cooperative Societies, Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAISHREE THAKUR

Present: Ms. Gagan Mohini, Advocate, for the petitioner.

Mr. Shiv Kumar, Advocate, for respondent No.3 (i) and (ii).

Mr. Tahaf Bains, Advocate for respondent No.4 (i) & (ii).

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JAISHREE THAKUR,J. (ORAL)

The present writ petition has been filed seeking issuance of a writ in the nature of certiorari for quashing order dated 26.08.2015 (Annexure P1) passed by Joint Registrar, Cooperative Socities, Patiala, dismissing the petition under Section 55/56 of the Punjab Cooperative Societies Act, 1961, for recovery of Rs. 50,37,634.50 from respondent No.3-B.S. Puri and respondent No.4- Mohinder Singh as well as order dated 10.10.2017 (Annexure P-2) as passed by the Additional Registrar (Credit), Cooperative Societies, Punjab, Chandigarh, whereby the appeal against order Annexure P-1 was dismissed on the ground of delay and laches.

Learned counsel for the petitioner, herein, would submit that respondent No.3- Mr. B.S. Puri, Field Officer of Markfed Branch was incharge of wheat stock for the year 1998-1999 till the year 2000-2001. The wheat stock deteriorated in his charge for which enquiry proceedings were held against him, however, on the asking of the Court, it is informed that no punishment was ever awarded. The arbitration proceedings came to be initiated by the petitioner after the lapse of 13 years and taking into account the delay, Joint Registrar, Cooperative Societies, Patiala Division, Patiala, dismissed the same.

Aggrieved against the said order, the petitioner, herein, preferred an appeal under Section 68 of the Act of 1961, however, as the appeal has been filed beyond the prescribed period of 60 days, an application under Section 5 of the Limitation Act, was preferred as well before the Additional Registrar (Credit) Cooperative Socities, Punjab. The Additional Registrar dismissed the said appeal vide order dated 10.10.2017 by taking into account that there was a delay of 416 days in preferring the appeal whereas Section 68 of the Punjab Cooperative Societies Act, 1961, provides a limitation of 60 days to prefer an appeal.

Learned counsel appearing on behalf of the petitioner herein, would contend that the impugned orders are unsustainable on the ground that no cogent reasons have been given as to why the matter has not been decided on merits and dismissed merely on the ground of delay.

Learned counsel appearing on behalf of the private respondents, herein, would contest the writ petition on the ground that there is no infirmity in the orders so passed considering the fact that the petitioner was tardy in initially filing its petition under Section 55/56 of the Punjab Cooperative Societies Act, 1961. The delay in filing recovery proceedings was 13 years as has been noticed by the Joint Registrar. It is further argued that the appeal filed under Section 68 of the said Act has rightly being dismissed on the ground of delay as there is no provision under the said Section for extending the period of limitation.

I have heard learned counsel for the parties and have gone through the proceedings of the case. The entire edifice of the arguments as raised by learned counsel for the petitioner, herein, is that the Additional Registrar ought to have given cogent reasons as to why the delay could not be condoned especially in view of the fact that an application under Section 5 of the Limitation Act had been filed along with the appeal filed under Section 68 of the said Act.

However, this Court finds that this writ petition is devoid of any merit. The Joint Registrar dismissed the recovery proceedings that had been initiated under Section 55/ 56 of the Punjab Cooperative Societies Act, 1961 on the ground that it was made beyond the prescribed period of limitation, which is three years. In the instant case, recovery proceedings have been initiated after the period of 13 years. It would be pertinent to note that the officials, who had been arrayed as respondents No.3 and 4, had retired by the time recovery proceedings were initiated. The matter was taken up in an appeal and that too beyond a prescribed period of 60 days as specified under Section 68 of the Act of 1961. In a similar case i.e. LPA No.74 of 2019 pertaining to the petitioner itself, in similar situation, where recovery proceedings had been initiated after a period of three years i.e. beyond the period of limitation and the appeal too had been filed beyond the period as specified under Section 68 of the said Act, the

Division Bench refused to entertain the matter. In **S.S. Kaith versus Financial Commission Coop. Punjab and others** passed in **CWP No.1088 of 2010** and in LPA No.755 of 2013 titled as **Balbir Singh Jammu versus Financial Commissioner Cooperation, Punjab and others, decided on 13.07.2015,** it has been held that since Section 68 of the Act of 1961 does not empower the Appellate Authority to condone the delay beyond the prescribed period, it cannot condone the same. The order in the LPA came to be passed after taking into consideration the judgment rendered by the Hon'ble Supreme Court in various decisions including ***Popat Bahiru Govardhane Etc. Vs. Special Land Acquisition Officer and Another 2013 (10) SCC 765*** where an application under Section 28 (A) of the Land Acquisition Act, 1894 (since repealed) was required to be moved within a period of three months from the date of award passed by the Reference Court. Section 28-A of the Land Acquisition Act, as it existed at the relevant time, did not empower the Land Acquisition Collector to condone the delay in submission of application for redetermination of the compensation amount. The Apex Court after referring to the earlier case law, held as follows:-

> *13. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means*

"the law is hard but is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decision factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

Consequently, relying upon the judicial pronouncements, this Court is of the opinion that there is no infirmity in the order of the Joint Registrar (Annexure P-1) dismissing the arbitration proceedings beyond the period of limitation of three years and the order of Additional Registrar (Annexure P-2) dismissing the appeal and the application seeking condonation of delay.

The present writ petition is, accordingly, dismissed.

16.03.2023 **(JAISHREE THAKUR)**
kanika **JUDGE**

Whether Speaking Yes/No
Whether Reportable Yes/No