

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CWP No. 19994 of 2016 (O&M)
Date of decision: 07.02.2023

Jaspreet Singh

.....Petitioner

Versus

The Special Secretary, Cooperation, Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Naginder Singh Vashist, Advocate for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

Mr. Tushar Sharma, Advocate for respondent No. 4.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been preferred for quashing of order dated 08.03.2016 (Annexure P-8), that dated 02.02.2015 (Annexure P-7) and Resolution dated 13.11.2014 (Annexure P-4) whereby the appointment of the petitioner to the post of Salesman stands annulled.

Respondent No. 4-Kauhrian Multi Purpose Cooperative Agricultural Service Society Ltd., Kauhrian, Sunam wanted to fill post of Salesman lying vacant in the Society. The Managing Committee of the Society vide Annexure P-2 constituted a Selection Committee in terms of Rule 5(1) of the Punjab State Co-operative Agricultural Service Societies Service Rules, 1997. The Constitution of the Selection Committee as per the Resolution dated 07.10.2014 (placed on record as Annexure P-2) reads as under:

“So, as per the above Rule the following Selection Committee is constituted for appointing a Salesman on temporary basis:-

1. Gurtej Singh, President

2. Vakil Singh, Committee Member

3. Jagdish Singh, Committee Member

Either the Assistant Registrar, cooperative Societies, Sunam or he may appoint someone government nominee on his behalf. Through this resolution the Assistant registrar, Cooperative Societies, Sunam is requested that either he himself participate in the Selection Committee or appoint some government nominee on his behalf. Approved.”

Assistant Registrar vide communication dated 16.10.2014 appointed one Baljit Singh Inspector Cooperative Societies, Mehlan as his nominee to participate in the aforesaid Selection Committee. Selection Committee met on 13.11.2014 and selected the petitioner as a suitable candidate to be appointed as Salesman. The petitioner joined on 18.11.2014. Resolution to the said effect was passed by the Managing Committee on 01.12.2014 and forwarded to the Assistant Registrar. However, Assistant Registrar submitted a report that the Resolution dated 13.11.2014 was not as per the Rules. The same having been passed in violation of Rule 80 of the Punjab Cooperative Societies Act was liable to be set aside. Acting upon the report, Deputy Registrar vide order dated 02.02.2015 set aside the Resolution dated 13.11.2014. The same was taken in revision by the petitioner. Revision stands dismissed holding as under:

“I have heard the arguments of the counsels and perused the record. From the record it is revealed that no intimation was given either to the Assistant Registrar or his nominee regarding the holding of meeting of the Selection Committee fixed for 13.11.2014. Therefore, it is proved that the meeting was held in violation of Rule 80 and thus the resolution passed on 13.11.2014 has rightly been cancelled by the Deputy Registrar. I also agree

to make an appointment and not the Selection Committee. Though vide resolution dated 1.12.2014 the Managing Committee had granted the approval but the fact remains that the petitioner had joined the society before 1.12.2014. The resolution dated 1.12.2014 cannot undo the wrong committed by the Selection Committee. In the resolution dated 13.11.2014 it has been clearly mentioned that "the employee be informed through post that the Selection Committee has appointed him as Salesman and he is required to submit his joining report to the President of the Society". This leaves no doubt that the petitioner was appointed by an incompetent authority and later on resolution dated 1.12.2014 was got passed from the Managing Committee for post facto approval. Since the meeting itself was held in violation of Rule 80 of the Punjab Cooperative Societies Rules, 1963, any business transacted therein stands void. In view of the above, the revision petition is dismissed being without merit."

Counsel for the petitioner has submitted that the Resolution had been annulled on technical grounds. The petitioner being a candidate was not aware as to whether notice in terms of Rule 80 has been served on the members of the Selection Committee or not. He further submits that no notice was issued to the petitioner before setting aside the Resolution despite the fact that such action by the Deputy Registrar had civil consequences on the petitioner as the same led to loss of his employment. He relies upon order passed by this Court in ***CWP-12972 of 1993 case titled as Karam Chand, Salesman versus The Samana Cooperative Marketing-cum-processing Society Limited and another*** wherein Division Bench had set aside the order for having been passed without issuing notice to the petitioner and thus being in violation of Principles of Natural Justice. *Per*

Society, no intimation was given to the Inspector/Assistant Registrar, Cooperative Society, Sunam for meeting dated 13.11.2014 and thus the Resolution cannot be said as per the Rules.

Learned State counsel has reiterated the submission made by counsel representing the Society and submits that the meeting itself being in violation of the Rules and there being no notice as contemplated under Rule 80 of 1963 Rules, the Resolution passed by the Selection Committee cannot be sustained.

I have heard the counsel for the parties and gone through the records of the case.

Rule 5 of The Punjab State Cooperative Agricultural Service Societies Service Rules, 1997 reads as under:

“METHOD OF RECRUITMENT ETC.

i) The appointments to the service shall be made by the committee on the recommendations of the Selection Committee consisting of the President, two other committee members of the society and the Assistant Registrar concerned or his nominee. This appointment can be made either on regular basis as per prescribed scale or on contractual basis on consolidated emoluments not exceeding that fixed by the Deputy Commissioner of the District concerned for the concerned category. The appointment shall be made by inviting applications from the suitable candidates in the similarly situated Primary Cooperative Agriculture Service Societies in the District. In case suitable and sufficient candidates are not available, then the applications may be called from the open market. Provided that no appointment shall be made without prior approval of the Registrar, Coop. Societies, Punjab

ii) No person shall be directly appointed to the service if he:-

a) is not a citizen of India and is less than 18 years of

age and is more than 35 years of age.

b) has been dismissed or removed from service of the Government, Corporation, Board, Cooperative Society or any other body corporate on the grounds of misconduct or he has been convicted by a Court of law for an offence involving moral turpitude.

c) is related to any committee members within the meaning of Rules 20 (i) of the rules and

d) is an elected member of the committee of a society or a local body including a Panchayat.”

Rule 5 of The Punjab State Cooperative Agricultural Service Society Service Rules, 1997 deals with method of recruitment. The Rule mandates that appointment to the services shall be made by the Committee on the recommendations of the Selection Committee consisting of President, two other Committee members of the Society and the Registrar concerned or his nominee. Admittedly, vide Annexure P-2, the Selection Committee in terms of Rule 5 was constituted. However the question is whether the Committee met in accordance with the Rules or not. Rule 80 of the 1963 Rules provides the procedure for conducting meeting of a General body, committee or any smaller body set up by either of them. Admittedly, the Selection Committee is a smaller body set up by the Managing Committee and thus would be covered under Rule 80. As per the mandate of Rule 80 there has to be at least 7 days notice specifying the date, place, time and Agenda for a meeting of smaller body. Since appointment of the petitioner was never approved as required under Rule 5, the same would not vest any right in him.

Keeping in view the fact that none of the parties dispute that there was no notice issued to the nominee of Assistant Registrar who was member of the Selection Committee definitely the proceedings dated

13.11.2014 are in teeth of mandatory rules and thus the same cannot be sustained.

As sequel of the discussion held above, this Court does not find any ground to interfere in the present writ petition.

Consequently, the same is ordered to be dismissed.

07.02.2023

Rajeev (rvs)

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes