

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-26610-2016 (O&M)
Date of Decision:- 17.8.2023

Gurdaspur Cooperative Sugar Mills ... Petitioner

Versus

Special Secretary Cooperation Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vikas Singh, Advocate for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Mr. Animesh Sharma, Advocate for respondent No. 3.

GURVINDER SINGH GILL, J.

1. The petitioner assails order dated 20.10.2016 (Annexure P-4) vide which a revision petition filed by the petitioner under Section 69 of the Punjab Cooperative Societies Act has been dismissed.
2. Respondent No. 3 - Kulwant Singh had been working as General Manager in Gurdaspur Cooperative Sugar Mill (petitioner). Some irregularities leading to financial loss were alleged to have been committed by respondent no. 3 - Kulwant Singh as well as by Shri G.S.Bhamra, Purchase Officer, Shri Subhash Chander, Store Keeper, Shri I.P. Singh, AEE Electrical and Shri Ran Singh, Watchman. A dispute regarding recovery of financial loss was referred for arbitration to the Deputy Registrar, Cooperative Societies, Gurdaspur under provisions of Section 55 of the Punjab Cooperative

Societies Act wherein the sugar mill staked a claim of Rs. 9,58,702/-. The Arbitrator delivered its award dated 19.5.2009. The operative portion of the award is extracted from the petition as reproduced herein-under :-

“At the end the claim is allowed and it is ordered that after deducting Rs.98,429.50 paisa from the total amount of Rs.7,16,202/-, the remaining amount of Rs. 6,17,772.50 paisa, should be deposited by Kulwant Singh, General Manager, Sh. G.S.Bhamra, Purchase Officer, Sh. Subhash Chander, Store Keeper, IP Singh, AEE Electrical and Sh. Ran Singh, Watchman in equal shares. In regard to CIMS Burada, it is ordered that after deducting Rs.14,500/- from the total amount of Rs.2,42,250/- the remaining amount of Rs.2,27,750/- be recovered from Kulwant Singh, General Manager, Sh. G.S. Bhamra, Purchase Officer in equal share should be deposited with the first party. If this amount is not deposited within a period of 2 months with first party, Gurdaspur Cooperative Sugar Mill, then the first party shall have the right to recover the same under Section 63 of the Punjab Cooperative Societies Act, 1961. This decision was reserved on 20.4.2009 and today on 19.5.2009, it has been announced in open court. The concerned parties be informed.”

3. Respondent No. 3 - Kulwant Singh, General Manager, aggrieved by the aforesaid award, preferred an appeal under provisions of Section 68 of the Punjab Cooperative Societies Act, which was accepted vide order dated 29.11.2010 (Annexure P-2). The concluding paragraph of the said order dated 29.11.2010 (Annexure P-2) is reproduced herein-under :-

“In view of the above I Kamaldeep Singh Sangha, PCS (I) Joint Registrar, Cooperative Societies, Jalandhar Division, Jalandhar allow the appeal of the appellant. I find the appellant as innocent. I exonerate the appellant from the liability fixed upon the appellant vide order dated 19.5.2009 by the Deputy Registrar Cooperative Societies Gurdaspur. The impugned order dated 19.5.2009, so far as it concerns the appellant, is set aside. The decision of this case

was reserved on 29.10.2010, which has been written on 29.11.2010.

The concerned parties be informed.”

4. Thereafter, the petitioner filed a revision petition so as to challenge order dated 29.11.2010 (Annexure P-2) in accordance with provisions of Section 69 of the Punjab Cooperative Societies Act but the said revision petition dated 11.11.2014 (Annexure P-3) was dismissed vide order dated 20.10.2016 (Annexure P-4). The impugned order reads as under :-

“Proxy counsel present again. Original counsel not present again. Counsel for respondent No. 3 present. Sufficient time has been given to counsels to argue. Dismissed for being time barred and on default due to non-attendance.”

5. The learned counsel for the petitioner submitted that the impugned order dated 29.11.2010 (Annexure P-2) cannot sustain and is liable to be set aside having been passed on grounds which in fact are not made out. It has been submitted that while the revision petition has been dismissed *inter-alia* on ground of limitation but as a matter of fact no period of limitation is prescribed for preferring a revision petition. It has further been submitted that as a matter of fact there are justifiable reasons to explain the alleged delay in filing the revision petition inasmuch as the Appellate Authority after having reserved the order did not immediately pass the order and the petitioner was never ever informed about passing of the said order, although the concluding lines of order dated 29.11.2010 (Annexure P-2) clearly mandated that the parties be informed.

6. Learned counsel further submitted that the factum of lapse on part of the Appellate Authority in not furnishing copy of the order passed by it would be evident from the fact that although the Appellate Authority is stated to have

pronounced its decision on 29.11.2010 but the file was received back in the office of Deputy Registrar on 6.6.2014, as is evident from perusal of order dated 30.5.2017 (Annexure R-1 in CWP-26611-2016). It has further been submitted that under these circumstances, it is evident that the office of the Joint Registrar, Cooperative Societies, Jalandhar Division, Jalandhar had not been maintaining the files properly or dispatching them in time and had not even conveyed the order passed in appeal which led to some delay in filing of the revision petition. The learned counsel further submitted that the revisional authority further fell in error in dismissing the appeal, although a proxy counsel was present on behalf of the petitioner and was fully prepared with the case.

7. Opposing the petition, the learned counsel representing respondent No. 3 has vehemently argued that there is gross delay of about 4 years in filing the revision petition and that while the Appellate Authority had dismissed the appeal filed by petitioner vide order dated 29.11.2010 (Annexure P-2), the revision petition came to be instituted on 11.11.2014 (Annexure P-3) and that as such, the revision petition suffers from delay and laches which have absolutely remained unexplained. The learned counsel further submitted that it has wrongly been averred in the petition that the proxy counsel was ready to argue whereas the said counsel had not even filed any vakalatnama before Appellate Authority and apparently had not expressed before the Appellate Authority regarding his willingness to argue the matter and that as such, the revisional authority had correctly dismissed the revision petition on grounds of delay as well as non-prosecution.
8. This Court has considered rival submissions addressed before this Court.

9. The revision petition dated 11.11.2014 (Annexure P-3) was indeed filed after a period of 4 years of dismissal of the appeal by the Joint Registrar, Cooperative Societies, Jalandhar on 29.11.2010 (Annexure P-2). Although, the learned counsel for the petitioner has tried to explain the delay of attributing the same to the office of the Joint Registrar, Cooperative Societies, Jalandhar Division, Jalandhar who according to him never informed the petitioner about the outcome of the appeal but the said explanation cannot be accepted inasmuch as the petitioner himself was also expected to have made some efforts to know about the outcome of the appeal.
10. The contention of the petitioner regarding the willingness of the proxy counsel to argue the matter cannot be accepted as neither it has been shown that the proxy counsel had been empowered by the petitioner to argue the matter by way of executing any *vakaltnama* nor anything is evident from the record to draw such an inference regarding readiness and willingness of proxy counsel to argue the matter. As such, the grounds for declining the revision petition i.e. the delay in filing revision petition and non-prosecution are perfectly justified.
11. Still further, this Court finds that four other persons against whom similar allegations had been levelled, as levelled against the petitioner i.e. G.S.Bhamra, Purchase Officer, Subhash Chander, Store Keeper, IP Singh, AEE Electrical and Ran Singh Watchman, had been held liable to make good the loss by the Deputy Registrar, Cooperative Societies, Gurdaspur but subsequently when they filed appeals, the matter was remanded back and has been decided afresh and in the fresh decision, even the said persons had been given a clean chit vide order dated 17.10.2014 (Annexure R-1 in CWP

26611-2016) passed by the Deputy Registrar, Cooperative Societies, Gurdaspur. Although, the said order is also stated to be under challenge before the revisional authority but having regard to the discussion already made above pertaining to the impugned order dated 20.10.2016 (Annexure P-4), this Court does not find any ground to interfere with the same at this stage. The petition is found to be devoid of merit and is hereby dismissed.

17.8.2023
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(GURVINDER SINGH GILL)
JUDGE

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