

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

111

CWP-20585-2023(O&M)

Date of order: 19.12.2023

M/s. The Laha Primary Agriculture Cooperative Society Limited, Laha

.....Petitioner(s)

Vs.

State of Haryana & Others

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF
JUSTICE

HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. ADS Jattana, Advocate
for the petitioner.

Mr. Deepak Balyan, Addl. AG Haryana.

Nidhi Gupta, J.

Prayer in the present petition under Article 226/227 of the Constitution of India is for issuance of a writ, direction or order for setting aside judgment dated 28.03.2001 (Annexure P3) passed by Hon'ble Single Judge, having been obtained fraudulently by respondent No.4 in CWP-10177 of 1999, when the earlier Civil Writ Petition filed by respondent No.4 bearing CWP No.5987 of 1999, already stood dismissed by the Hon'ble Division Bench on 05.05.1999 (Annexure P2); and for passing of appropriate writ, order or direction for holding respondent No.4 to have obtained the appointment of Clerk with respondent No.4 by fraud and thereby, to refund the amounts received as pay along with 18% rate of interest and other benefits received from the petitioner-Society.

2. It is contended by learned counsel for the petitioner that

respondent No.4 herein had, in the first instance filed Civil Writ Petition No.5987 of 1999 seeking thereby issuance of appropriate writ, order or direction for quashing order dated 12.04.1999 passed by the Joint Secretary, Cooperation Department, Haryana, whereby the appointment of respondent No.4 as Clerk had been cancelled. It is stated that the said Writ Petition was dismissed by a Division Bench of this Court vide order dated 05.05.1999 (Annexure P2).

3. It is stated that thereafter, without divulging that the earlier Writ Petition bearing No.5987 of 1999 had been dismissed vide Annexure P2, respondent No.4 had again filed a second Writ Petition No.10177 of 1999 on the same cause of action. It is submitted that this second Writ Petition No.10177 of 1999 has been allowed by a Single Bench of this Court vide impugned order dated 28.03.2001 (Annexure P3). It is prayed that accordingly, impugned judgment dated 28.03.2001 (Annexure P3) be set aside as the same has been obtained fraudulently by respondent No.4.

4. No other argument is raised on behalf of the petitioner.

5. We have heard learned counsel for the petitioner.

6. Perusal of the paperbook reveals that the petitioner-Society (formerly known as 'M/s Choti Kohri Cooperative Credit & Service Society Ltd.' Choti Kothi, Tehsil Naraingarh, District Ambala), was party as respondent No.8 to Civil Writ Petition No.10177 of 1999 and was duly represented by counsel Mr. Ravi Kant Sharma, before the learned Single Judge when the impugned order dated 28.03.2001 was passed (Annexure

P3). Accordingly, it was open to the petitioner to raise any such ground/objection before the learned Single Judge, however, admittedly, the petitioner failed to do so.

7. It has further come on record that the impugned order dated 28.03.2001 has already been previously challenged before this Court by way of LPA No.1102 of 2001, which was dismissed vide order dated 17.05.2001 (Annexure P6). On a direct Court query, learned counsel for the petitioner has candidly admitted that even no Special Leave Petition was filed by the petitioner before the Hon’ble Supreme Court against the order dated 17.05.2001 (Annexure P6).

8. Clearly, therefore, in the afore-noted facts, the present Writ Petition is a gross misuse of due process as the impugned order dated 28.03.2001 has attained finality having been challenged by way of LPA No.1102 of 2001 which stands dismissed vide order dated 17.05.2001 (Annexure P6). Hence, the present Writ Petition is not maintainable.

9. **Dismissed.**

10. Pending application(s) if any also stand(s) disposed of.

(Ritu Bahri)
Acting Chief Justice

(Nidhi Gupta)
Judge

19.12.2023
Sunena

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No