

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

(224)

LPA-1773-2017 (O&M)

Kiran Arora

....Appellant(s)

Versus

State of Haryana and others

.... Respondent(s)

(2)

LPA-1806-2017 (O&M)

Satya Devi

....Appellant(s)

Versus

State of Haryana and others

.... Respondent(s)

(3)

LPA-1938-2017 (O&M)

Jay Guglani

....Appellant(s)

Versus

State of Haryana and others

.... Respondent(s)

Decided on: 13.02.2023

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. N.C. Kinra, Advocate for the appellant (s).

Mr. Ankur Mittal, Addl. AG, Haryana with
Mr. Saurabh Mago, AAG, Haryana.

Mr. D.V. Sharma, Senior Advocate with
Ms. Sunder Kumari, Advocate, for respondent No.3.

G.S. Sandhawalia, J.(Oral)

Present judgment shall dispose off three appeals i.e. LPA Nos.1773, 1806 and 1938 of 2017, which are arising out of a common order passed by the learned Single Judge in CWP Nos.1697 to 1699 of 2015. The lead case before the learned Single Judge was **CWP No.1697**

of 2015 'Satya Devi Vs. State of Haryana and others'.

2. Challenge before the learned Single Judge was to the order of removal from membership on 18.11.2003 (Annexure P-3) of the appellants and was refund of their share of money by the respondent No.3-Society. They had firstly filed a representation before the General Body, which was rejected on 03.10.2004 and accordingly conveyed to them on 10.11.2004 (Annexure P-4). They chose not to file any appeal against the said order of removal or their rejection of the representation before the Appellate Authority in terms of Section 114 (1) (d) of the Haryana Cooperative Societies Act, 1984 (for short '1984 Act'), whereby provision of an appeal is provided against the decision of a Cooperative Society expelling its members. Sub-Clause (2) further provides that the appeal is to be filed within 60 days from the date of decision or order.

3. On the first occasion, a complaint was filed on 19.10.2006 before the Consumer Forum. Apparently, during the pendency of the complaint before the Consumer Forum, the appeals were filed in the year 2008 and the consumer complaint filed before the District Consumer Redressal Forum, Gurgaon was dismissed as withdrawn on 21.08.2009 (Annexure P-5). From the order it cannot be deciphered whether it was brought to the notice of the Forum as such that the appeals had been filed and it was on that account they were withdrawing the complaint and neither any liberty was prayed for.

4. The Appellate Authority thereafter dismissed the appeal on 17.09.2010 (Annexure P-6) by noting that the payments were not made of the due installments in time and membership had been cancelled in the year 2004 and the appeals were belated by 4 years. An observation was made that petition could have been filed under Sections 102 and 103 of the 1984 Act by the Deputy Registrar, Cooperative Societies, Gurgaon.

Thereafter, revision petition was filed on 09.01.2012 (Annexure P-7), which was also belated and the same was dismissed on 01.10.2014 (Annexure P-8), which was the subject matter of challenge before the learned Single Judge.

5. The learned Single Judge noticed the fact that the complaint was preferred by the writ petitioners before the Consumer Forum in the year 2006 and thereafter, the appeal had been filed in the year 2008 and the fact that revision petition was filed before the Principal Secretary after 1½ years. Resultantly, it was noticed that the writ petitioners had been seeking remedies as per their own comfort and not in accordance with the provisions of the law, which were mandatory in nature. The period of limitation provided for the purpose of filing appeal could not be condoned even under Section 5 of the Limitation Act, 1963 and provisions of Section 14 of the Limitation Act would not come into play. It was noticed that the withdrawal of the complaint was at their own instance and there was no occasion for the Consumer Forum to decide as to whether it had the jurisdiction to decide the complaint and resultantly the writ petitions had been dismissed.

6. It is to be noticed that three separate persons were commonly agitating for the similar cause and all of them were doing it belatedly. Firstly, they had wrongly approached the Consumer Forum apparently where jurisdiction was lacking as there was no deficiency in services for which they could have approached the Forum. The remedy lay under the Act which they preferred not to avail and after the limitation had run out, after a period of almost 4 years, they filed the appeal before the Appellate Authority. As noticed there is a statutory period of 60 days under the 1984 Act to file an appeal.

7. In such circumstances, we are of the considered opinion that the learned Single Judge was well justified in recording a finding that they were proceeded with the litigation as per their own whims and fancies. The law of limitation may be harsh, but the purpose as such is put to an end the litigation, where the party is not pursuing the same diligently. It is to be noticed that even a refund had been ordered and they were expelled from membership and at this belated stage we do not feel that the learned Single Judge has erred in any manner in dismissing the writ petitions.

8. The fault, if any, thus, lies squarely on the shoulder of the appellants, who were not diligent enough to pursue their remedy before the correct forum. It is also to be noticed at the cost of repetition as there was not one but three of them and in spite of that they did not as such pursue the correct remedy within time and now cannot blame that any one of them was not aware of the law.

9. Resultantly, there is no merit in the present appeals and the same are, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

13.02.2023
Naveen

Whether speaking/reasoned :	✓Yes	No
Whether Reportable :	Yes	✓No