



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

CWP-15094 of 1998 (O&M)

Reserved on: 31.07.2024

Pronounced on: 09.08.2024

Jaswinder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Argued by: Mr. I.S. Saggu, Advocate, and  
Mr. T.S. Saggu, Advocate,  
for the petitioner.

Mr. Rajesh Sehgal, Addl. A.G., Punjab.

Mr. R.K. Sharma, Advocate, and  
Mr. Sourabh Singh, Advocate,  
for respondent No.5.

**NAMIT KUMAR, J.**

1. Instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of *certiorari*, quashing the order dated 29.04.1997 (Annexure P-2), passed by the Deputy Registrar, Cooperative Societies, Fatehgarh Sahib, vide which the appointment of the petitioner as Secretary in respondent No.5 – The Haibatpur Cooperative Agricultural Service Society Limited, Haibatpur, District Fatehgarh Sahib (hereinafter referred to as ‘the Society’) – has been cancelled and to set aside the order dated 24.09.1997 (Annexure P-3) and order dated 21.05.1998 (Annexure P-4) passed by Registrar, Cooperative Societies, Punjab, respondent No.2,



and the Financial Commissioner, Cooperation, Punjab, Chandigarh respondent No.1, respectively.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner was working as Secretary in the Ghullumajra Cooperative Agricultural Service Society Limited, Ghullumajra, since 18.07.1991 and made an application to the President of the Society for appointing him as a Secretary in the said Society and he was appointed as Secretary in the Haibatpur Society vide resolution dated 02.04.1997. The said resolution was sent to the Assistant Registrar, Co-operative Societies, Sirhind, for information and approval, which was further forwarded to the Deputy Registrar, Co-operative Societies, Fatehgarh Sahib, for approval and the same was declined by the said authority and appointment of the petitioner was cancelled vide order dated 29.04.1997 (Annexure P-2) without advancing any hearing to the petitioner, on the ground that no prior approval has been obtained by the Society for appointing the petitioner as Secretary in the Society vide resolution dated 02.04.1997. The said order was challenged by the petitioner before the Registrar, Co-operative Societies, Punjab, Chandigarh, by filing a petition, who initially granted the stay on the impugned order dated 29.04.1997 till the disposal of the case and later on dismissed the said petition vide order dated 24.09.1997 (Annexure P-3) by recording following observations/findings: -

*“Shri R.K.Sharma, the learned counsel appearing for the Respondent-Society filed no written statement but placed copies of the resolution dated 13.6.1997, 4.7.1997*



*and 28.7.1997, passed by the Respondent-Society on record throwing sufficient light on the conduct of the petitioner that he misbehaved with the office bearers of the Respondent-Society. Moreover, an arbitration case had been initiated against the appellant for having embezzled Rs.24097/- with the result the management of the Respondent-Society keeping in view the misconduct and unsatisfactory work of the petitioner authorised one Shri Hari Singh, Salesman to work as Secretary with the directions to the appellant to hand over the record to Shri Hari Singh but the appellant turned deaf ears.*

*The learned counsel for the petitioner contended that the instructions dated 17.10.1986 issued by the Registrar, Cooperative Societies, Punjab do not over- rule the rules framed for the employees of Agricultural Service Societies according to which no prior approval from the Deputy Registrar was required and the Respondent- Society had appointed the petitioner as Secretary vide resolution dated 2.4.1997 in consonance with the Rule 5 of the Rules 1986. The learned counsel concluded his arguments and prayed that the Respondent No.1-Deputy Registrar vide his order dated 29.4.1997 set aside the resolution dated 2.4.1997 illegally as the petitioner had not been afforded any opportunity to explain his position thus the same deserved to be set aside with upholding of the resolution dated 2.4.1997 passed by Respondent-Society.*

*The learned counsel for the Respondent-Society argued that the Respondent No.1-Deputy Registrar had not accorded his approval to the resolution dated 2.4.97 appointing the petitioner as Secretary as the prior approval for the appointment of Secretary/Salesman was necessary according to the instructions of the RCS dated 17.10.1986. Further argued that the appointment of the petitioner had not been made by the legally constituted*



*committee wherein the presence of the concerned Assistant Registrar, Cooperative Societies or his nominee was necessary. The learned counsel concluded his arguments and prayed for dismissal of the appeal and upholding of the order dated 29.4.1997 passed by the Respondent No.1-Deputy Registrar wherein the resolution dated 2.4.1997 was set aside because of so many legal infirmities.*

*After thoughtful consideration of the arguments adduced by the counsels for both the parties and perusal of the case file, I am of the considered view that the impugned order dated 29.4.1997 passed by the respondent No.1-Deputy Registrar is well reasoned and does not fall short of any legal propriety. The said managing committee which met on 02.4.1997 the day on which the appointment of the Secretary was approved suffered from inherent infirmity in the physical absence of the Assistant Registrar or his representative. It would have been legitimate on the part of the committee to approve the appointment of the Salesman or the Secretary only if the Assistant Registrar or his representative was present in the meeting of the selection committee. Since there was no representative of the Department, the committee was not competent to approve the appointment. In such a situation prior approval of the Deputy Registrar should have been obtained.*

*In the light of the above discussions, there is no force in the petition and accordingly the same is dismissed.*

*Announced.*

*Sd/-*

*(J.R.Kundal),*

*Registrar, Cooperative Societies, Punjab,*

*Dated 24.9.1997. Chandigarh.”*



The said order dated 24.09.1997 was further challenged by the petitioner before the Financial Commissioner, Cooperation Department, Punjab, Chandigarh, by filing a revision petition, which too was dismissed by stating as under: -

*“I have considered the points raised in the petition the written statement filed by the respondent No.4 as well as the arguments led by both the parties. On merits, it is not disputed that when the resolution dated 2.4.1997 was moved neither ARCS nor his nominee was present in the meeting. It has also not been controverted by the counsel for the petitioner that one Teja Singh, Vice Presideent of the Society filed an affidavit before the RCS alleging that he has not signed the minutes. Teja Singh has pointed out in his affidavit that he is used to signing in English but the signatures affixed on the resolution are in Punjabi. I also accept the point raised by the respondent No.4 that when the petitioner was already working as Secretary in Ghalu Majra CASS he could not be considered for appointment as Secretary in the respondent No.4-Society. I do not find any infirmity in the orders passed by the RCS. As regards the maintainability of the petition, the point raised by the counsel for respondent No.4 viz. that a second revision petition is not maintainable, this argument too has force. Once an order of the DRCS has been challenged under section 69 of the Act before the Authorities mentioned in the Act itself, in this case before the registrar, Cooperative Societies, Punjab and RCS has exercised the powers of revision under section 69, no second/revision. can be maintained before the Government.*

*Considering all the issues, both on merits as well as about the maintainability of the petition, I find that the petition*



*has no force and needs to be dismissed. Accordingly, the petition is dismissed.*

*Announced.*

*Sd/-*

*Financial Commissioner Cooperation, Punjab.*

*Chandigarh, dated, the 21st May, 1998.”*

The order dated 29.04.1997 (Annexure P-2) passed by the Deputy Registrar, Cooperative Societies, Fatehgarh Sahib; order dated 24.09.1997 (Annexure P-3) and order dated 21.05.1998 (Annexure P-4) passed by Registrar, Cooperative Societies, Punjab, respondent No.2, and the Financial Commissioner, Cooperation, Punjab, Chandigarh, respondent No.1, respectively, have been impugned in the present writ petition.

3. On issuance of notice of motion, claim of the petitioner has been contested by filing separate written statement(s) on behalf of respondents No.1 to 4 and respondent No.5. In the written statement filed by respondents No.1 to 4, it has been averred as under: -

*“.....It is also specifically wrong and denied that the petitioner was appointed as Secretary in the respondent No. 5 society vide resolution dated: 2.4.1997. In reply to this para, it is respectfully submitted that no meeting as alleged in this para had taken place and no agenda as alleged in para No. 7 was issued to the managing committee members as well as to the Area Inspector and Asstt. Registrar Cooperative Societies, Sirhind. From the perusal of the so called resolution dated: 2.4.98 which is Annexure P-I it is crystal clear that the petitioner before his appointment had written the so called meeting held on 2.4.97. The petitioner who was authorised by the managing committee members as per resolution dated*



*2.4.97 has no authority to write down the Minute Book of the society on 2.4.97 when his own appointment was under consideration. Further neither the answering respondent No.4, Asstt. Registrar, Cooperative Societies, Sirhind nor his nominee was present in the meeting. Further, the proceedings dated 2.4.97 have not been signed by three managing committee members whose signatures were forged by the petitioner. One of the managing committee member namely Sh. Bachan Lal whose signature has been forged on the so called resolution had filed an affidavit that he did not sign the proceedings because he did not attend the meeting as he away to Hissar in court case on 2.4.97. Further interestingly on the so-called resolution dated 2.4.97, true translation copy of which is already on the record as Annexure P-I, said resolution has been signed by one Sh. Mohinder Singh as Vice-President and one Tara Singh has signed the proceedings as committee member of the respondent No.5 society. There are no managing committee member in the name of Sh. Mohinder Singh and Sh. Tara Singh secondly Sh. Harnek Singh, committee member has been shown to have signed the resolution dated 2.4.97 whereas he used to thumb mark. His signature has been forged on the alleged resolution dated 2.4.97. A true translated copy of the resolution, which was produced before the authorities below is annexed herewith as Annexure R-4/1. The petitioner who have written down the proceedings of the meeting held on 2.4.97 be asked to produce to the original proceedings in which the proceedings dated 2.4.97 had been recorded by him as the same has never been produced by him before the authorities.”*

4. Learned counsel for the petitioner has contended that respondent No.5-Society was competent to appoint the petitioner and



prior approval was not required as per letter dated 17.10.1996 (Annexure P-5) and the post-approval has wrongly been denied by the Deputy Registrar, Cooperative Societies and the subsequent orders passed by the Registrar, Cooperative Societies and Financial Commissioner, Cooperative Department, Punjab, are also illegal and arbitrary and are liable to be set aside and the petitioner is entitled to be reinstated in service with all consequential benefits.

5. On the other hand, learned State counsel and learned counsel for respondent No.5 have opposed the claim of the petitioner by stating that the orders passed by the authorities are perfectly legal and valid and are liable to be upheld by this Court as there is no infirmity in the said orders.

6. I have heard learned counsel for the parties and perused the record.

7. The facts are not in dispute. The petitioner was initially working as Secretary in the Ghullumajra Cooperative Agricultural Service Society Limited, Ghullumajra, since 18.07.1991 and thereafter he submitted an application to the President of respondent No.5-Society for his appointment as Secretary in the said Society, which was accepted and vide resolution dated 02.04.1997, petitioner was appointed as Secretary in the said Society. However, the said resolution has not been approved by the Deputy Registrar, Cooperative Societies, Fatehgarh Sahib, vide order dated 29.04.1997 (Annexure P-2) by stating that no prior approval was taken by the Society before making appointment of the petitioner to the post of Secretary in the said



Society and consequently cancelled the appointment of the petitioner. The matter has been considered by the next higher authority i.e. Registrar, Co-operative Societies, Punjab, Chandigarh, on a petition filed by the petitioner, wherein the claim of the petitioner has been rejected on the ground that the conduct of the petitioner was not good and he mis-behaved with office bearers of the Society and an arbitration case had been initiated against him for having embezzled Rs.24,097/- with the result, the management of the Society directed the petitioner to handover the record of the Society to one Sh. Hari Singh, Salesman, however, even the said order was not complied with by the petitioner. It was also recorded in the said order that the resolution passed in the meeting held on 02.04.1997, whereby the petitioner was appointed as Secretary, suffered from inherent infirmity in the absence of the Assistant Registrar or his representative. The appointment could have been approved only if the Assistant Registrar or his representative was present in the meeting of the selection committee and since there was no representative of the department, the committee was not competent to approve the appointment and, therefore, in that situation, the prior approval of the Deputy Registrar should have been obtained. The said order passed by the Registrar, Co-operative Societies, was approved by the Financial Commissioner, Cooperation, Punjab, vide order dated 21.05.1998, in a revision petition filed by the petitioner, by recording a finding that one Teja Singh, Vice President of the Society, filed an affidavit before the Registrar, Co-operative Societies, Punjab, alleging that he has not signed the minutes of the meeting and his



signatures have been forged on the resolution as he used to sign in English but his signatures on the resolution alleged to have been affixed, are in Punjabi. Further, it was also recorded that once the petitioner was already working as Secretary in Ghullumajra Cooperative Agricultural Service Society Limited, Ghullumajra, he could not have been considered for appointment as Secretary in respondent No.5-Society and, therefore, there was no infirmity in the order passed by the Registrar, Co-operative Societies, Punjab.

8. During the course of arguments, it has been pointed out that the petitioner is more than 58 years of age and has already crossed the age of superannuation of 58 years on 31.03.2024. Therefore, also at this stage no relief can be granted to him as the petitioner is not in service since the year 1997.

9. In view of the above, finding no merit in the present writ petition, same is hereby dismissed.

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

09.08.2024  
R.S.

(NAMIT KUMAR)  
JUDGE

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