

**CWP-17207-1999(O&M)****-1-****208****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-17207-1999(O&M)
Date of decision:-23.07.2024**

The Darauli Co-operative Agricultural Service Society Ltd.

...Petitioner

Versus

The Joint Secretary Co.operation (Appeals) Punjab, Chandigarh and
others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**Present** : Mr.Arvind Mittal, Advocate
for the petitioner.Mr.Anil Bansal, DAG, Punjab
for respondents No.1and 2.

None for respondents No.3 to 10.

SUVIR SEHGAL, J.(ORAL)

1. Instant writ petition has been filed under Articles 226/227 of the Constitution of India, inter alia, for issuance of a writ in the nature of certiorari for quashing orders dated 06.04.1999, Annexure P1, and 22.04.1996, Annexure P2, passed by respondents No.1 and 2 respectively, whereby respondents No.5 to 10 have been exonerated from their liability.

2. Mr.Arvind Mittal, learned counsel for the petitioner submits that during an audit of the petitioner – society, it transpired that



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respondents No.3 to 10 had caused loss to the society to the tune of Rs.71,917.92 and Rs.1,44,456.11 during the period 01.07.1977 and 30.06.1986. According to him, this amount was embezzled by respondents No.3 and 4, who were working as Secretary and Cashier – cum – Salesman during the relevant period. The audit report was submitted on 31.12.1986 and the petitioner – society by its resolution dated 13.01.1990, requested the Deputy Registrar, Cooperative Societies to initiate the surcharge proceedings against the involved persons. He submits that the Assistant Registrar, Cooperative Societies conducted an inquiry and found that respondents No.5 to 10 were also responsible due to lack of supervision. He submits that an award was passed under Section 54 (2) of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as “the Act”) against the respondents holding them liable. He submits that two separate appeals were preferred by respondents 5 and 7 under Section 68 of the Act and by order, Annexure P2, respondent No.2 accepted the appeal and held that the embezzled amount be recovered from respondents No.3 and 4 in equal share along with 15% interest from the date of embezzlement. Revision preferred by the petitioner was rejected by respondent No.1 vide order Annexure P1. Assailing both these orders, he submits that the authorities have erred in exonerating respondents No.5 to 10 from their liability.

3. I have heard counsel for the parties and examined the record with their able assistance.

4. It is not in dispute that respondents No.3 and 4 were the employees of the society and were incharge of the monetary transactions

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from 01.07.1977 to 30.06.1986. They were not only responsible for dealing with the cash but also for maintaining the account books during the said period. Although it is a matter of record that no audit of the society was conducted for almost one decade, but there is no material on the record to show that respondents No.5 to 10 were personally responsible for causing loss to the society. It is evident that private respondents No.5 to 10 were the members of the managing committee for different spans of time and when the negligence of respondents No.3 and 4, came to their notice, they immediately placed Rakesh Chand, respondent No.3, who was the Secretary of the society at that time, under suspension. Respondents No.5 to 10, therefore, could not have been held to be responsible for defalcation or pilferage of funds of the society. The financial interest of the petitioner - society has been protected inasmuch as they have been given liberty to recover the loss from respondents No.3 and 4. This Court does not find any infirmity or illegality in the impugned orders.

5. Finding no merit in the writ petition, it is dismissed with no order as to costs.

6. Pending miscellaneous application, if any, stands disposed of.

(SUVIR SEHGAL)
JUDGE

23.07.2024**Brij**

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No