



CWP-5014-2023 (O&M)

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

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CWP-5014-2023 (O&M)
Date of decision:01.10.2024

Ram Sawrup

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sharad Choudhary, Advocate for the petitioner.

Mr. Satish Singla, AAG, Haryana.

Mr. Pardeep Solath, Advocate for respondent No.7.

SUVIR SEHGAL J.

1. By way of present writ petition filed under Article 226/227 of the Constitution of India, petitioner has approached this Court *inter alia* for issuance of a writ in the nature of certiorari for quashing notice dated 01.03.2023, Annexure P-14, issued by respondent No.4 and complaint dated 19.01.2023, given by respondent No.7 against the petitioner and all proceedings initiated subsequent thereto.

2. Facts leading to the filing of the petition are that the petitioner became a member of the Baruwali-II Cooperative Transport Society Limited (for short 'the Society'), a primary society associated with the Sirsa Central Cooperative Bank Ltd, Sirsa-respondent No.4 (for short



‘the Bank’) and became the member of a primary society vide resolution dated 17.04.2021, Annexure P-1. A circular dated 28.04.2021, Annexure P-2, was issued for elections to the Board of Directors of the Bank. Vide resolution dated 19.06.2021, Annexure P-5, petitioner was authorized to take part and vote in elections of the Bank as per Section 21 of the Haryana Cooperative Societies Act, 1984 (for short ‘1984 Act’). A tentative list of Zones for election to the Board of Directors were circulated on 30.06.2021, Annexure P-6, and objections were invited. The action taken on the various objections received, was intimated to the Deputy Registrar, Cooperative Societies vide letter dated 29.05.2022 (Annexure P-7). An election programme was circulated by the Returning Officer-cum-Deputy Registrar Co-operative Societies on 28.09.2022, Annexure P-8. Petitioner filed his nomination paper and his name figured in the list of nominations, Annexure P-9, at serial No.2 under the general category (non-agriculturist) and name of respondent No.7 figured at serial No.3 of the said list. Elections were held on 06.11.2022 and the petitioner defeated respondent No.7 by a margin of 5 votes. A list of elected candidates was circulated on 11.11.2022, Annexure P-11. Respondent No.7 submitted a complaint dated 19.01.2023 with the Haryana Chief Minister Grievance Redressal System levelling some allegations against the petitioner, whereupon, the petitioner was issued impugned notice Annexure P-14, under the 1984 Act.

3. Upon notice, writ petition has been contested by the officials respondents No.1 to 5 by filing a reply, wherein it has been submitted that the petitioner was not eligible to be a member of the society. On a



complaint received from respondent No.7, the matter was inquired into and it transpired that the petitioner had acquired the membership of the society in violation of its bye-laws. A separate written statement has been filed on behalf of respondent No.7 on the same lines.

4. Counsel for the petitioner has argued that respondent No.7 held a grudge against the petitioner as he was defeated in the elections. It is his assertion that respondent No.7 did not file an election petition, a remedy available under the 1984 Act and instead adopted the tactics of filing a complaint against the petitioner, which is in bad faith. On the other hand, counsel for the respondents submits that as the petitioner was ineligible to be a member of the primary society, he could not contest the elections.

5. I have heard counsel for the parties and considered their respective submissions besides examining the documents placed on the record.

6. Bye-law 5 of the society, provides that an individual shall be eligible for admission as a member of the Society if he is an unemployed youth above the age of 18 years and does not exceed the age of 40 years and is of a sound mind. In their separate response, respondents have categorically pleaded that the petitioner retired from the Bank on attaining the age of superannuation and is owner of agricultural land. He, therefore, was not eligible to be a member of the Society and the Managing Committee of the Society had played a fraud by enrolling him as a member. The allegations regarding ineligibility were inquired into and a report, dated 27.02.2023 was submitted by the Inspector



Cooperative Societies, Nathusari, Chopta whereby he found that the allegation was correct. The stand of the respondents is that once the petitioner was not eligible to be a member of the primary Society, he could not have contested the elections of the Bank. As the allegation *prima facie* has been found to be true, the Assistant Registrar Cooperative Societies, Sirsa, issued the impugned show cause notice, Annexure P-14, to the petitioner under Section 8-A of the 1984 Act.

7. At this stage, it is relevant to notice the statutory provision, which has been invoked by the Assistant Registrar. Section 8-A, *ibid*, is reproduced hereunder:-

“8A. Power of Registrar to decide certain matters.

- Where in connection with the formation, registration or the admission of a member, a question arises whether a person resides in the area of operation of the society or whether a person belongs to a particular class or occupation or such other matter pertaining to the eligibility of the person to become a member of the society, such question shall be decided by the Registrar and his decision in this regard shall be final.”

8. A perusal of the above reproduced provision shows that whenever a question arises regarding the eligibility of a person to be a member of a Society, such question has to be gone into and decided by the Registrar. In order to ascertain his eligibility, petitioner has been issued the impugned show cause notice. Instead of responding to the show cause notice, the petitioner has chosen to file the instant writ



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petition. Petitioner has not questioned the power of the Registrar to issue notice under Section 8-A of the 1984 Act. This Court is, therefore, of the view that in the above background, the challenge to the impugned show cause notice, is premature.

9. Writ petition being premature, is dismissed as such. However, it is clarified that in case the petitioner chooses to respond to the show cause notice by filing a reply, the same shall be considered by the competent authority uninfluenced by any observation made hereinabove.

10. Pending application, if any, stands disposed of.

01.10.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No