

**CWP-17806-2020 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****236****CWP-17806-2020 (O&M)**

Date of Decision: 26.09.2024

Balbir Singh

.... Petitioner

Vs

Additional Registrar Cooperative Societies and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGALPresent: Mr. Ajay Mahajan, Advocate and
Mr. Abhinav Mahajan, Advocate for the petitioner.

Mr. Anil Bansal, DAG, Punjab.

Mr. Arun Gosain, Advocate for respondent No.3.

SUVIR SEHGAL, J.(ORAL)

1. Instant petition has been filed under Article 226/227 of the Constitution of India, *inter alia* for issuance of a writ in the nature of certiorari for quashing appellate order dated 09.09.2019, Annexure P-26, as well as order dated 28.12.2018, Annexure P-24, passed by respondents No.1 and 2, respectively and for dismissal of the claim petition preferred by respondent No.3.

2. Counsel for the petitioner submits that a petition dated 15.07.2016, Annexure P-1, was filed by respondent No.3 against the present petitioner under Section 55/56 of the Punjab Cooperative Act, 1961 (for short 'the 1961 Act') before the Joint Registrar, Cooperative Societies, Patiala-respondent No.2 for recovery of Rs.31,28,273/-

**CWP-17806-2020 (O&M)****-2-**

inclusive of interest. He submits that the petitioner contested the petition by filing reply, the parties produced evidence in support of their case and after hearing, respondent No.2 reserved the decision on 28.11.2018. He asserts that order, Annexure P-24, was released on 28.12.2018 and it was specifically mentioned therein that the intimation of order be given to the parties. It is his categorical case that the petitioner was never informed of the decision and in the month of February, 2019, when he inquired, he came to know that the matter had been decided against him. Counsel submits that certified copy of the order, Annexure P-24 was applied for, which was received on 25.02.2019, and immediately thereupon, appeal was preferred under Section 68 of the 1961, Act on 11.03.2019. Counsel submits that although the appeal was within the prescribed period of limitation but by way of an abundant caution, an application under Section 5 of the Limitation Act, 1963, was filed for condonation of delay. He submits that although delay was of mere 8 days, the appeal has been dismissed by the appellate authority vide impugned order, Annexure P-26, by holding that it has no power to condone the delay. He has placed reliance upon the judgment of the co-ordinate Bench of this Court in CWP No.1187 of 2017 titled as ***Punjab State Co-op Supply Marketing Federation (Markfed) versus Financial Commissioner (Co-operation), Punjab and others***, Law Finder Doc.Id # 2257962 pronounced on 01.06.2023, to submit that the remedy of appeal cannot be rendered ineffective without giving an opportunity to the petitioner to explain the reason for delay.



separate replies, to which the petitioner has filed a replication.

4. I have heard counsel for the parties.

5. A co-ordinate Bench of this Court in ***Punjab State Co-op Supply Marketing Federation (Markfed)***'s case (*supra*) has held as under:-

“22. Thus, the very foundation of co-operative movement is based upon mutual cooperation punctuated with an objective to minimise interference from outside. It is based upon organizing the ‘units’ into unity. Cooperative societies engage employees for their business. It is these employees who act as their arms, mind and thus are responsible for filing appeals within prescribed period of limitation. Thus, to interpret Section 68 by closing doors even for entertaining the plea of there being a sufficient cause for condoning the delay would be an anti thesis to the very objective of the co-operative movement itself i.e. ‘mutual co-operation’. Resultantly, the remedy of appeal should not be rendered redundant in cases where there is a sufficient cause to explain the delay in filing appeal.

23. In view of above, when the basic principle underlying Section 5 is tested on the touchstone of the scheme of 1961 Act, this Court finds that condoning the delay for sufficient cause not only advances the object of the Act, but rather taking the other view would militate the very soul of the co-operative movement i.e. mutual co-operation. Without doubt speedy disposal is



essence of judicial process, yet the doors cannot be closed to entertain the plea based upon sufficient cause.

24. Thus, the authority erred in law in rejecting the appeals without testing the sufficient cause shown by the petitioner for not preferring the appeal within the prescribed period.”

6. Although, there is no power vested in the appellate authority to condone the delay under Section 68 of the 1961 Act, but in view of the observations made by this Court, which have been reproduced above, the matter requires to be re-determined by the appellate authority.

7. Ergo, impugned appellate order dated 09.09.2019, Annexure P-26, is set aside. Matter is remitted to the Appellate Authority to re-hear the appeal by giving an opportunity to the petitioner to explain sufficient cause for condonation. In case, the Appellate Authority finds that the petitioner has made out a case for condonation of delay, the appeal be heard and decided on merits.

8. Petition is disposed of.

9. Parties are directed to appear before the Appellate Authority on 13.11.2024 at 11:00 am.

26.09.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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