IN THE HIGH COURT PUNJAB AND HARYANA
AT CHANDIGARH

202 **CRM-M-25384-2015**
DECIDED ON:16.10.2024

THE DIST. PRIMARY COOP. AGRICULTURE & RURAL DEVELOPMENT BANK LTD. KOSLI.

..… PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

…..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. U.K. Agnihotri, Advocate,
Mr. Anshul Agnihotri, Advocate and
Mr. Anuj Y. Attri, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

Mr. Mani Ram Sharma, Labour Commissioner.

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SANDEEP MOUDGIL, J

1. Relief Sought:

The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of impugned complaint bearing No. 59/RBT/2015, titled as ***"State through Labour Inspector, Rewari vs. M/s District Rewari, Coop. Agriculture and Rural Development Ltd. Kosli, District Rewari."*** (Annexure P-1), pending in the Court of Chief Judicial Magistrate, Rewari along-with all consequential proceedings arising therefrom.

2. ***Facts***

The factual matrix of the present case is that a complaint under Punjab Shops and Commercial Establishment Act, 1958 (hereinafter referred to as ‘Act of 1958’) was filed by respondent No.2-Labour Inspector, Rewari alleging that the shop in question was found open on prescribed closed day i.e. Sunday for business purpose, which is in gross violation of Section 10(1) of the Act, 1958. Further allegation is that the employer has failed to get his establishment registered under Section 13 of the Act of 1958 and the Registration Certificate i.e. FORM F, was not produced on demand. Moreover, FORM B was not kept exhibited in the shop premises at the time of inspection and the occupier did not made available the record for the purpose of inspection. Thus, the petitioner-Bank has committed the offence punishable under Section 13(6) and 20(5) of the Act of 1958 read with Rules/Section 13 (2)(1), 20(1) and 21(1) of the Act of 1958.

3. ***Submissions***
On behalf of petitioner:

It is contended on behalf of the petitioner-bank that it is actually a cooperative society established by the Government of Haryana to support its farmer members and it provides facilities to promote agricultural interests, but it is not a commercial bank like those established under the Banking Regulation Act, 1949, or the Reserve Bank of India. According to Section 3 of the Banking Regulation Act, 1949, the provisions of the Act do not apply to primary agricultural credit societies, cooperative land mortgage banks, or other cooperative societies, except as specified in Part V of the Act. The assertion is that the respondent allegedly wrongly considered the petitioner bank as a commercial bank and issued a notice dated 30.09.2014, stating that the petitioner bank was running a shop in the form of a cooperative bank without registering under the Punjab Shops and Commercial Establishment Act, 1958. The petitioner bank referred the matter to the Haryana State Cooperative and Rural Development Bank Ltd., which opined that the petitioner bank is neither a shop nor a commercial establishment, and the provisions of the Act of 1958 do not apply. The respondent then filed a criminal complaint in the court of the Chief Judicial Magistrate Rewari on January 2, 2015, alleging that the petitioner bank failed to register under the Act and did not produce the registration certificate. The petitioner bank claims that these allegations are false and that the complaint is a misuse of the legal process.

On behalf of respondents No.1 and 2:

It has been contended by learned State counsel that the case of the petitioner-Bank falls under the Punjab Shops and Commercial Establishments Act, 1958, which aims to regulate working conditions and employment in shops and commercial establishments. The petitioner, a bank, admits to conduct banking business, which is considered a commercial establishment. The objective is to earn profits, making it subject to the Act. Section 3 of the Act specifies exemptions, but none apply to the petitioner. The definition of "commercial establishment" is broad, covering various services except those excluded by Section 3. The petitioner's argument that it is registered under the Cooperative Societies Act and thus exempt from the Act of 1958 is unfounded. The two Acts serve different purposes: the Cooperative Societies Act allows commercial operations, while the Act of 1958 regulates employment and working conditions. The petitioner failed to register under the Act of 1958, prompting proceedings against them.

4. Analysis

Before proceeding further with the case, this Court would delve into the question that whether the bank is established as a cooperative society, which fundamentally differs from commercial banks. Cooperative banks are designed to serve their members, who are also the owners, focusing on providing financial services tailored to agricultural needs rather than maximizing profits. According to the Punjab Shops and Commercial Establishments Act, a "commercial establishment" is defined as any premises where business activities are conducted for profit. The petitioner bank does not fit this definition as it does not operate for profit but aims to facilitate agricultural pursuits for its members. The bank does not employ labor in the conventional sense required by commercial establishments. Instead, its employees are appointed and regulated by a state body, governed by specific staff service rules that differ from those applicable to commercial entities. The cooperative society operates under the oversight of the government, which holds a significant share in its capital. This relationship emphasizes its role as a service-oriented institution rather than a profit-making entity.

The Haryana State Cooperative and Rural Development Bank Ltd. embodies the principles of cooperative banking by focusing on the needs of its farmer members, promoting agricultural development, and ensuring democratic governance within its structure. Its role extends beyond mere financial transactions to encompass broader objectives of community upliftment and sustainable rural development.

Cooperative banks are generally exempted from several provisions of the Banking Regulation Act, 1949. Specifically, Section 3 of the Act states that its provisions do not apply to primary agricultural credit societies or cooperative land mortgage banks, except as specified in Part V of the Act. This exemption indicates that cooperative banks operate under different regulatory guidelines than commercial banks.

5. ***CONCLUSION***

Now coming back to the present case in hand, earlier also respondent No.2 in order to harass the petitioner issued a notice dated 30.09.2014 under the provisions of the Act of 1958 mentioning that the petitioner is running a shop in the form of Cooperative Bank and the same has not been registered under the Act of 1958 and therefore, has violated the provisions of the same. Thereafter, after receiving the notice, the petitioner-Bank referred the matter to the Apex Body i.e. Haryana State Cooperative and Rural Development Bank Limited, Panchkula wherein the Apex Body opined that the petitioner-Bank is neither a shop nor a commercial establishment and it is rather a Cooperative Society working for no profit no loss basis.

Therefore, this Court is of the view that once the Apex Body has declared that the petitioner-Bank does not fall within the ambit of commercial establishment as defined in the Act of 1958, the petitioner-Bank is also registered under the provision of Haryana Co-operative Societies Act, 1984. The criminal complaint filed by respondent No.2 again on the same set of allegations is not sustainable in the eyes of law and the same is frivolous which is liable to be quashed.

6. ***DECISION***

In view of the discussions made hereinabove, this Court finds it a fit case for exercising its powers under Section 482 Cr.P.C. to quash the impugned complaint bearing No. 59/RBT/2015, titled as ***"State through***

<u>Labour Inspector Rewari vs. M/s District Rewari, Coop. Agriculture and Rural Development Ltd. Kosli, District Rewari" (Annexure P-1).</u> Hence, the same is quashed.

In the afore-said terms the present petition is allowed.

(SANDEEP MOUDGIL)
JUDGE

16.10.2024
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Whether speaking/reasoned : Yes
Whether reportable : Yes