

CWP-16328-2021(O&M)
CWP-16344-2021(O&M)
CWP-16348-2021(O&M)
CWP-16802-2021(O&M)
109(4 cases)

2024:PHHC:107547



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

- (1)

CWP-16328-2021(O&M)

Gurbinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents
- (2)

CWP-16344-2021(O&M)

Narinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents
- (3)

CWP-16348-2021(O&M)

Parminder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents
- (4)

CWP-16802-2021(O&M)

Malkiat Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

Date of decision:-21.08.2024

CWP-16328-2021(O&M)
CWP-16344-2021(O&M)
CWP-16348-2021(O&M)
CWP-16802-2021(O&M)
109(4 cases)

2024:PHHC:107547



-2-

CORAM: HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr.D.V. Sharma, Senior Advocate with
Mr.Arshdeep, Advocate and
Mr.Tushar Sharma, Advocate
for the petitioner (s) in all cases.

Ms.Amrita Garg, AAG, Punjab.

Mr.Ashwani Parashar, Advocate
for respondent No.5 in all petitions (THROUGH V.C.).

Mr.H.S. Bedi, Advocate
for respondent No.6 in all petitions.

SUVIR SEHGAL, J.(ORAL)

1. This order shall dispose of all the above-noted four writ petitions as they involve common questions of law and fact. For the sake of convenience, factual position is being taken from **CWP-16328-2021**.
2. This writ 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 programme issued vide letter dated 06.07.2021, Annexure P1 for election to the Board of Directors of Ropar District Co-operative Milk Producers Union Ltd. Petitioner has also sought issuance of a direction to the respondents to place on record the order rejecting his nomination papers for election from Zone No.1 and for quashing the same.
3. Upon notice, writ petition has been contested by the respondents by filing separate responses primarily on the ground of its maintainability. It has been objected that the writ petition is not

CWP-16328-2021(O&M)
CWP-16344-2021(O&M)
CWP-16348-2021(O&M)
CWP-16802-2021(O&M)
109(4 cases)

2024:PHHC:107547



-3-

maintainable as the petitioner has an alternate remedy of filing an election petition under the Punjab Cooperative Societies Act, 1961.

4. I have heard counsel for the parties and considered their respective submissions.

5. The legal position is no longer *res integra*. A Co-ordinate Bench of this Court in **Indu Lata Aggarwal and another Versus Joint Registrar Co-operative Societies, Patiala Division, Patiala and others, 2011 (4) PLR 157** has held as under:

“9. An identical question came to be decided by a Division Bench of this Court, vide judgment **dated 9.3.2004 rendered in Civil Writ Petition No. 17761 of 2003 titled as "Pritam Singh v. State of Punjab and others"**. Having interpreted the relevant provisions, it was ruled as under :-

"We have heard learned counsel representing the parties and examined the records of the case. Mr. I.S. Saggu, learned counsel for the petitioner, in his endeavour to show that the writ, despite availability of remedy of election petition, shall be competent, relies upon a judgment of Single Bench of this court in **Sher Chand and others v. Deputy Registrar Cooperative Societies, Ferozepur and others, 1995(1) R.R.R. 577 : 1995(1) PLR 260**. Mr. Sharma, on the other hand, relies upon the judgment in **Umesh Shivappa Ambi and others v. Angadi Shekara Basappa and others, AIR 1999 Supreme Court 1566**, to contend to the contrary.

CWP-16328-2021(O&M)
CWP-16344-2021(O&M)
CWP-16348-2021(O&M)
CWP-16802-2021(O&M)
109(4 cases)

2024:PHHC:107547



-4-

Having heard learned counsel and examining the record of the case, we are of the opinion that an alternative remedy by way of election petition is, indeed, available to the petitioner and in the facts and circumstances of this case, he has to be relegated to his alternative statutory remedy. The judgment of this Court in Sher Chand's case (supra) clearly mentions that the writ petition would be competent at the stage when the petitioner might have approached the Court before the election result was declared. It is the positive case of the respondents in the present case that result of the election was declared on 5.11.2003. In the facts and circumstances of this case, the judgment of the Supreme Court will apply. The petitioner, in view of statutory alternative remedy available to him, is relegated to his ordinary remedy. In the facts and circumstances of this case, thus, judgment of this court in Sher Chand's case (supra) would not be applicable. It is the judgment of Hon'ble Supreme Court, as relied by learned counsel representing the respondents, that would apply to the facts of the present case. The petitioner, in view of the statutory alternative remedy, is relegated to the said remedy."

The ratio of law laid down in the aforesaid judgment "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand.

10. *In the light of the aforesaid reasons and without*

CWP-16328-2021(O&M)
CWP-16344-2021(O&M)
CWP-16348-2021(O&M)
CWP-16802-2021(O&M)
109(4 cases)

2024:PHHC:107547



-5-

commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of election petition, the instant writ petition is hereby dismissed as being not maintainable at this stage.”

6. There is no dispute regarding the factual position in the present case. A programme dated 06.07.2021, Annexure P1 was circulated for holding elections to the Board of Directors of the Ropar District Co-operative Milk Producers Union Ltd., respondent No.5. After being authorised by the Managing Committee of Hassanpur Society, petitioner took part in the elections by filing his nomination papers, which were rejected on 02.08.2021, Annexure P8. Petitioner claims to have applied for a copy of the rejection order through his counsel vide Annexure P7, which was not supplied to him. Elections to the Board of Directors were held on schedule and the result was declared on 04.08.2021, Annexure P9. Instant petition has been filed before this Court on 20.08.2021, after more than two weeks of the declaration of the result. Petitioner has not availed the remedy of filing an election petition. In view of the observations made by this Court in *Indu Lata Aggarwal's* case reproduced above, petitioner has to be relegated to the alternate remedy. Writ petition is not maintainable.

7. As a result, writ petition is dismissed as not maintainable. However, petitioner is granted liberty to take recourse, if so advised, to the alternate remedy of filing an election petition under the Punjab Co-

CWP-16328-2021(O&M)
CWP-16344-2021(O&M)
CWP-16348-2021(O&M)
CWP-16802-2021(O&M)
109(4 cases)

2024:PHHC:107547



operative Societies Act, 1961, in accordance with law.

8. Pending applications, if any, are disposed of.

21.08.2024
Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No