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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:11.11.2024

Ram Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amardeep S. Sandhu, Advocate for
Mr. Aman Pal, Advocate
for the petitioners.

Mr. Aman Bahri, Addl. A.G., Haryana,
for respondents No.1 to 5.

Ms. Tanya Malik, Advocate
for respondent No.6.

SUVIR SEHGAL, J.

1. This 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 setting aside order dated 31.03.2017, Annexure P-10, vide which petitioner No.1, who is a member of the Managing Committee of the Society-respondent No.6, has been placed under suspension and for quashing letters dated 29.03.2017 and 03.04.2017, Annexures P-11 and P-12, respectively, whereby after getting approval, communication has been sent by respondent No.4 to the Superintendent of Police, Sonipat, to lodge an

FIR against the petitioners.



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2. After hearing the petitioners on 07.04.2017, this Court passed the following order:-

“Learned counsel for the petitioners contends that though against the order (Annexure P-10), he has alternative remedy of filing the revision under Section 115 of the Haryana Cooperative Societies Act, 1984, whereby petitioners have been suspended from the Managing Committee of the society-Respondent No.6 without holding an enquiry or coming to some logical conclusion with regard to the alleged allegation, the Deputy Registrar Cooperative Society had written letter for the registration of the FIR. Until and unless the enquiry is not concluded or till its final outcome, FIR cannot be registered. Moreover, Managing Committee had been making all efforts to get the possession of the land from the unauthorized occupants but by virtue of the sale deed dated 15.11.2016 (Annexure P-7), possession of the land has been taken, in essence, there was/is no loss to the society and the basis of the alleged embezzlement is also not forthcoming.

Notice of motion for 06.07.2017.

There shall be stay qua letters (Annexure P-11 and P-12).

Liberty is granted to the petitioner to avail the alternative remedy against Annexure P-10.

A copy of this order be given under the signatures of Reader attached to this Court.”

3. Upon notice, written statement has been filed by the respondents, contesting the petition. During the course of hearing of this petition, counsel for the petitioners made a statement on 03.09.2024 that insofar as challenge to order, Annexure P-10, is concerned, the prayer has



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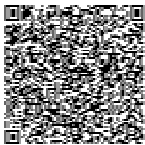
become infructuous as the term of the petitioners has expired. Confining his challenge to letters, Annexures P-11 and P-12, counsel for the petitioners urges that the approval to lodge the FIR has been given without giving any opportunity of hearing to the petitioners to explain position. By making a reference to the resolution of the Panchayat and the other documents appended with the writ petition, counsel has asserted that the necessary approval for sale of land belonging to Society was obtained before the land was disposed of.

4. State counsel has taken a stand that it was mandatory for the petitioners, who were the Members of the Managing Committee of the Society-respondent No.6, to get a prior approval from the Registrar for disposing of the property of the Society. He has made a reference to Section 89 of the Haryana Cooperative Societies Act, 1984, which is reproduced hereunder:-

“89. Acquisition or disposal of property. - No co-operative society shall purchase, acquire, lease, sell any land or construct any building or other immovable assets of the society except with the prior approval of the Registrar.”

5. State counsel asserts that this approval was never obtained nor have the petitioners appended any such approval with the writ petition.

6. Having heard counsel for the parties, this Court is of the view that as to whether the mandatory approval had been obtained by the petitioners before disposing of the society's property would be within the



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realm of investigation to be conducted by the police authorities after the lodging of the FIR. The petitioners can always produce the documents relied upon by them during the investigation of the criminal case. This Court, therefore, does not intend to delve into this aspect. Counsel for the petitioner could not rely upon any statutory rule or provision or any precedent to support his argument that he was required to be afforded an opportunity to explain, prior to the issuance of impugned communications, Annexures P-10 and P-11. This Court does not find any merit in the arguments raised by counsel for the petitioners.

7. Consequently, petition being devoid of merit, is dismissed with no order as to costs.

11.11.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No