

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.2154 of 2024 (O&M)
Date of Decision: 09.09.2024

Narinder Singh

.....Appellant.

Versus

State of Punjab and others

.....Respondents.

CORAM: ***HON'BLE MR. JUSTICE G.S. SANDHAWALIA***
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. D.V. Sharma, Senior Advocate with
 Ms. Shivani Sharma, Advocate
 for the appellant.

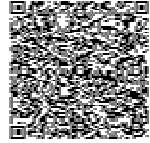
 Ms. Arundhati Kulshreshtha, AAG, Punjab.

 Mr. Ashwani Prashar, Advocate
 for respondent No.5.

G.S. SANDHAWALIA, J.(Oral)

Challenge in the present Letters Patent Appeal is raised against the order of learned Single Judge passed in the ***Civil Writ Petition No.16344 of 2021***, whereby learned Single Judge had relegated the writ petitioner-appellant to the remedy of filing the election petition under the Punjab Co-operative Societies Act, 1961 (for short ‘the 1961 Act’).

2. It has been submitted by learned Senior counsel for the appellant that the name of respondent No.6 has wrongly been mentioned as

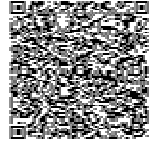


‘Baljinder Singh’ instead of ‘Manjinder Singh’ in the Memo of Parties, as is clear from the copy of the Memo of Parties from the Civil Writ Petition, which is also appended with the paper-book. Accordingly, on the oral request, the correction is allowed. The office is directed to make necessary correction in the record before issuance of certified copy of this order.

3. Mr. Sharma has, vehemently, submitted that there was an admission as such regarding the dis-qualification which provides that the nomination papers could only have been accepted in the Society whose representative was contesting the election, had supplied a minimum of 30,000 Kg. of milk annually for 03 years, while referring to the bye-law 37 of the Milk Union. It is submitted that specific averments made as such in paragraph No.16 to 18 of the writ petition, which have been admitted by respondent No.5-the Ropar District Co-operative Milk Producers’ Union Limited. It is submitted that in such circumstances, learned Single Judge is not justified in relegating the petitioner to the alternate remedy.

4. It is not disputed that challenge in the writ petition was to the election programme and for setting-aside the election of respondent No.6-Director, who had been elected from Zone No.9. As per Annexure P-5, the election result was declared on 04.08.2021. The petitioner, instead of preferring the election petition under Section 55 of the 1961 Act, chose to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India.

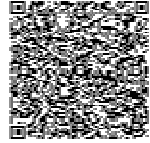
5. Learned Single Judge has relied upon the judgment of this Court in *Indu Lata Aggarwal and another Versus Joint Registrar*



Co-operative Societies, Patiala Division, Patiala and others, 2011(4) PLR 157 which, in turn, relied upon the judgment of the Apex Court in ***Umesh Shivappa Ambi and others Versus Angadi Shekara Basappa, AIR 1999 Supreme Court 1566.***

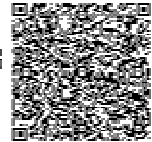
6. We have perused the paper-book and on first blush of the arguments as raised by Mr. Sharma are attracted to the admission aspect by respondent No.5. However, the written statement of the elected candidate, respondent No.6, as such shows to the contrary and it is pleaded that a report was called from the milk plant and the same was in favour of respondent No.6 and the Society of respondent No.6 had supplied the requisite amount of milk to the milk union and therefore, the said respondent is not suffering from any dis-qualification. Admittedly, no replication was filed to the said written statement filed by respondent No.6.

7. Learned Single Judge's view in ***Indu Lata Aggarwal and another's case (supra)*** was further upheld in ***LPA No.518 of 2011*** titled as ***Indu Lal Aggarwal and another Versus The J.R.C.S. Patiala and others*** by the Co-ordinate Bench of this Court on 01.05.2014 and it was held that all the facts which were being agitated needed recording of the evidence. The issue involved therein was that some members, who were not present on the previous date and had not marked their presence, were allowed to cast their votes on the election date. Similar is the legal issue herein since in view of the specific plea taken by respondent No.6 whether he had supplied the necessary quantity of milk and that there was a report in his favour. In such circumstances, keeping in view the law laid down by



Hon'ble Supreme Court in *Umesh Shivappa Ambi and others' case (supra)* that the writ Court could not exercise its jurisdiction once there is remedy under the Act itself, we are of the considered opinion that the relegation to the alternative remedy was a correct view taken by learned Single Judge. The relevant portion of the above-said judgment reads as under:-

“It is now well settled that once an election is over, the aggrieved candidate will have to pursue his remedy in accordance with the provisions of law and this Court will not ordinarily interfere with the elections under Article 226 of the Constitution. (See in this connection AIR 1977 Supreme Court 1703, Para 4, K.K. Shrivastava v. B.K. Jain). The Court will not ordinarily interfere where there is an appropriate or equally efficacious remedy available, particularly in relation to election disputes. In the present case, under Section 70(2)(C) of the Karnataka Co-operative Societies Act, 1959 any dispute arising in connection with the election of a President, Vice-President, Chairman, Vice-Chairman Secretary, Treasurer or member of Committee of the Society has to be referred to the Registrar by raising a dispute before him. The Registrar is required to decide this in accordance with law.”



8. The extra-ordinary jurisdiction is not liable to be invoked at the drop of the hat, as contended by the counsel for the appellant. In such circumstances, we are not inclined to interfere in the matter.

9. The present Letters Patent Appeal is, accordingly, disposed of.

10. Needless to say that if the appellant intends to pursue his grievance expeditiously after the result, it is open for him to file the election petition within a period of 15 days from today. Accordingly, in case the same is done, respondent No.2-Registrar, Co-operative Societies, Punjab, will not dismiss the petition on the ground of limitation and decide the case on merits.

11. Keeping in view the above, in case the election petition is filed by the appellant within the above-stipulated period, respondent No.2-respondent No.2-Registrar, Co-operative Societies, Punjab, shall take steps to decide the same within six months from the date of receipt of certified copy of this order.

(G.S. SANDHAWALIA)
JUDGE

September 09, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No