



CWP-28156-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109)

CWP-28156-2022 (O&M)

DATE OF DECISION:- 18.12.2024

BIKRAMJIT SINGH AND OTHERS

... PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Balbir Kumar Saini, Advocate
for the petitioners.

Mr. Brijesh, AAG, Punjab
for respondents No.1 to 4.

Mr. Harjot Singh Bedi, Advocate
for respondents No.5 & 9.

Mr. Arshvir Singh Sandhu, Advocate
for respondents No.6 to 8 (THROUGH V.C.)

Mr. Iqbal Singh Saggu, Advocate
for respondents No.10 to 17.

SUVIR SEHGAL, J. (Oral)**CM-6583-CWP-2024 and CM-6584-CWP-2024**

1. Applications are allowed, as prayed for.
2. Annexures R-10/2 to R-10/4 are taken on record.

CM-14749-CWP-2024

3. Application is allowed, as prayed for.
4. Annexures P-79 upto P-83 are taken on record.

Main case

5. By way of instant petition, petitioners have sought issuance of a writ in
the nature of certiorari for quashing the impugned proceedings dated



12.11.2021, Annexure P-1, whereby the Returning Officer has declared respondents No.10 to 17 as elected members of the Managing Committee of the Malloval Multipurpose Cooperative Agricultural Service Society Limited-respondent No.5 (for short “the Society”). A further direction has been sought to the official respondents to hold the elections afresh.

6. Mr. Balbir Kumar Saini, counsel for the petitioners has urged that the proceedings of election to the Society held on 12.11.2021 were sham and violated the provisions of the Punjab Cooperative Societies Act, 1961 (for short “the 1961 Act”) and the rules and bylaws. He alleges that respondents No. 10 to 17 were elected as officer bearers of the Managing Committee under political pressure and for extraneous consideration. He has placed reliance on affidavits, Annexures P-14 to P-74, submitted by the members of the Society to support the allegation. It is his case that after a report was prepared by the Area Inspector to the effect that the Managing Committee is not properly discharging its functions, vide orders dated 19.05.2022, Annexures P-2 to P-8, the members of Managing Committee were placed under suspension under Section 27(2) of the 1961 Act and individual show cause notices were issued to them. A writ petition was filed by the suspended members and upon instructions received by the State counsel, the suspension order was treated as withdrawn and the liberty was given to the suspended members to file their reply to the show cause notices. Counsel asserts that despite representations and applications under the Right to Information Act, 2005, the petitioners have not been informed about the outcome of the proceedings initiated against the members of the Managing Committee.

7. Upon notice, writ petition has been contested by the respondents by filing separate responses *inter-alia* taking a plea that under Section 55 (2) (c) of the 1961 Act, any dispute in connection with the election of any officer of the



Society has to be referred to the Registrar, who may decide the same himself or transfer it for disposal to any person, who has been authorised by the Government. Reference has also been made to Rule 12 of Appendix-C of the Punjab Cooperative Societies Rules, 1963 (for short “1963 Rules”) to submit that the election petition has to be filed within a period of 90 days from the declaration of the result. A specific stand has been taken by the official respondents that the tenure of the previous Managing Committee expired on 04.03.2020 and fresh elections could not take place during the tenure of the Administrator due to the outbreak of the pandemic. It has been averred that the Society was divided into three zones and the election programme was approved by the official respondents. Eight members, including a lady member, filed nominations and respondents No.10 to 17 were unanimously elected as members of the Managing Committee of the Society. It has been categorically stated that the elections have been held as per the provisions of the 1961 Act and the rules framed thereunder and the bylaws of the Society. In so far as the applications filed by the petitioner under the Right to Information Act, 2005 are concerned, the official respondents stated that as the applications were submitted to the Assistant Registrar-respondent No.4, who was not the Public Information Officer, they were returned to be filed before the competent authority, but the petitioners never submitted any application before the Deputy Registrar. By referring to a Division bench judgment of this Court in **Manjit Singh Versus Kabul Singh, 1978 PLR 549**, it has been contended by the counsel for respondents that the petitioners have a remedy of filing an election petition under the 1961 Act and writ petition, which has been filed after one year of the declaration of the election result, is not maintainable.



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8. I have heard counsel for the parties and considered their rival submission, besides examining the documents brought on the record.

9. Petitioners have an alternative remedy of filing an election petition under Sections 55 and 56 of the 1961 Act read with Rule 12 (2) of Appendix-C Part-I of the 1963 Rules, which they have not availed of. On a specific query by the Court, counsel for the petitioners has invited the attention to the pleadings to submit that as the departmental authorities are under political pressure, the remedy of appeal/revision is neither speedy nor efficacious. This ground is vague and cannot be accepted. The Division Bench judgment in **Kuldeep Singh Versus State of Punjab, 1994 PLJ 268**, relied upon by the counsel for the petitioners is not attracted to the facts of the present case as it cannot be said that the remedy is neither adequate nor effective. As the petitioners have an alternative statutory remedy, the writ petition is not maintainable.

10. Petition is dismissed with liberty to the petitioners to take recourse to the alternative remedy available to them under the statute.

11. Pending application(s), if any, stand disposed off.

(SUVIR SEHGAL)
JUDGE

18.12.2024

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