

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-24571-2023 (O&M)
Date of decision: 14.03.2024

The Karanki Kherli Cooperative Labour and Construction Society Limited,
Sohna Road, Gurugram.

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Deepak Singh Saini, Advocate for
Ms. Vibha Nagar, Advocate for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for setting aside the order dated 16.08.2023 (Annexure P-13) issued by the whereby the respondent-department whereby the representation of the petitioner for carrying out the rectification in the name of the petitioner-Society in the enlistment certificate has been dismissed.
2. Learned counsel for the petitioner contends that the name of the petitioner-Society actually is “**The Karanki Kherli Cooperative Labour and Construction Society Limited**” and that in the official records the name of the petitioner-firm has been registered as “**The Kiranki Kherli Cooperative Labour and Construction Society Limited**”. He contends that the petitioner-Society was registered under the Haryana Cooperative

Societies Act, 1984 vide Registration Certificate dated 08.03.1988. The Bye-laws has already been approved by the Haryana Cooperative Department. The petitioner-Society was enlisted as a Contractor with the Public Health Department under the name and style as “**The Karanki Kherli Cooperative Labour and Construction Society Limited**”. The petitioner-Society continued to be enlisted under the same name with the Public Health Department since then, however, in the year 2018, for the period from 2018-19 and 2019-20, the name of the petitioner was changed from “The Karanki Kherli Cooperative Labour and Construction Society Limited” to “**The Kiranki Kherli Cooperative Labour and Construction Society Limited**”. The petitioner made a request for rightly recording its name in the enlistment certificate as “The **Karanki** Kherli Cooperative Labour and Construction Society Limited”, instead of “The Kiranki Kherli Cooperative Labour and Construction Society Limited”. An application was given again and again by the petitioner-Society, however, no action was taken thereon by the respondent-department and no decision was taken despite the petitioner having supplied all the requisite documents. Eventually, the petitioner filed a petition bearing CWP No.12226 of 2023 before this Court, which was disposed of vide order dated 31.05.2023 with a direction to the respondent to take decision. Now, vide impugned order dated 16.08.2023, the prayer of the petitioner has been declined on the ground that the mistake is not an outcome of any human intervention thus no rectification can be made.

3. Learned State counsel prayed for some time to complete instructions, however, learned counsel for the petitioner contends that the petitioner is required to seek an enlistment afresh after 31.03.2024 and in the

event the requisite correction is not carried out in the Certification/Registration by the respondent-Department, he would be ineligible to participate in the tenders floated for the next financial year.

4. I have gone through the impugned order dated 16.08.2023 appended with the present petition. Without awaiting for a formal reply since the reasons of rejection of claim are already recorded therein. Any delay would only be prejudicial to the petitioner and cause opportunity loss. The respondent-State could even otherwise not supplant its reasons that are already recorded in the impugned order.

5. The respondent-department has rejected the application of the petitioner for seeking rectification of its name solely on the ground that the said error was not on account of any human intervention and that the changes have not been made by the office. The same having been uploaded online by the firm and so approved by the competent, there is no occasion for carrying out the changes at all. The order reads thus:-

“This order is passed for representation made by the firm

It is hereby notified that a representation on behalf of the Kiranki Kherli L&C Society Ltd. was received in this office on dated 10.07.2023 through his councillor Mrs. Vibha Nagar, Advocate Punjab & Haryana High Court, Chandigarh in which it was requested for correction of the name of the firm in its enlistment already enlisted by the Engineer-in-Chief, Haryana Public Health Engineering Department Panchkula. The application has also been attached with the

copy of orders of Hon'ble High Court in which the case has been dismissed being the case is infructuous. The relevant lines of the orders of the Hon'ble High Court are stated as below.-

"Disposed of as infructuous.

If, the petitioner, as sought to be urged, has any other grievance, it will be at liberty to move the authorities in that regard".

Taking cognizance of the case, a personal hearing was given to the owner of the said firm vide this office letter No. spl-6 dated 25.07.2023 to appear on dated 28.07.2023 at 11:30 AM. On scrutiny of the record, it was established that the above firm applied on online portal for his enlistment to the EE PHED Sohna vide application ID No. 44662-6464 The copy of documents loaded online has been checked and observed that the name of firm as loaded online by the firm was "The Kiranki Kherli L&C Society Ltd. (attached as Annexure-A) and the same name was recommend online to the competent authority i.e. Engineer-in-Chief, Haryana Public Health Engineering Department Panchkula for enlistment. The same name as uploaded by the firm (applicant) was approved for enlistment by the committee of the above office. Accordingly, enlistment certificate was issued online and transferred online to the firm on 08.07.2022 (attached as Annexure-B). This office has neither made any

change in the name of the firm nor it is possible in any way. Hence, there is no mistake has been made by this office. Whatever name of firm was uploaded online by the firm in his enlistment application, the same was approved by the competent authority.

So, on the basis of the facts explained above, it has been concluded that the agency has himself applied in the name of "The Kiranki Kherli L&C Society Ltd." on online portal and the system has picked the same as there is no human intervention is involved in the procedure. Hence, no amendment/correction in the name of firm is possible as the procedure was online updation and there was no human intervene.

Be communicated to all concerned."

6. I find that the above said reason defies logic. It would be a travesty of justice to accept that any error can never be rectified and for the reason that the error was due to the applicant himself. A ministerial decision in such human error would only escalate the problems of persons, compelling them to approach the Courts for reliefs for which the authority is competent and is to take a conscious and a considered decision. An error in uploading a correct detail should not be prohibited from being rectified especially when such error is *bona-fide* and due to a lapse/negligence/oversight. It is not a suggestion that any counter-claim is being raised to the name or that the society is intending to impersonate for any other entity and there is no adjudication at all. The change is being

sought in accordance with the supporting documents that are already on the file submitted with respondents.

7. I am of the view that the Superintending Engineer, Public Health Engineering Circle, Gurugram, has failed to apply any logic or rationality and has passed the impugned order in a ministerial manner. There is no reference to any impediment in carrying out the correction in registration/name, even if such error is on account of an oversight/negligence while feeding the detail and when all other material particulars furnished depict that the error was only on account of a negligence/oversight. It is also not the case of the respondent-Superintending Engineer that the entity of “The Kiranki Kherli Cooperative Labour and Construction Society Limited” is distinct and separate from the petitioner-**The Karanki Kherli Cooperative Labour and Construction Society Limited**, or that the documents do not substantiate or support the case of the petitioner.

8. It is such ministerial and non-considerate approach of the respondent-authorities that forces the people to suffer harassment compelling them to approach the Court of law for seeking rectification of errors and relief(s) which should have ordinarily been undertaken by the respondents at their own level.

9. The present writ petition is accordingly **allowed**. The respondents are directed to carry out the appropriate changes and correction in the name of the petitioner-Society recorded in the enlistment certificate as **“The Karanki Kherli Cooperative Labour and Construction Society Limited”**. Further, the conduct of the respondent-authorities in passing of

orders in a ministerial manner and without any application of mind is deprecated. A cost of Rs. 50,000/- is imposed upon the Superintending Engineer to be deposited with the High Court Legal Services Committee for passing a frivolous order and forcing frivolous litigation on citizens. The Department is at liberty to initiate recovery of cost from the employee as per law.

14.03.2024
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No