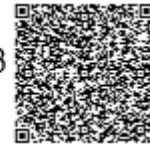


**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2024:PHHC:170401-DB



(127)

LPA-3091-2024

Date of Decision: 18.12.2024

Neelam

--Appellant

Versus

State of Haryana & others

--Respondents

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

Present:- Mr. S.S. Dalal, Advocate for the appellant.

Mr. Saurabh Mago, DAG, Haryana.

G.S. SANDHAWALIA.J (Oral)

1. Challenge in the present appeal is to the order dated 20.11.2024, passed by the learned Single Judge, whereby the order dated 24.07.2024 (Annexure P-10), passed by the Registrar, Cooperative Societies (RCS), Haryana, has been set aside.

2. Vide the said order (Annexure P-10), the Registrar, Cooperative Societies had come to the conclusion that the Inquiry Officer had not proved the charges against the present appellant, who is the Chairperson of the Board of Directors of the Jhajjar District Central Cooperative Bank Ltd. and the the wrongdoing was done by the General Manager of the Bank and other related officials responsible.

3. Learned Single Judge while setting aside the said order, came to the conclusion that the order was initially passed on 01.02.2024 (Annexure P-4) by the Registrar, Cooperative Societies, Haryana, whereby a Deputy Registrar had been appointed to preside over the

meetings of the Board of Directors which was called for the purpose of 'No Confidence Motion' against the present appellant and therefore the request for the Presiding Officer to preside over the meetings. The reasoning which prevailed with the learned Single Judge was that provision of Section 30-A of the Haryana Cooperative Societies Act, 1984 (for short the 1984 Act), provided that the elected members of the Committee can bring 'No Confidence Motion' against the elected office bearers including the Chairman. Resultantly, the fallback was made and support was taken from the judgement of the Apex Court in ***Vipulbhai M. Chaudhary Vs. Gujarat Cooperative Milk Marketing Federation Limited and others, (2015) 8 SCC 1***. The finding was that once there are specific allegations in the requisition, the authorities are obligated to convene a meeting of the Board for the requisition to be tested.

4. A reference was made to the representation (Annexure P-2) appended with the writ petition regarding the conduct and behaviour of the present appellant, whereby the prayer had been made to bring a No Confidence Motion against her and which has been recorded vide order dated 01.02.2024 (Annexure P-4). The objection of the alternate remedy which has now been raised, was also rightly brushed aside by noticing that the respondent no.1 itself had filed an affidavit that the allegations against the Chairperson is mandatory in No Confidence Motion and the inquiry into such allegations is inherent under Section 30-A of the 1984 Act. It was also held that there was no constitutional bar regarding the maintainability of the writ petition under Article 226 of the Constitution of India. However, the remedy available must be adequate and efficacious one and there is no bar to the maintainability of such writ petition with respect to elected bodies

and the appellant can seek redressal by placing reliance in case of ***Nachhattar Singh Vs. State of Punjab, 1993(2) PLR 147***. It is settled principle that where there is lack of jurisdiction, the Writ Court would also reach out to ensure that the wrongdoing is corrected. Reliance in this regard can be placed in case of ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others, AIR 1999 SC 22***, wherein it was held so. Under such circumstances the arguments, which has now been raised that the judgement of the Full Bench of this Court was not dealt with by the learned Single Judge in case of ***Jasbir Singh and others Vs. Commissioner (Appeals) Jalandhar Division and others 2011(4) RCR (Civil) 1***, is without basis.

5. We have gone through the said judgement. The issue concerned was different and does not deal with the power of the Writ Court under Article 226 of the Constitution of India and rather deals with the issue of the revisional powers contained under the Act.

6. Under such circumstances, we are of the considered opinion that the appellant, who had been elected as a Chairperson has only been put to the test of proving her majority and surviving the No Confidence Motion. Therefore, in view of the provisions of Section 30-A of the 1984 Act, the learned Single Judge was justified by coming to the conclusion that the said exercise would not have been taken over by way of appointing an Inquiry Officer to look into the complaint as the said officer would have no jurisdiction regarding the fact that the appellant may have lost the confidence of the elected members.

7. Under such circumstances, we do not find any such reason to entertain the present appeal in the above circumstances. Accordingly, the present appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

18.12.2024
lucky/sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No