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

CWP-238-2000 (O&M)

Date of Decision:03.12.2025

The Ambala Central Coop. Bank

.....Petitioner

Versus

Joint Secretary to Government Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. S.S. Antal, Advocate for the petitioner.

Mr. Udit Garg, Addl. A.G. Haryana.

Mr. S.S. Dalal, Advocate for respondent No.3.

None for respondent No.4.

JASGURPREET SINGH PURI J.(Oral)

1. The present writ petition has been filed under Articles 226/227 of Constitution of India seeking issuance of a writ in the nature of *certiorari* for setting aside the impugned orders (Annexures P-2 and P-4) passed by the respondents.

2. Learned counsel appearing on behalf of the petitioner, while giving the brief facts of the present case, submitted that respondent No. 4, namely Shri Mahabir Singh, was working as the Secretary of respondent No.3-The Adhoya Cooperative Credit and Service Society Ltd. He was appointed by the petitioner-Bank and was serving as a Secretary of the aforesaid cooperative society. The petitioner is a District Level Cooperative Bank, which placed the services of respondent No. 4 with the



aforesaid society. Multiple allegations of embezzlement and fraud were levelled against aforesaid respondent No.4 and since a dispute arose, the matter was referred to the competent authority/Arbitrator under Section 102 of the Haryana Cooperative Societies Act, 1984 (hereinafter referred to as 'the Act') which provides for adjudication of the matter by an Arbitrator. Thereafter, an award was passed by learned Arbitrator vide Annexure P-2, whereby respondent No. 4 was held guilty for embezzlement of some amount. He further submitted that there were about 20 similar cases of embezzlement against respondent No.4 and Annexure P-2 pertains to one such instance.

3. Learned counsel submitted that a perusal of the aforesaid order (Annexure P-2) would show that after holding respondent No.4 guilty, it was further observed that in the event the embezzled amount is not recovered from respondent No.4, the same shall be recovered from the present petitioner, which is the District Level Cooperative Bank. He further submitted that there is no provision of law under which the petitioner-bank can be fastened with liability because it was a case of embezzlement by a person who was working as a Secretary in respondent No.3–society. Even if, assumingly, respondent No.4 was appointed by the petitioner-Bank and was its employee, still no liability could have been fastened upon the petitioner-Bank, as there is no provision for fastening such liability because the concept of the doctrine of vicarious liability would not apply in a case where the allegations and the order were pertaining to embezzlement of the amount, as such acts are done in personal capacity and not while discharging the duties of the Cooperative Bank. He submitted that in this way, after the aforesaid order was passed,



wherein, in alternative, the amount was to be realized from the petitioner-Bank and the Bank filed a statutory appeal against the said order under Section 114 of the Act, which was decided on 28.02.1990 (Annexure P-3). In the appeal, all the 20 awards were also mentioned and a perusal of the same would show that all the awards were pertaining to embezzlement committed by respondent No. 4.

4. The appeal filed by the petitioner-Bank was allowed on 28.02.1990 by the Deputy Registrar (Ind.), Cooperative Societies, Haryana, Chandigarh while exercising appellate jurisdiction, by observing that the petitioner-Bank has a distinct identity of its own and is in no way responsible for the misdeeds committed by the Secretary, who is respondent No. 4 and therefore the involvement of the petitioner-Bank was uncalled for. The aforesaid order passed by the Appellate Authority was assailed by respondent No. 3—Society by way of a revision petition before Joint Secretary to Government of Haryana, Cooperation Department, who set aside the order passed by the Deputy Registrar (Ind.), Cooperative Societies, Haryana, Chandigarh-Appellate Authority vide Annexure P-4, solely on the ground that he could not have entertained the appeal as it was barred by the period of limitation, observing that under the provisions of Section 114 of the Act, the period of limitation for filing such an appeal is 60 days, whereas the appeal in question was filed after a period of three years. The Joint Secretary to the Government of Haryana, Cooperation Department, who was the revisional authority, did not decide the revision on merits of the case, but set aside the order of the Deputy Registrar (Ind.), Cooperative Societies, Haryana, Chandigarh, solely on the aforesaid technical issue pertaining to



limitation. He submitted that the aforesaid order (Annexure P-4) is also being challenged in the present writ petition, in addition to the order passed by the Arbitrator (Annexure P-2).

5. Learned counsel also submitted that although notice was issued to respondent No. 4 but he was not served. However, since the petitioner does not seek any relief against respondent No. 4, his name may be deleted from the array of parties.

6. The prayer made by learned counsel for the petitioner for deletion of respondent No. 4 from the array of parties, as no relief is claimed against him, is accepted. The name of respondent No. 4 is hereby deleted from the array of parties.

7. On the other hand, learned counsel appearing on behalf of respondent No. 3—Society submitted that the Joint Secretary to Government of Haryana, Cooperation Department, while exercising revisional jurisdiction had rightly set aside the order passed by the Deputy Registrar (Ind.), Cooperative Societies, Haryana, Chandigarh, on the ground that the appeal was filed beyond the period of limitation. Therefore, the Deputy Registrar (Ind.), Cooperative Societies, Haryana, Chandigarh, could not have entertained the appeal against the aforesaid order and accordingly, the petition is liable to be dismissed.

8. He further submitted that respondent No.4 was appointed by the petitioner-bank and was an employee of the petitioner-Bank and as per Annexure P-2 (Award), which was passed by the learned Arbitrator under Section 102 of the Act, the primary liability was fastened upon respondent No. 4 and it was only in case of default that the liability was then fastened upon the petitioner-Bank. Therefore, there is no error in the



order passed by the learned Arbitrator even on merits. He also submitted that since an award has been passed under Section 102 of the Act against the petitioner, the petitioner-bank cannot assail the award on any such ground once it is a party to the proceedings under Section 102 of the Act and therefore the present petition is liable to be dismissed.

9. I have heard the learned counsels for the parties.

10. On the statement of learned counsel for the petitioner, respondent No. 4 has been deleted from the array of parties in view of the submission that no relief is claimed against respondent No. 4. .

11. The present writ petition was filed in the year 2000 i.e. almost 25 years ago. The writ petition was admitted by a Division Bench of this Court on 01.04.2002 and the following order was passed:

“Admitted.

*Recovery in pursuance to the impugned order
shall remain stayed.”*

12. As per all the learned counsels for the parties, after the interim order was passed, no recovery has been effected from anybody.

13. The issue involved in the present case is whether the petitioner, which is a District Level Central Cooperative Bank, can be held vicariously liable for the misdeeds and embezzlement committed by respondent No. 4 or not. During the course of proceedings, a specific query was raised to the learned counsel appearing on behalf of respondent No.3 and the learned State counsel as to under which provision of law vicarious liability could be fastened upon the petitioner-bank which has an independent identity and is an independent cooperative society for the



personal actions of respondent No. 4 to which they were unable to point out any provision of law under which the petitioner-bank can be held liable. It is not in dispute that respondent No. 4 was held liable by learned Arbitrator vide Annexure P-2 on the basis of embezzlement committed by him while working as Secretary of the Society and the said embezzlement was committed in his personal capacity. It is not a case that respondent No. 4 committed the aforesaid acts in discharge of his official functions so as to make the employer vicariously liable but as per the award itself, he committed embezzlement and was held guilty in his personal capacity. Therefore, this Court is of the considered view that the petitioner-bank which is not even direct employer could not have been fastened with the liability, even alternatively or in the event of default, for recovery from the petitioner in case the amount could not be recovered from respondent No.4. No provision of law has been pointed out by any of the learned counsels for the parties under which the petitioner-Bank, which has a separate legal identity, can be held liable.

14. So far as the argument which has been raised by learned counsel for respondent No.3 with regard to the fact that the Joint Secretary to Government of Haryana, Cooperation Department, has set aside the order passed by learned Appellate Authority on the ground of limitation that the Appellate Authority could not have entertained the appeal is concerned, this Court is of the considered view that, considering the present writ petition is of the year 2000 which is almost 25 years old and was admitted in 2002 with an interim order, this Court can certainly examine the legality of the award itself (Annexure P-2). This is particularly in view of the fact that the aforesaid award (Annexure P-2)



has also been challenged in the present writ petition, as is clear from the prayer clause. Therefore, even if, on technical grounds, the Joint Secretary to Government of Haryana, Cooperation Department, has set aside the order of the Deputy Registrar (Ind.), Cooperative Societies, Haryana, Chandigarh and not on merits, this Court would still examine the order passed by the learned Arbitrator if any part of the order is a nullity in the eyes of law being not supported by any provision of law.

15. Annexure P-2, which is the award passed by the learned Arbitrator, would show that respondent No. 4 was fastened with the liability and in default of recovery from him, the liability was then fastened upon the petitioner-Bank, which is an independent cooperative bank at the district level. Even if the petitioner was the employer of the aforesaid respondent No. 4 but he was working as a Secretary in respondent No.3–society, which also has a separate legal identity. Each and every cooperative society has its own distinct and independent legal personality. The allegations were pertaining to the embezzlement, which is always in a personal capacity. Therefore, by no stretch of imagination can the doctrine of vicarious liability be invoked qua the present petitioner. Had it been a case that there was a specific provision, either under the statute or rules then the situation would have been different but in the absence of the same, no such liability could have been fastened upon the petitioner-Bank, which has a separate legal identity.

16. In view of the facts and circumstances of the present case, the present petition is allowed. The order passed by the Joint Secretary to Government of Haryana, Cooperation Department (Annexure P-4) is hereby set aside. Order dated 04.09.1986 (Annexure P-2) is also

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set aside to the extent of fastening liability qua the present petitioner-Bank.

17. At this stage, learned counsels for the parties have pointed out that respondent No. 4 has not challenged the order passed by the learned Arbitrator even till date. Therefore, this Court is of the considered view that there will be no embargo or bar on respondent No.3-Society to recover the aforesaid amount in accordance with law from respondent No. 4 only.

(JASGURPREET SINGH PURI)
JUDGE

03.12.2025*shweta*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No