IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.3815 of 2026
Date of Decision: 3.11.2026

Bilaspur District Truck Operators Transport Co-operative Society Limited.

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the Petitioner: Mr. R.R. Rahi, Advocate.

For the Respondents: Mr. Rajan Kahol, Additional Advocate General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for for respondents No. 1 to 4.
Ms. Kiran Sharma, Advocate, for respondents No. 5 to 8.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with order dated 22.12.2025 passed by the Joint Secretary (Cooperation) to the Government of Himachal Pradesh (Annexure P-8), thereby reversing order dated 11.04.2023 (Annexure P-5) passed by the learned Joint Registrar, Cooperative Societies (Marketing), Himachal Pradesh, in a dispute under Section 72 of the Himachal Pradesh Cooperative Societies Act, 1968 (In short "Act"), petitioner-Society has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for the following main relief:

> "i. That a writ in the nature of certiorari may kindly be issued and impugned order dated 22.12.2025, as contained in Annexure P-8, may very kindly be quashed and set aside."

2. Precisely, the facts of the case, as emerge from the pleadings and other material adduced on record by the respective parties, are that petitioner-Society was registered on 14.02.1983 with a membership of 62 members. Main objective of the Society was to enter into an agreement with any Government or private organization for supply of transport vehicles. Petitioner Society entered into an agreement with ACC Cement, Barmana to provide transport vehicles for carriage of cement from the factory to various places of the State and neighbouring States.

3. Initially, eligibility criteria for acquiring membership of the Society as per the existing bye laws was that a person should be: (a) over 18 years of age with sound mind; (b) ordinarily residing in the area of operation of the Society, i.e. Bilaspur District; (c) of good character; (d) being a bona fide resident of Bilaspur District and should be owner of a truck.

4. Subsequently, petitioner-Society amended its bye laws on 01.02.1993 with regard to eligibility criteria for membership and inserted a new clause that "*an individual who intends to become a member of the Society should be a resident of Bilaspur District from generation to generation*

and should be owner of land in Bilaspur prior to the year 1970." It also came to be resolved that *one who had purchased the land after the year 1970 would be treated as a nominal member*. Aforesaid bye laws again came to be amended on 20.03.2001, whereby it came to be provided that *a member shall not be owner of more than two trucks*.

5. Though word '*Gatta*' has not been defined in the Himachal Pradesh Cooperative Societies Act, Rules and bye laws of the Society, but it is a number allotted by the Society to every truck engaged in transportation of cement with the Society. Prior to the year 2001, all members, who enrolled their trucks with the Society were normally given carriage work of cement from ACC factory, Barmana, without any disruption, but since in the year 2001, membership of the Society crossed over 1500 and the number of trucks also increased to 2000, while work of transportation of cement did not increase correspondingly, necessity was felt to freeze attachment of new trucks with the Society. Accordingly, the petitioner Society in its meeting held on 28.05.2001 imposed a complete ban on registration of new trucks with the Society. Again, in its meeting held on 20.04.2003, a General Body of the Society unanimously resolved not to register any new truck with the Society, but at the relevant time, 2032 trucks were plying with the Society. The trucks of the members, who were

enrolled prior to the ban imposed on 28.01.2001 were entered in the register of the Society and given attachment numbers, i.e. 'Gatta', by virtue of which, a member gets the right of carriage of cement from ACC factory, Barmana through the Society.

6. Petitioner-Society vide Resolution No. 7 dated 20.04.2003 resolved in the General House that keeping in view the limited nature of work, complete ban be imposed on addition of new trucks. In **CWP No. 1113 of 2007** titled as ***Vishal Bansal v. State of Himachal Pradesh*** *and Ors.* decided on 15.06.2016, interim order was passed to constitute a committee consisting of officers namely Mr. Srikant Baldi, IAS, Mr. Devesh Kumar, IAS and the Registrar, Co-operative Societies, Himachal Pradesh, Ex-officio. Expert committee was constituted to go into the entire gamut of issues, especially allotment of business as well as engagement of trucks with the Society so that malpractice, favouritism and corrupt means are avoided.

7. Committee, after having deliberated the matter at length, observed that number of trucks in the Society is more than the number of members and therefore, every truck is assigned a number which is called 'Gatta' in local parlance. On the basis of Gatta number and truck number, work of carriage of cement is given to a truck and every day, a new list of

trucks is prepared on rotation so that every truck owner could get business in a fair and equitable manner. The committee also deliberated that in future, additional trucks may be required by the Society, but whenever the Society decides to add new trucks, a press advertisement should be invited from all eligible persons residing in the area of operation of the Society by giving wide publicity. Existing members having only one truck would also be eligible to apply for a second vehicle. Committee resolved that in case the number of applications received is more than the number of new trucks required, same should be decided by draw of lots under the chairmanship of the Assistant Registrar, Cooperative Societies, Bilaspur in the presence of applicants.

8. Since respondents No. 5 to 8 were allegedly carrying on business in Kiratpur, Punjab, petitioner-Society shifted their trucks in the year 2000 from Gatta No. 1 to Gatta No. 2 as nominal members of the Society. In the aforesaid background, respondents No. 5 to 8 filed a dispute under Section 72 of the Act, for allowing them to exercise the right of membership in the petitioner Society and include their trucks in Gatta No. 1, being members of the Society.

9. Learned Joint Registrar, Cooperative Societies, Himachal Pradesh, vide order dated 11.04.2023 (Annexure P-5) dismissed the petition

and as such, respondents No. 5 to 8 were compelled to file an appeal under Section 93(1) of the Act in the court of Secretary (Cooperation) to the Government of Himachal Pradesh at Shimla, which came to be allowed vide order dated 22.12.2025, whereby aforesaid authority set aside the order dated 11.04.2023 passed by the Joint Registrar (Marketing), Cooperative Societies and directed the petitioner Society to allow the private respondents to exercise their membership rights in the Society as per the relevant provisions of the Act, Rules made thereunder and its bye laws.

10. Being aggrieved and dissatisfied with the aforesaid order passed by the Joint Secretary (Cooperation), petitioner Society has approached this Court in the instant proceedings, praying for the reliefs as have been reproduced hereinabove.

11. Precisely, the case of the petitioner Society as has been highlighted in the petition and further canvassed by Mr. R.R. Rahi, learned counsel representing the petitioner is that since it stood established on record that private respondents are not the residents of Bilaspur District, rather had been pursuing their business in Kiratpur, Punjab, no illegality can be said to have been committed by the Joint Registrar (Marketing), Cooperative Societies while passing the order dated 11.04.2023, thereby upholding the decision of the petitioner Society to keep the names of the

private respondents in the category of nominal members. To substantiate his aforesaid plea, learned counsel representing the petitioner referred to the bye laws of the Society to state that a member of the Society can be a person, who is ordinarily a resident of the area of operation of the Society, i.e. Bilaspur District, but since in the case at hand, private respondents No. 5 to 8 were not found to be residents of Bilaspur District, no illegality can be said to have been committed by the Joint Registrar (Marketing) while dismissing the petition filed by the private respondents under Section 72 of the Act.

12. To the contrary, Ms. Kiran Sharma, learned counsel representing respondents No. 5 to 8 submits that respondents No. 5 to 8 are not only the residents of Bilaspur District, but they are also agriculturists and their business, if any, in Kiratpur will not debar them from plying their trucks through the petitioner Society in the State of Himachal Pradesh. Learned counsel submits that as per own case of the respondents, father of respondents No. 5 to 8 was the founder member of the Society and trucks attached to the Society were purchased during his lifetime. She further states that respondents No. 5 and 6 were enrolled as members of the Society in the year 1990 and respondents No. 7 and 8 were

enrolled in the years 1996 and 1994 respectively. Hence, it cannot be said that they were not eligible to be enrolled as members of the Society.

13. Having heard learned counsel for the parties and perused the material on record, this Court finds that though respondents No. 5 to 8 are old members of the Society, but yet they, without there being any notice and justifiable reasons, have been deprived of their right to vote and participate in the meetings and election process of the Society. In addition thereto, trucks of the private respondents have also been shifted from Gatta No. 1 to Gatta No. 2. Perusal of the documents pertaining to their membership, such as identity cards issued by the then Administrator of the Society, enrollment register, membership numbers and agriculture certificates, clearly reveals that respondents No. 5 to 8 are permanent residents of District Bilaspur.

14. It is also not in dispute that the petitioner Society amended its bye laws in the year 1993, whereby a new clause came to be inserted for membership, providing that *an individual who intends to become a member of the Society should be a resident of Bilaspur District from generation to generation and should be owner of land in Bilaspur District prior to the year 1970*. One who had purchased land after the year 1970 would be treated as a nominal member. Subsequently, it also came to be incorporated in the

bye laws that a member should not be owner of more than two trucks. In the instant case, private respondents never claimed for their new enrollment, as they stood already enrolled prior to the year 2001, but since they have been declared nominal members on account of their business in Kiratpur, as a result whereof, trucks owned by respondents No. 5 to 8 also came to be shifted from Gatta No. 1 to Gatta No. 2, they raised dispute under Section 72 of the Act.

15. Careful perusal of the bye laws, Act and Rules compels this Court to arrive at a conclusion that respondents No. 5 to 8 fulfill the required eligibility criteria for membership and there is no material evidence adduced on record by the Society to controvert the factum of membership of respondents No. 5 to 8. Since private respondents stood enrolled as members of the petitioner Society prior to the year 2001, coupled with the fact that they are the permanent residents of District Bilaspur, order of learned Joint Registrar (Marketing), Cooperative Societies, Shimla dated 11.04.2023 rightly came to be interfered in the appeal preferred by the petitioner society.

16. Since petitioner Society miserably failed to prove that respondents No. 5 to 8, prior to their having filed petition under Section 72 of the Act, were not enrolled as members of the Society, coupled with the

fact that even as per amended bye laws, respondents No. 5 to 8 are eligible to be enrolled as members of the Society, no illegality can be said to have been committed by the Secretary (Cooperation) to the Government of Himachal Pradesh while passing the order dated 22.12.2025, thereby setting aside order dated 11.04.2023 passed by the learned Joint Registrar (Marketing).

17. Consequently, in view of the above, this Court finds no illegality or infirmity in the impugned order and as such, same is upheld. Accordingly, present petition fails and is dismissed being devoid of any merit and the petitioner Society is directed to implement the directions contained in the order passed by the Joint Secretary (Cooperation) dated 22.12.2025 in its letter and spirit forthwith. Pending applications, if any, stand disposed of accordingly.

November 03, 2026 **(Sandeep Sharma),**
(manjit) **Judge**