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

CWP-7283-2023
Date of decision: 30.01.2026

Multan Singh **....Petitioner**

Versus

State of Haryana and others **....Respondents**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manoj Kumar Taya, Advocate
for the petitioner.

Mr. Saurabh Girdhar, Asstt.A.G., Haryana.

Ms. Tanvir Kaur, Advocate for
Mr. Devender Punia, Advocate for respondent No.3.

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HARPREET SINGH BRAR, J (Oral):

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent No.3, The Pundri Cooperative Marketing-cum-Processing Society Ltd., Pundri, to release payment of interest @ 12% per annum on the retiral benefits of the petitioner, which were withheld from the date of his retirement i.e. 31.07.2015 until the date of actual realisation i.e. 13.02.2018.

2. Learned counsel for the petitioner, *inter alia*, contends that after rendering uninterrupted service from 1975 until his superannuation on 31.07.2015, his legitimate retiral benefits were withheld without any justifiable cause for a period exceeding two and a half years. He further submitted that the belated release of the dues on 13.02.2018, were procured only after protracted litigation including a contempt petition, inherently entitled the petitioner to compensatory interest. Relying on the judgments

rendered by the Hon'ble Supreme Court in ***M. Padmanabhan Nair vs. State of Kerala (1994) 2 SCC 501*** and of this Court in ***J.S. Cheema vs. State of Haryana, 2014(13) RCR (Civil) 355***, he submitted that the jurisprudential principle is settled: when the State or its instrumentality retains and utilises an employee's money beyond the due date, it constitutes a wrongful deprivation that must be remedied by payment of interest, which operates as rent for the use of those funds. He submits that the issue of maintainability raised by the respondent is a mere technical shield to avoid substantive liability, and that the writ petition, seeking enforcement of a constitutional right to property and livelihood under Articles 19(1)(g) and 21, is perfectly maintainable.

3. *Per contra*, learned counsel for respondent No.3, raised a fundamental and threshold objection regarding the very maintainability of the writ petition. He submitted that respondent No.3, The Pundri Cooperative Marketing-cum-Processing Society Ltd., is a society registered under the Haryana Cooperative Societies Act and does not, in law or in fact, qualify as "State" or "other authority" within the expansive meaning of Article 12 of the Constitution. He strenuously argued that the petitioner has neither pleaded nor demonstrated any deep or pervasive financial or administrative control by the State Government over the society's functioning, which is the essential litmus test established by the Hon'ble Supreme Court. The counsel further relies on the judgment of the Hon'ble Supreme Court in ***General Manager, Kisan Sahkari Chini Mills Ltd. vs. Satrughan Nishad (2003) 8 SCC 639***, where it was held that even a 50% government shareholding is insufficient to clothe a cooperative society with the character of a State instrumentality. Further the counsel

relied on the judgement of a coordinate bench decision of this Court in ***Rajbir Singh & Ors. (CWP-10234-2014 & connected matters),*** decided on 05.09.2018, wherein writ petitions against similar primary cooperative societies were dismissed outright on the ground of non-maintainability, observing that such societies discharge no statutory public duty and are beyond the pale of writ jurisdiction under Article 226.

4. Having heard learned counsel for the parties and after perusing the record with their able assistance it transpires that the sole question that arises for determination is whether the writ petition is maintainable against respondent No.3, a Cooperative Society?

5. The law on the maintainability of writ petitions against Cooperative Societies is well-settled. A Constitutional Bench of the Hon'ble Supreme Court in ***Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology (2002) 5 SCC 111*** reiterated the tests to determine whether a body is an "instrumentality or agency of the State" under Article 12. The relevant factors include the extent of financial assistance from the State, deep and pervasive State control, whether the functions are of public importance and closely related to governmental functions, and whether the body enjoys monopoly status conferred or protected by the State.

6. A Two Judge Bench of the Hon'ble Supreme Court ***General Manager, Kisan Sahkari Chini Mills Ltd. vs. Satrughan Nishad (2003) 8 SCC 639***, held that there must be a "deep and persuasive control of the Government over the Cooperative Society not only administratively but financially as well" for it to be treated as an instrumentality of the State. The Court further observed that even where the Government held 50% of the shares, the Society was not amenable to writ jurisdiction.

7. A Full Bench of this Court in ***Pritam Singh Gill v. State of Punjab 1982 AIR P&H 228*** deliberated upon the maintainability of a writ petition against a cooperative society and when it does and does not, fall in the ambit of State in terms of Article 12 of the Constitution of India. The court while speaking through Justice S.S. Sandhawalia, the following was observed:

> *"12. The recent decision constituting the trilogy is that of the Constitution Bench in Ajay Hasia's case. Therein also a similar objection was raised that the Society running of the College was merely one registered under the J & K Registration of Societies Act, 1898 and was, therefore, not an authority within the meaning of Article 12 Repelling the same, their Lordships authoritatively formulated the tests and concluded :-*
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> > *"We may summarise the relevant tests gathered from the decision in the International Airport Authority's case as follows:- (1) "One thing is clear that if the entire share capital of the corporation is held by Government it would go a long way towards indicating that the corporation is an instrumentality or agency of Government".*
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> > *(2) "Where the financial assistance of the State is so much as to meet almost entire expenditure of the corporation, it would afford some indication of the corporation being impregnated with governmental character."*
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> > *(3) "It may also be a relevant factor ...... whether the corporation enjoys monoply status which is the State conferred or State protected."*
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> > *(4) "Existence of "deep and pervasive State control may afford an indication that the Corporation is a State agency or instrumentality."*
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> > *(5) "If the functions of the corporation are of public importance and closely related to the governmental functions, it would be a relevant factor in classifying function as an instrumentality or agency of Government." the corporation as an instrumentality or agency of Government."*
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> > *(6) "Specifically, if a department of Government is transferred to a corporation it would be a strong factor supportive of this inference" of the corporation being an instrumentality of agency of Government".*
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> *If on a consideration of these relevant factors it is found that the corporation is an instrumentality or agency of government, it would, as pointed out in the International Airport Authority's case be an 'authority' and, therefore, 'State' within the meaning of the expression in Article 12.*
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> *13. From the aforesaid authoritative enunciation it is now well settled that once it is established that a body is an instrumentality*

> *and agency or projection of the State, then its mere legal garb, under which it is clothed, namely, whether it is a cooperative society, or a company or a society registered under the Societies Registration Act, ceases to have dominance. In a way the law now pierces the veil of mere form to arrive at the kernel of true substance. It has, however, to be highlighted that the aforequoted six tests may not individually be decisive and their cumulative effect in each particular case has to be taken into account. Consequently, if on the basis of these tests the inevitable conclusion is reached that a cooperative society is in essence an instrumentality of the State, then the mere fact that it was registered under the Co-operative Societies Act would in no way render it immune to the writ jurisdiction. This inevitably follows from the consistent observations of the final Court in the trilogy of cases wherein a Government company, incorporated under the Companies Act, a society registered under the Societies Registration Act and an authority specifically created by a statute have all been deemed to be within the ambit of Article 12, if they were established to be the instrumentality or the agency of the State in essence."*

8. In the present case, respondent No.3 is The Pundri Cooperative Marketing-cum-Processing Society Ltd., a Cooperative Society registered under the Haryana Cooperative Societies Act. The petitioner has not pleaded or demonstrated in his writ petition that respondent No.3 is State-funded, State-controlled, or performs public functions akin to governmental functions. There is no assertion of statutory duty or deep and pervasive State control. Further the respondent has categorically stated in its written statement that the Government has no control over the Society, either financially or administratively, which remains uncontroverted by the learned counsel for the petitioner.

9. It is trite law that, a writ under Article 226 lies against the State, instrumentality of the State (Article 12), or bodies discharging public/statutory duties. A Cooperative Society is not *ipso facto* amenable to writ jurisdiction. To invoke writ jurisdiction against a Cooperative Society, it must be shown that it is financially and administratively controlled by the State, performs public functions, or is created under a statute with

statutory duties. Mere delay in payment of retiral benefits does not by itself confer writ jurisdiction if the respondent is not a “State” or a public authority.

10. In view of the above discussion and the settled legal position, the petitioner has failed to establish that respondent No.3 is an instrumentality of the State or discharges any public/statutory duty. The preliminary objection raised by respondent No.3 regarding maintainability is well-founded.

11. Consequently, the writ petition is not maintainable against respondent No.3 and is accordingly dismissed on this ground alone, without expressing any opinion on the merits of the claim for interest.

12. No order as to costs.

13. Pending miscellaneous application(s), if any, shall stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

30.01.2026
monika

1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No