



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-8720-2025(O&M)
Date of Decision:22.01.2026

Naveen Jain

.....Petitioner
Versus

Central Registrar Co-operative Societies and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. N.P.S. Kohli, Advocate for the petitioner.

Mr. Vijay Pal, Senior Panel Counsel for respondent No.1.

Mr. Vivek Sheoran, Advocate for respondent No.2.

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

Mr. Himanshu Arora, Advocate for respondents No.4 to 7.

Mr. Simranjit Singh Sidhu, Advocate
for respondents No.8 to 10.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing respondent No. 2 to comply with the instructions issued by respondent No. 1 vide office order dated 21.11.2023 (Annexure P-2) and office order dated 01.02.2024 (Annexure P-3).

2. Learned counsel for the petitioner, while briefly outlining the facts of the case, submitted that respondent No. 2, namely the Postal and



RMS Employees Co-operative Bank Ltd., Ambala, is a Multi-State Co-operative Society, of which the petitioner is a member. The said society is governed by the provisions of the Multi-State Co-operative Societies Act, 2002 (hereinafter referred to as “the Act”). The tenure of the Board of Directors of respondent No. 2-Society was due to expire on 21.10.2023, and before expiry of the aforesaid tenure of the Board of Directors, the Society itself, through its CEO, conducted elections for the Board of Directors on 08.10.2023, which was about 12 days before expiry of the tenure of the Board of Directors. It is the aforesaid election to the above-mentioned Board of Directors, conducted on 08.10.2023, which is under challenge in the present writ petition.

3. He submitted that the aforesaid election was conducted in violation of the provisions of Section 45 of the Act, which was amended w.e.f. 03.08.2023 and by way of the said amendment, it was provided that the Central Government shall establish an authority to be known as the Co-operative Election Authority for conducting elections. He also referred to Section 45 (I) which provides for functions of Authority and it has been mentioned therein that the Authority which is to be constituted shall discharge the functions of conducting the elections of the multi-State Co-operative Society. He submitted that once the amendment came into force w.e.f. 03.08.2023, the power to conduct elections of a Multi-State Co-operative Society is vested only with the Authority to be constituted under the provisions of Section 45 of the Act, as aforesaid and no other authority could have conducted the elections. Whereas, in the present case, the elections to the Board of Directors were conducted on



08.10.2023, i.e., after the aforesaid amendment had come into force and therefore the said elections were not in accordance with law and could not have been given effect to.

4. He also submitted that, vide Annexures P-1 and P-2, the Government of India, Ministry of Cooperation, had written that the elections can be conducted only by the Co-operative Election Authority in view of the amendment to Section 45 of the Act. However, no action was taken by the respondents, and therefore continuation of the Board of Directors of the aforesaid Co-operative Society is in violation of law and cannot be permitted to continue.

5. He further submitted that, with respect to some of the societies, the Central Government has already cancelled the elections where the societies had conducted the elections on their own. However, so far as the present society i.e. respondent No. 2 is concerned, the aforesaid elections to the board of directors have still not been cancelled and therefore directions be issued to the respondent-Registrar, Co-operative Societies to cancel the elections which were conducted in the aforesaid society.

6. On the other hand, learned counsel appearing on behalf of the respondents, namely Mr. Vijay Pal, Advocate; Mr. Vivek Sheoran, Advocate; Mr. Udit Garg, Addl. A.G., Haryana; Mr. Himanshu Arora, Advocate; and Mr. Simranjit Singh Sidhu, Advocate, jointly submitted that the present petition is misconceived and deserves to be dismissed.

7. Learned counsel appearing on behalf of respondents No. 4 to 7 submitted that, in pursuance of the aforesaid amendment carried out in Section 45 of the Act w.e.f. 03.08.2023, an Authority was



required to be constituted, but the same was not constituted at that time and was constituted in a regular manner only on 19.04.2024 by way of a notification issued by the Government, which has been attached as Annexure R-2/16 along with the reply filed by respondent No. 2. He further submitted that prior thereto, an interim Authority was also constituted on 20.11.2023 vide Annexure R-2/18, which is annexed along with the reply filed by respondent No. 2.

8. All the learned counsel for the respondents submitted that once an interim Authority was constituted on 20.11.2023, thereafter all the elections which, if at all, were conducted by the Societies on their own were not in consonance with law in the presence of the interim Authority, and therefore a decision was taken at the Central level to cancel all such elections which had taken place, and fresh elections were directed to be conducted. So far as the present case is concerned, the elections to respondent No. 2-Society were conducted on 08.10.2023, which were prior to the aforesaid constitution of the interim Authority on 20.11.2023, and therefore the same could not have been cancelled.

9. Learned counsel appearing on behalf of respondents No.4 to 7, while substantiating his arguments, further referred to the provisions of the Constitution of India. He referred to Article 243-ZK read with Article 243-ZR of the Constitution of India and submitted that as per the aforesaid constitutional provisions inserted by way of the 97th Constitutional Amendment, it is mandatory that elections to a Co-operative Society be conducted before the expiry of the term of the Board, so that newly elected members of the board assume office immediately on



expiry of term of the office of outgoing members of the board and it is in consonance with and in pursuance of the aforesaid constitutional mandate, it was incumbent upon the existing Board to conduct elections before expiry of its term. In the present case, since the tenure of the existing Board was to expire on 21.10.2023, the elections were rightly conducted on 08.10.2023. He submitted that since the aforesaid provision is in the nature of a non-obstante clause, and if under Section 45 of the Act, as amended w.e.f. 03.08.2023, an Authority had not been created, then during that interregnum period the Board was within its powers and under an obligation to conduct the elections in accordance with the provisions of the Constitution of India, and therefore the petition is liable to be dismissed. He also submitted that the petitioner himself participated in the said election and is, therefore, estopped from challenging the same

10. I have heard the learned counsels for the parties at length.

11. The issue involved in the present case is as to whether the elections held on 08.10.2023 for the Board of Directors of respondent No. 2-Society after the amendment of Section 45 of the Act, w.e.f. 03.08.2023, were proper and in accordance with law or not.

12. There is no dispute that the tenure of the Board of Directors of the respondent No.2-society was to expire on 21.10.2023. Approximately twelve days prior to the expiry of its term, the existing Board through its CEO, conducted elections to the Board on 08.10.2023. Prior to conducting the aforesaid elections, the provisions of Section 45 of the Act were amended. As per amended Section 45 of the Act, the Central



Government was required to constitute a Co-operative Election Authority, for conducting the elections.

13. Amended Section 45 of the Act, which came into force w.e.f. 03.08.2023 and Section 45(I) of the Act are reproduced as under:-

45. Establishment of Cooperative Election Authority—(1) *The Central Government shall, by notification, establish an Authority to be known as the Co-operative Election Authority which shall consist of a Chairperson, a Vice-Chairperson and Members not exceeding three to be appointed by the Central Government on the recommendation of the Selection Committee consisting of such persons as may be prescribed.*

(2) The head office of the Authority shall be at such place as may be notified by the Central Government.

(3) The election of the members of the board shall be held in the general meeting of the members of the multi-State co-operative society.

(i) Chairperson of the Authority unless he held the post of Additional Secretary to the Government of India or equivalent rank;

(ii) Vice-Chairperson of the Authority unless he held the post of Joint Secretary to the Government of India or equivalent rank; and

(iii) Member unless he fulfils such qualification and experience as may be prescribed.

(4) The Chairperson, Vice-Chairperson or Member of the Authority shall hold office for a period of three years from the date on which they enter upon their office or until they attain the age of sixty-five years, whichever is earlier and they shall be eligible for re-appointment:

Provided that in case of appointment of a Government servant as a Chairperson, Vice-Chairperson or a Member, he shall be treated as an ex officio Member and he shall continue so long as he holds the office by virtue of which he is a Chairperson, Vice-Chairperson or Member.



(5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority, other than the ex officio Member, shall be such as may be prescribed.

45-I. Functions of Authority.— *The Authority shall discharge the following functions, namely:—*

- (i) conduct the elections of the multi-State co-operative society;*
- (ii) supervise, direct and control the matters relating to preparation of electoral rolls; and*
- (iii) such other functions as may be prescribed.”*

14. A perusal of the aforesaid would show that after 03.08.2023, the Central Government ought to have issued a notification for establishing an Authority to be known as the ‘Co-operative Election Authority’, which admittedly was not constituted at that time. It was later constituted on 19.04.2024 vide Annexure R2/16, and prior to that, an interim Authority was constituted on 20.11.2023 vide Annexure R2/18. Therefore, in any case, these two Authorities, i.e., the interim and the regular Authority, were constituted after the elections of respondent No. 2-Society were conducted regarding which there is no dispute. A perusal of Section 45-I of the Act would show that one of the basic functions of the Authority is to conduct elections of the Multi-State Co-operative Society.

15. It was the argument of learned counsel for the petitioner that once the provisions of amended Section 45 came into force on 03.08.2023, no election could have been conducted by the Board on its own on 08.10.2023. On the other hand, learned counsel for the respondents argued that such elections were necessary in view of the fact



that no Authority was in existence, the regular Authority being constituted only on 19.04.2024 and an interim Authority on 20.11.2023. In the absence of an Authority to conduct elections, the Board was under an obligation to conduct the elections in consonance with the provisions of Article 243-ZK read with Article 243-ZR of the Constitution of India.

16. By way of the 97th Amendment of the Constitution of India in the year 2011, a separate Part IX-B was inserted with the title “The Co-operative Societies.”

17. Article 243 ZK and Article 243 ZR of the Constitution of India are reproduced as under:-

243ZK. Election of members of board-(1)

Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of [the term of the office] of members of the outgoing board.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such election.”

243 ZR- Application to multi-State co-operative societies-*The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to “Legislature of a State”, “State Act” or “State Government” shall be construed as a reference to “Parliament”, “Central Act” or “the Central Government” respectively.”*



18. A perusal of Article 243-ZK of the Constitution of India would show that reference has been made to the Legislature of a State. However, by virtue of Article 243-ZR of the Constitution of India, the meaning of “Legislature of a State,” “State Act,” or “State Government” has been extended to include the Parliament, Central Act, or the Central Government. Therefore, for the purposes of the application and operation of Article 243-ZK, it would include both Acts passed by the State Legislature as well as Acts passed by the Parliament of India.

19. The aforesaid provision of Article 243-ZK provides for a non-obstante clause and it states that notwithstanding anything contained in any law made by the Legislature of a State, the election of a Board shall be conducted before the expiry of its term. The rationale and objective are also stated in the aforesaid provision, which is to ensure that the newly elected members/officers of the Board assume office immediately upon the expiry of the term of the outgoing members/officers. Therefore, it is the mandate of the Constitution of India that the election of the Board shall be conducted before expiry of its term. In other words, it is obligatory and mandatory upon any Board of any Co-operative Society to conduct elections to the Board prior to the expiry of its term. The effect of the non-obstante clause is that, even if there is any provision to the contrary, the aforesaid provision of Article 243-ZK shall prevail.

20. In the facts of the present case, the aforesaid Act, namely the Multi-State Co-operative Societies Act, 2002, is an Act of Parliament of India. By virtue of Article 243-ZR, as reproduced above, which applies to



Multi-State Co-operative Societies, the provisions of Article 243-ZK would be applicable. Even though, under the aforesaid amended provisions of Section 45 of the Act, which came into effect on 03.08.2023, the Central Government was required to constitute an Authority for conducting elections, such an Authority was admittedly not constituted at the relevant time. It was later constituted on a regular basis by way of a notification dated 19.04.2024, and an interim Authority was constituted on 20.11.2023. Both these Authorities, i.e., interim and regular, were constituted after the elections of respondent No.2-Society had already taken place.

21. Therefore, this Court is of the considered view that the provisions of the Constitution of India are required to be given effect notwithstanding anything contained in any other law in force. At the time when the elections were conducted on 08.11.2023, since no Authority had been constituted, it was obligatory and mandatory upon the existing Board to conduct the elections. Accordingly, the elections were rightly conducted in consonance with the provisions of Article 243-ZK of the Constitution of India. Had it been a case that an Authority was in existence at the time of conducting the elections, the situation would have been different. However, admittedly, the Authority under Section 45 of the Act was neither in existence, nor was it created. Accordingly, the plea advanced by learned counsel for the petitioner is unsustainable and liable to be rejected.

22. Apart from the above, learned counsels for the respondents had also submitted that the petitioner himself, being a member of the



society, participated in the elections conducted on 08.10.2023, and, on being unsuccessful, filed the present petition. Therefore, not only is he estopped from filing the petition, but he cannot be permitted to approbate and reprobate. This Court is of the considered view that the aforesaid argument raised by learned counsels for the respondents carries weight. Once the petitioner himself participated in the elections and was not elected, the plea taken by him is not sustainable.

23. Consequently the present petition is devoid of any merit and the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

22.01.2026

shweta

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