

101

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11137-2019

MANJIT SINGH

...PETITIONERS

VERSUS

THE JOINT REGISTRAR, CO-OPERATIVE SOCIETIES,
PATIALA AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. DV Sharma, Sr.Advocate with
Mr. Arshdeep, Advocate and
Ms. Shivani Sharma, Advocate for the petitioner

Mr. Rajiv Verma, Addl. A.G., Punjab

Mr. Pranav Chadha, Advocate and
Mr. Mayank Aggarwal, Advocate for respondent no. 3

Mr. Ashwani Prashar, Advocate for respondent no. 4 (through VC)

1.	The date when the judgment is reserved	27.02.2026
2.	The date when the judgment is pronounced	24.04.2026
3.	The date when the judgment is uploaded	27.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this court has been invoked under Articles 226/227 of Constitution of India for issuance of writ in the nature of certiorari quashing the impugned order dated 05.02.2018 (Annexure P-13) and order

dated 25.01.2019 (Annexure P-15) passed by Respondent no. 2 and Respondent no. 1 respectively.

The Conspectus Of Facts

2. The petitioner being duly qualified, having passed matriculation and obtained a certificate of training as Secretary/Salesman/Cashier from the Cooperative Department, Punjab in the year 1994 (Annexure P-1) applied for appointment with Khijrabad Multipurpose Cooperative Agricultural Service Society, District Mohali, a society registered under the Punjab Cooperative Societies Act, 1961.

3. The petitioner was initially engaged as a Peon on daily wages by the Society in May 1996. Subsequently, on approval granted by the Deputy Registrar, Cooperative Societies, he was appointed as a Salesman in December 1996. In April 1997, upon suspension of the Managing Committee, Sh. Sewa Singh who took charge of the Society as an Administrator, by resolution dated 04.04.1997, reverted the petitioner from the post of Salesman to Peon and appointed respondent No. 3 as Salesman

4. The petitioner challenges the said reversion as being without jurisdiction and in violation of principles of natural justice, alleging that no approval from the competent authority was obtained and no opportunity of hearing was granted to him. It is the admitted position that the petitioner was involved in a criminal case registered on 01.12.2007 under Sections 308/323 IPC, and was convicted and sentenced to three years' rigorous imprisonment & fine of Rs. 1000 was imposed by Additional Session Judge, Rupnagar vide order dated 19.10.2010. After his release, the petitioner approached the Society, and by resolution dated 16.02.2015, he was allowed to rejoin duties

and was appointed as Secretary of the Society. The said action was also claimed to have been approved by the competent authority. His appointment as Secretary was ratified by the resolution of the General Body dated 30.12.2015.

5. Respondent No. 3 challenged the petitioner's appointment by filing proceedings before the cooperative authorities. An enquiry was conducted, and the matter was adjudicated by the Deputy Registrar, Cooperative Societies. Vide order dated 05.02.2018, the Deputy Registrar set aside the resolution dated 16.02.2015 (Annexure P-6), holding the appointment of the petitioner to be illegal. The petitioner assailed the said order by filing a petition before the Joint Registrar under Section 3(4) of the Act however, the same was dismissed vide order dated 25.01.2019 (Annexure P-15).

6. Aggrieved, the petitioner has filed the present writ petition.

Contentions

On behalf of Petitioners

7. Learned counsel for the petitioner contends that the impugned orders dated 05.02.2018 (Annexure P-13) and 25.01.2019 (Annexure P-15) are wholly without jurisdiction, inasmuch as no appeal was maintainable under Section 68 of the Punjab Cooperative Societies Act, 1961 against the resolution dated 16.02.2015 passed by the Society. It is submitted that the said provision does not contemplate an appeal against appointment of an employee by the Society and, therefore, the assumption of jurisdiction by the Deputy Registrar was illegal.

8. It is further argued that the General Body of the Society is the final authority under the Act, and once the petitioner's appointment as Secretary

stood approved and ratified by the General Body, the same could not have been interfered with by the departmental authorities. Learned counsel submits that the earlier reversion of the petitioner in 1997 by the Administrator was itself without authority and in violation of the prescribed procedure, as no approval from the competent authority was obtained and no opportunity of hearing was granted.

9. It is further contended that the petitioner possessed the requisite qualifications and training for the post and had earlier been duly appointed as Salesman with the approval of the Deputy Registrar.

10. With regard to the criminal case, learned counsel submits that the conviction of the petitioner does not involve moral turpitude and, therefore, does not disqualify him from holding the post in question under the applicable rules. It is argued that the authorities have erred in law in treating the conviction as an absolute bar without examining whether the offence involved moral turpitude. It is also submitted that the findings recorded by the authorities are perverse and based on misinterpretation of the statutory provisions and service rules.

On behalf of Respondents

11. Per contra, learned counsel for the respondents submits that the present writ petition is not maintainable and the impugned orders have been passed by competent authorities in exercise of quasi-judicial powers in accordance with law. It is argued that the petitioner's appointment as Secretary vide resolution dated 16.02.2015 (Annexure P-6) was contrary to the statutory rules, as he did not fulfil the essential eligibility criteria, including

the requirement of requisite experience.

12. It is further submitted that the petitioner, having been convicted and sentenced in a criminal case, was not eligible to be appointed or continued in service, and in any case, a mandatory period of five years had not elapsed from the date of sentence at the time of his appointment.

13. Learned counsel for the respondents further submits that the petitioner had earlier challenged his reversion of 1997, which stood dismissed as time-barred and has attained finality. It is argued that the petitioner has also concealed material facts, including dismissal of the civil suit filed by him challenging the enquiry report and related orders.

14. It is contended that the Deputy Registrar was competent to examine the legality of the resolution in exercise of powers under the Act, and the plea regarding non-maintainability of appeal is merely technical. It is also submitted that the General Body could not have ratified an appointment made in violation of statutory rules, and such ratification does not cure the inherent illegality. On these grounds, dismissal of the writ petition is prayed for.

15. Arguments were heard and the judgement was kept reserved on 27.02.2026.

Issues for Determination

- 1. Whether the resolution dated 16.02.2015 appointing the petitioner as Secretary was legally valid?*
- 2. Whether the Deputy Registrar had the jurisdiction to set aside the resolution dated 16.02.2015 vide order dated 05.02.2018?*
- 3. Whether the challenge to the resolution dated 16.02.2015 is barred in view of the order dated 24.07.2015 and dismissal of the civil suit on 04.02.2020 ?*
- 4. Whether the impugned orders dated 05.02.2018 and 25.01.2019 suffer*

from any jurisdictional error warranting interference under writ jurisdiction?

Analysis

16. With the issues having been crystallised, this Court now proceeds to examine each of them sequentially, bearing in mind the pleadings on record, the statutory framework, and the settled principles governing the field.

Issue No. 1: Whether the resolution dated 16.02.2015 appointing the petitioner as Secretary was legally valid?

17. The validity of the resolution dated 16.02.2015 (Annexure P-6) has to be examined in the light of the Punjab Cooperative Societies Act, 1961, the Punjab Cooperative Societies Rules, 1963, and the Punjab State Cooperative Agricultural Service Societies Service Rules, 1997 governing service conditions of employees of such societies.

18. The record reflects that the petitioner was initially appointed as a Peon in the year 1996 and was promoted as a Salesman on 17.12.1996 (Annexure P-3). However, he was reverted to the post of Peon on 04.04.1997 by the Administrator. The said order of reversion was challenged by the petitioner but the appeal preferred by him came to be dismissed on 18.12.2014 and attained finality. Consequently, the petitioner cannot be treated as having continued on the post of Salesman thereafter.

19. The resolution dated 16.02.2015 (Annexure P-6) proceeds on the premise that the petitioner had been working as a Salesman and was senior and eligible for promotion as Secretary. This factual foundation is ex facie incorrect and contrary to the admitted position on record, inasmuch as the petitioner stood reverted to the post of Peon since 04.04.1997 and such

reversion had attained finality. Thus, the very basis of the resolution is vitiated by misreading of service record.

20. The appointment and service conditions of employees of Primary Cooperative Agricultural Service Societies are governed by the Punjab State Cooperative Agricultural Service Societies Service Rules, 1997 (in short as “1997 Rules”). Rule 6(1)(ii) thereof mandates, in clear and unambiguous terms, that appointment to the post of Secretary requires, inter alia, three years’ experience as a paid Salesman in the society, apart from other qualifications. This requirement is mandatory in nature and goes to the root of eligibility. From the admitted dates, the petitioner worked as a Salesman only from 17.12.1996 till 04.04.1997, i.e. for less than four months. Therefore, he did not possess the requisite minimum experience prescribed under the Rules.

21. It is worth noticing here that where statutory rules prescribe eligibility conditions, the same are binding and cannot be relaxed by the Managing Committee or even by the General Body. Any appointment made in violation of statutory rules is void ab initio. Reference in this regard may be made to the principle laid down by the Supreme Court in ***State of Karnataka vs. Uma Devi, (2006) 4 SCC 1***, that appointments made dehors the rules are illegal and cannot be sustained in law.

22. Apart from lack of qualification, the petitioner had also suffered conviction in a criminal case and was sentenced to three years’ rigorous imprisonment in the year 2010. Rule 12(3) of the 1997 Rules treats conviction for a criminal offence as misconduct. Further, Rule 14 of the 1963 Rules provides that a person sentenced for an offence (other than one not involving moral turpitude) incurs disqualification for a period of five years from the date

of expiry of sentence. The resolution dated 16.02.2015 was passed without any consideration of these statutory disqualifications.

23. Even otherwise, the material on record shows that prior to passing of the resolution dated 16.02.2015, the Assistant Registrar, Cooperative Societies vide order dated 24.07.2015 had directed withdrawal of the said resolution, and the enquiry report dated 30.09.2015 also found the petitioner's appointment to be unsustainable. The petitioner challenged these proceedings before the Civil Court, which dismissed the suit on 04.02.2020 (Annexure R-3/3). The said findings have attained finality and further erode the legal basis of the resolution.

24. The contention of the petitioner that the General Body is the final authority of the Society does not advance his case. While the General Body may be the supreme body in matters of administration, its decisions must conform to statutory provisions. It is well settled that bye-laws or resolutions cannot override statutory rules, and any action contrary to the Act or Rules is liable to be struck down.

25. The resolution also does not reflect compliance with procedural requirements, including proper agenda and consideration of eligibility criteria. The exercise undertaken appears arbitrary and dehors the governing framework.

26. In view of the above discussion, this Court is of the considered opinion that the resolution dated 16.02.2015 appointing the petitioner as Secretary was passed in violation of the mandatory provisions of the applicable Service Rules, based on incorrect factual premises, and in disregard of statutory disqualifications. The same is, therefore, illegal and void in the

eyes of law.

27. Accordingly, Issue No. 1 is answered against the petitioner.

Issue No. 2: Whether the Deputy Registrar had the jurisdiction to set aside the resolution dated 16.02.2015 vide order dated 05.02.2018?

28. The challenge to the jurisdiction of the Deputy Registrar is primarily founded on the contention that the resolution dated 16.02.2015 was not appealable under Section 68 of the Punjab Cooperative Societies Act, 1961, and therefore, the proceedings culminating in the order dated 05.02.2018 were without authority of law.

29. Section 68 of the Punjab Cooperative Societies Act, 1961 provides for appeals against specified orders and decisions. A plain reading of the provision shows that the right of appeal is a statutory right and is confined only to the categories expressly enumerated therein, such as refusal of registration, expulsion of members, surcharge orders, awards, or orders of winding up.

30. The resolution dated 16.02.2015 pertains to the appointment of the petitioner as Secretary of the Society. Such a resolution does not fall within any of the categories of appealable orders or decisions contemplated under Section 68 of the Act. It is neither an order passed by the Registrar under the specified provisions nor a decision relating to membership as envisaged under the said section.

31. At the outset, it is required to be noticed that Section 3 of the Act constitutes the statutory source of supervisory control over cooperative

societies. Sub-section (2) enables appointment of Registrar and subordinate officers including Deputy Registrar; sub-section (3) empowers the Government to confer upon such officers “all or any of the powers of the Registrar”; and sub-section (4) mandates that such officers exercise powers under the general superintendence and control of the Registrar. The scheme of Section 3 thus clearly envisages delegated statutory authority coupled with supervisory jurisdiction over cooperative societies.

32. In the present case, the Deputy Registrar did not act in isolation or assume jurisdiction in vacuum. The proceedings arose out of a complaint regarding legality of the resolution dated 16.02.2015. The matter had earlier been examined in departmental proceedings and thereafter remanded by the Joint Registrar vide order dated 10.03.2017 for fresh decision on merits. Once such remand was issued by a competent revisional authority, the Deputy Registrar was legally seized of jurisdiction to adjudicate the matter afresh.

33. I am of the considered view that where a superior statutory authority remits a matter for fresh consideration, the authority to which the matter is remanded derives jurisdiction to decide all questions of fact and law within the scope of remand.

34. The petitioner’s argument that no appeal lay under Section 68, even if assumed to be correct, does not ipso facto render the order without jurisdiction. The record shows that the matter was not decided strictly as an appellate exercise under Section 68 alone, but was examined on the basis of legality and validity of the resolution under the statutory scheme governing cooperative societies, particularly in exercise of supervisory control under Section 3 of the Act.

35. It is also a settled principle that wrong mention or invocation of a statutory provision does not vitiate an order if power otherwise exists under the statute. The Supreme Court in *N. Mani v. Sangeetha Theatre, (2004) 12 SCC 278*, held that if an authority has substantive jurisdiction, mere reference to a wrong provision will not invalidate the exercise of power, while observing that:

9. It is well-settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law.

36. In the present case, the Deputy Registrar was competent under the delegated statutory framework to examine whether the resolution of a cooperative society was in conformity with the Act, Rules and service regulations. The legality of appointment of employees in cooperative societies is not beyond supervisory scrutiny, particularly when alleged to be contrary to statutory service rules.

37. Further, the contention that the Deputy Registrar lacked jurisdiction ignores the fact that the proceedings were carried out pursuant to a continuing administrative and quasi-judicial process, including prior inquiry, departmental examination, and remand. The order dated 05.02.2018 is thus not an original assumption of jurisdiction but a culmination of remanded adjudication.

38. In writ jurisdiction, the Court is concerned only with jurisdictional

error or patent illegality. Unless it is shown that the authority acted wholly without any statutory backing, the order cannot be termed a nullity. The present case does not fall within such exception.

39. In view of the above statutory framework and settled legal position, it is held that the Deputy Registrar was acting within the scope of delegated and supervisory jurisdiction under Section 3 of the Act and pursuant to remand directions of the appellate authority. The order dated 05.02.2018 cannot, therefore, be said to be without jurisdiction.

40. Accordingly, Issue No. 2 is answered in favour of the respondents and against the petitioner.

Issue No. 3: Whether the challenge to the resolution dated 16.02.2015 is barred by res judicata in view of the order dated 24.07.2015 and dismissal of the civil suit on 04.02.2020 ?

41. The petitioner seeks to sustain the resolution dated 16.02.2015 despite the fact that the said resolution had already been subjected to judicial and departmental scrutiny in earlier proceedings. The record shows that the Assistant Registrar, Cooperative Societies, vide order dated 24.07.2015, directed withdrawal of the resolution dated 16.02.2015 on the ground that it was not in accordance with law.

42. The petitioner admittedly challenged the said order dated 24.07.2015 along with the enquiry report dated 30.09.2015 by filing a civil suit before the competent civil court. The said suit was dismissed on 04.02.2020. It is not in dispute that the said judgment has not been challenged further and has attained finality.

43. The legal effect of dismissal of a civil suit by a court of competent jurisdiction is well settled. Once a matter has been directly and substantially in issue between the same parties and has been finally adjudicated, the principle of res judicata under Section 11 of the Code of Civil Procedure, 1908 operates as a complete bar to re-litigation of the same issue.

44. The Supreme Court in ***Satyadhyan Ghosal v. Deorajin Debi***, AIR **1960 SC 941**, has held that the principle of res judicata is based on public policy that there should be an end to litigation and no person should be vexed twice over the same cause. The relevant extract of the same is here as under:

7. The principle of res judicata is based on the need of giving a finality to judicial decisions. What it says is that once a respondent is judicata, it shall not be adjudged again. Primarily it applies as between past litigation and future litigation, When a matter - whether on a question of fact or a question of law - has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again. This principle of res judicata is embodied in relation to suits in Section 11 of the Civil Procedure Code; but even where Section 11 does not apply, the principle of res judicata has been applied by courts for the purpose of achieving finality in litigation. The result of this is that the original court as well as any higher court must in any future litigation proceed on the basis that the previous decision was correct.

8. The principle of res judicata applies also as between two stages in the same litigation to this extent that a court whether the trial court or a higher court having at an earlier stage decided a matter in one way will not allow the parties to re-agitate the matter again at a subsequent stage of the same proceedings.

45. In the present case, the validity of the resolution dated 16.02.2015 was directly or substantially in issue in the earlier civil proceedings, wherein the petitioner had challenged the order directing withdrawal of the said

resolution. The dismissal of the suit on merits results in final adjudication of the legality of the resolution and connected administrative action.

46. It is also a settled principle that where a party allows an adverse order to attain finality, such party is precluded from indirectly assailing the same in subsequent proceedings. The doctrine of finality of litigation operates with full force in matters where statutory remedies have been exhausted or not pursued further.

47. The attempt of the petitioner to once again sustain the resolution dated 16.02.2015 (Annexure P-6) in the present writ proceedings, without challenging the order dated 24.07.2015 and the judgment dated 04.02.2020 (Annexure R-3/3), is clearly barred by principles of res judicata as well as constructive res judicata under Explanation IV to Section 11 CPC.

48. Even otherwise, once a competent civil court has adjudicated upon the legality of the action relating to withdrawal of the resolution and the same has attained finality, it is not open to this Court in writ jurisdiction to sit in appeal over such concluded findings indirectly.

49. In view of the above, it is held that the challenge to the resolution dated 16.02.2015 (Annexure P-6) is clearly barred by the principles of res judicata and finality, in view of the order dated 24.07.2015 and the dismissal of the civil suit on 04.02.2020 (Annexure R-3/3).

50. Accordingly, Issue No. 3 is answered against the petitioner.

Issue No. 4: Whether the impugned orders dated 05.02.2018 and 25.01.2019 suffer from any jurisdictional error warranting interference under writ jurisdiction?

51. The scope of interference under Article 226 of the Constitution is well settled. The writ court does not act as an appellate authority to re-appreciate evidence or substitute its own view for that of the statutory authority. Interference is warranted only where the order suffers from lack of jurisdiction, patent illegality, perversity, or violation of principles of natural justice.

52. In the present case, the impugned order dated 05.02.2018 passed by the Deputy Registrar was rendered after remand by the Joint Registrar vide order dated 10.03.2017. The revisional authority had specifically directed fresh adjudication on merits, thereby conferring seisin upon the Deputy Registrar to examine the legality of the resolution dated 16.02.2015. The order dated 25.01.2019 passed by the Joint Registrar is a further affirmation in revision.

53. Once a matter is remanded for fresh decision, the authority to whom the matter is remitted derives jurisdiction to decide all questions necessary for disposal of the matter in accordance with the remand directions. The impugned orders, therefore, cannot be said to have been passed without jurisdiction or in excess of jurisdiction.

54. The contention of the petitioner that the Deputy Registrar lacked jurisdiction is devoid of merit in view of Section 3 of the Punjab Cooperative Societies Act, 1961, which vests supervisory control over cooperative

societies in the Registrar and his delegated officers. The Deputy Registrar, acting as a delegate of statutory authority, was competent to examine the legality of the resolution in question.

55. Further, the findings recorded in the impugned orders are based on statutory eligibility criteria under the Punjab State Cooperative Agricultural Service Societies Service Rules, 1997. The authorities have concluded that the petitioner did not possess the requisite experience of three years as Salesman and was otherwise ineligible due to conviction. These findings are based on admitted factual position and statutory provisions and cannot be termed perverse.

56. It is also pertinent that the petitioner had earlier challenged related proceedings before the civil court, which were dismissed on 04.02.2020. The consistency of findings across departmental and judicial fora further reinforces the legality of the impugned orders and negates any allegation of arbitrariness.

57. No violation of natural justice is demonstrated. The petitioner was afforded opportunity to participate in proceedings pursuant to remand and also filed written submissions. Therefore, the requirement of fair hearing stands satisfied.

58. In writ jurisdiction, unless the order is shown to be fundamentally without jurisdiction or suffering from manifest perversity, the Court will not interfere with concurrent findings of statutory authorities, particularly in matters involving service eligibility under cooperative statutory framework.

59. In view of the above, it is held that the impugned orders dated 05.02.2018 and 25.01.2019 do not suffer from any jurisdictional error, illegality, or perversity warranting interference under Article 226 of the

Constitution of India.

60. Accordingly, Issue No. 4 is answered against the petitioner

61. All the issues framed stand duly considered and answered in accordance with law. The findings recorded thereon are based upon a correct application of the relevant statutory provisions and the settled principles laid down in judicial precedents governing the subject.

Conclusion

62. In view of the foregoing discussion, this Court finds that the resolution dated 16.02.2015 appointing the petitioner as Secretary was ex facie illegal, being contrary to the mandatory statutory rules and founded on an erroneous factual premise. The petitioner did not fulfil the essential eligibility criteria, and the said illegality could not have been cured by ratification of the General Body. The impugned order dated 05.02.2018 passed by the Deputy Registrar, as affirmed vide order dated 25.01.2019, has been rendered within the bounds of statutory jurisdiction and does not suffer from any perversity or infirmity in law.

63. Accordingly, the writ petition is dismissed, and the impugned orders dated 05.02.2018 (Annexure P-13) and 25.01.2019 (Annexure P-15) are upheld. No order as to costs.

64. Pending applications, if any, stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

24.04.2026

NainaRajput

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