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disciplinary proceedings. The procedure for filing application is provided under Section 50 of the Punjab State Co-operative Societies Act, 1961 (hereinafter referred to as 'the Act'). The perusal of the same indicates that Registrar-respondent No.1 may on his own or on the application of the majority of the Committee can hold an inquiry either himself or direct someone to hold an inquiry into the constitution working and financial condition of the Co-operative Society. As such, it is clear that inquiry cannot be initiated on the *ipse dixit* of a person who is not a primary member of the Society. Respondent No.6 has no *locus standi* to file any complaint rather he is having a long drawn enmity with the family of the petitioner and FIR under Section 302 of IPC has been lodged against his family members by the family of the petitioner. Due to the enmity between the families a number of criminal cases are pending in various Courts. Respondent No.6 made omnibus allegations regarding misappropriation and taking financial benefits by obtaining a cash credit loan limits, whereas, it has been alleged that the petitioner does not own any agricultural land.

3. He further submits that none of the members of the Society or the Managing Committee has ever come forward and made any complaint against the petitioner. As such, the very initiation of the impugned inquiry is contrary to the mandate of Section 50 (*ibid*). Once the initiation of inquiry itself suffers from incurable illegality, the report holds no value in the eyes of law and liable to be set aside on this ground alone. Further, the petitioner has made a detailed reply to the show cause notice and petitioner has taken land on lease, as such,

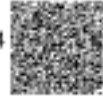


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there is no embargo on getting cash credit loan limits. He further submits that the father of the complainant-respondent No.6, who was the Senior Vice President of the Society had himself approved these cash credit limits, as such, the complaint made against the petitioner is baseless. Further, the son of the petitioner was appointed as the post of Peon was lying vacant and work of the Society was suffering due to non-availability of Peon. Thus, the Managing Committee who is the appointing authority, temporarily employed son of the petitioner as Peon in the Society. The brothers of the complainant, respondent No.6 have been granted the benefit of cash credit limits in spite of the fact that they do not own any agricultural land. Any action *dehors* the procedure provided under Section 50 and financial loss to the Society is not sustainable in the eyes of law. A complaint is made on fanciful suspicion only to wreak vengeance upon the petitioner due to private spite and long drawn enmity. The enquiry was initiated in a predetermined manner at the behest of respondent No.6. The members of the Managing Committee were never associated rather respondent No.6, is stranger to the affairs of the Society and has no *locus standi*, was allowed to appear as a witness and the detailed reply filed by the petitioner was never considered. Moreover, the findings recorded by the Enquiry Officer in the absence of any financial loss suffered by the Society is meaningless.

4. *Per contra*, learned counsel for respondent No.4-Society, submits that the Registrar, Co-operative Societies has power to initiate the enquiry *suo moto* and this power can only be exercised on acquiring the knowledge of any misconduct which was brought to his knowledge on the basis of the complaint



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made by respondent No.6. During the enquiry, it was further established that the petitioner not only in his own name, but has also obtained the cash credit limit in the name of his son and other family members, as such, the complicity of the petitioner in misusing his official position is clearly established. Thereafter, the arbitration proceedings were initiated against the petitioner on the basis of losses suffered by the Society. The award has been passed against the petitioner which has been challenged by him by filing appeals. The details of the arbitration proceedings are available on record as Annexure R-4/5 attached with the written statement filed on behalf of respondent No.4. Further, the Managing Committee was suspended by the Assistant Registrar by invoking the power under Section 27 of the Act. It is further established from Annexure R-4/A that petitioner retained the charge in spite of his superannuation on 31.01.2017. As such, the complicity of the petitioner is established. On these allegations, the FIR No.161 dated 04.09.2021 under Section 409 of IPC was registered at Police Station Machhiwara.

5. Having heard learned counsel for the parties and after perusal of the record, it transpires that respondent No.1 has issued directions to the Joint Registrar to initiate enquiry by invoking power under Section 50 of the Act which is reproduced as under:-

“SECTION – 50

50. Inquiry by Registrar:- (1) The Registrar may of his own motion or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a cooperative society.”



6. A bare perusal thereof clearly indicates that the Registrar may on his own or on allegations of the majority of the Society or not less than one third of the members, either enquire himself or direct someone else to hold the enquiry into the constitution working and financial condition of a Society. The allegations made regarding taking financial benefits from respondent No.4-Society. As such, this Court has no hesitation to hold that for exercising the *suo moto* power on his own, the Registrar can only proceed further if he acquires the knowledge of any misconduct regarding the financial condition of the Society. In the instant case, a complaint was made by respondent No.6, which has direct nexus with the financial condition of the Co-operative Society. It was not a complaint with regard to the constitution and working of the society for which the majority of the Committee would be competent to approach the Registrar, whereas, in case of embezzlement or taking financial benefits by a servant of the Society, the Registrar has power under Section 50 of the Act to either enquire himself or direct some other person authorised by him, to hold an enquiry into such misconduct effecting the financial health of the Society. Moreover, this Court cannot replace the findings recorded by the Enquiry Officer. The issue involved in the present case involves adjudication of disputed question of facts.

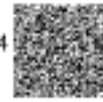
7. It is settled law that where disputed questions of facts are involved, a petition under Article 226 of the Constitution of India is not the proper remedy. A two-Judge Bench of the Hon'ble Supreme Court in ***S.P.S. Rathore v. State of Haryana, (2005) 10 SCC 1***, speaking through Justice Y.K. Sabharwal, has held as follows:



*"16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. **The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution."***

8. Further a two-Judge Bench of the Hon'ble Apex Court in **Orissa Agro Industries Corporation Ltd. Vs. Bharati Industries 2005 (12) 725** while speaking through Justice Arijit Pasayat, observed that as follows:

"9. A bare perusal of the High Court's judgment shows that there was clear non-application of mind. On one hand the High Court observed that the disputed questions cannot be gone into a writ petition. It was also noticed that essence of dispute was breach of contract. After coming to the above conclusions the High Court should have dismissed the writ petition. Surprisingly, the High Court proceeded to examine the case solely on the writ petitioner's assertion and on a very curious reasoning that though the appellant-Corporation claimed that the value of articles lifted was nearly rupees 14.90 lakhs no details were specifically given. From the counter-affidavit filed before the High Court it is crystal clear that relevant details disputing claim of the writ petitioner were given. Value of articles lifted by the writ petitioner is a

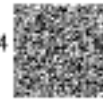


disputed factual question. Where a complicated question of fact is involved and the matter requires thorough proof on factual aspects, the High Court should not entertain the writ petition. Whether or not the High Court should exercise jurisdiction under Article 226 of the Constitution would largely depend upon the nature of dispute and if the dispute cannot be resolved without going into the factual controversy, the High Court should not entertain the writ petition. As noted above, the writ petition was primarily founded on allegation of breach of contract. Question whether the action of the opposite party in the writ petition amounted to breach of contractual obligation ultimately depends on facts and would require material evidence to be scrutinised and in such a case writ jurisdiction should not be exercised. (See : State of Bihar v. Jain Plastic & Chemicals Ltd., 2002(1) SCC 216).

10. In a catena of cases this Court has held that where dispute revolves round questions of fact, the matter ought not be entertained under Article 226 of the Constitution. (See : Chairman, Grid Corporation of Orissa LTd. (GRIDCO) and Ors. v. Sukamani Das (Smt.) and Anr., 1999(4) RCR (Civil) 174 (SC) : (1999(7) SCC 298).”

9. A Two-Judge bench of the Hon'ble Supreme Court in **Chairman, Grid Corporation of Orissa Ltd. (Gridco) Vs. Smt. Sukamani Das 1999 (7) SCC 298**, while speaking through Justice G.T Nanavati made the following observations:

“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. Mere fact that the wire of the



*electric transmission line belonging to the appellant No. 1 had snapped and the deceased had come into contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come into contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. **It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy.** The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the Civil Court as it was done in OJC No. 5229 of 1995.*

10. Reliance in this regard may be placed on the judgment rendered by the Hon'ble Apex Court in ***Shubhas Jain v. Rajeshwari Shivam, 2021 SCC Online SC 562, Union of India v. Puna Hinda, (2021) 10 SCC 690*** and of this Court in ***Sanchalakshri v. Vijayakumar Raghuvirprasad Mehta and another, 1999(1) SCT 88 (SC): JT 1998(8) SC 55.***

11. It is trite that a writ petition under Article 226 is not an appropriate remedy for resolving disputed questions of fact. In such cases, the High Court

cannot transform itself into a Court of first instance to re-appreciate evidence or decide intricate factual disputes.

12. In view of the discussion above, the present writ petition is hereby dismissed. However, the petitioner would be at liberty to invoke his alternative remedy to challenge the inquiry report as well as the resolution in the subsequent order passed on the basis of the inquiry report.

(HARPREET SINGH BRAR)
JUDGE

10.02.2026
Neha

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