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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

227 **CWP-27691-2022**
Date of decision: 19.05.2026

Harjinder Singh

.....Petitioner

VERSUS

Punjab State Federation of Cooperative Sugar Mills Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Arshdeep Kaur, Advocate
and Mr. Mohit Sharma, Advocate
for the petitioners.

Mr. Vikas Singh, Senior Advocate
and Ms. Anamika Sheoran, Advocate
for respondents No.1 to 5.

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<u>HARPREET SINGH BRAR, J. (Oral)</u>

1. The present petition has been filed under Articles 226 and 227 of the Constitution of India seeking issuance of a writ in the nature of *Certiorari* for quashing of impugned orders dated 28.02.2022 (Annexure P-5) and dated 11.07.2022 (Annexure P-8) passed by respondent No.5 whereby the petitioner has been denied retiral benefits i.e. gratuity and leave encashment.

2. Learned counsel for the petitioner submits that the petitioner was appointed as a Cane Surveyor/Field Worker at respondent No.2-Sugar Mill on 01.10.1988, on a regular basis. He retired from service on

31.03.2016 upon attaining the age of superannuation. Subsequently, he moved a representation dated 05.04.2016 (Annexure P-2) before respondent No.5-General Manager for release of his retiral benefits but to no avail. After multiple visits from the petitioner, about two years later i.e. in 2018, he received Rs.3,03,856/- towards gratuity and leave encashment; however, a sum of Rs.3,47,918/- was illegally withheld from him. It was discovered that the said amount was withheld because respondents No.6 to 8 were granted a loans on the recommendation of the petitioner, which they failed to repay. The petitioner was merely carrying out his official duty by encouraging the farmers to sow sugarcane and did not stand as a guarantor in a personal capacity. Aggrieved by the same, the petitioner had approached this Court by filing CWP No.17928 of 2021 for release of his retiral benefits with interest. In furtherance thereof, the official respondents were directed to consider his representation and pass a speaking order, vide order dated 10.09.2021 (Annexure P-3). In purported compliance, impugned order dated 28.02.2022 (Annexure P-5) was passed whereby the claim of the petitioner was denied. Having no other alternate remedy, the petitioner filed CWP No.9686 of 2020 for setting aside order dated 28.02.2022 (Annexure P-5), which was dismissed as withdrawn with the liberty to approach the respondents for review. Consequently, the respondents yet again rejected the claim of the petitioner by filing a non speaking order dated 11.07.2022 (Annexure P-8).

3. *Per contra,* learned Senior counsel for respondents No.1 to 5 submits that the present petition is not maintainable against respondent

No.2-Sugar Mill as it is a Cooperative Society, registered under the Punjab Cooperative Societies Act, 1961, which does not fall under the ambit of Article 12 of the Constitution. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court in ***General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, U.P. vs. Satrughan Nishad AIR 2023 SC 4531*** and this Court in ***Gurdaspur Co-operative Sugar Mills Limited vs. Gurdip Singh 2010 (3) PLR 229.*** Further still, the petitioner himself had moved an application on 27.02.2018 wherein he had stated that the amount due on account of unpaid loan of respondents No.6 to 8 may be recovered from his retiral dues along with interest. The petitioner was responsible for the loans availed by respondents No.6 to 8, for whom he stood as a guarantor; thus, the due amount has been rightly deducted from his retiral benefits.

4. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that a sum of Rs. Rs.3,47,918/-, towards gratuity and leave encashment, was withheld from the petitioner vide impugned orders (Annexure P-5 and P-8). However, this Court finds merit in the argument raised by learned Senior counsel regarding maintainability of the present writ petition where relief has been sought from a private sugar mill.

5. A two-Judge Bench of the Hon'ble Supreme Court in ***General Kisan Sahkari Chini Mills (supra)*** has categorically held that Article 226 of the Constitution cannot be invoked with respect to a Mill that is engaged in the manufacture and sale of sugar as the same does not involve the discharge

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of any public function or duty. Relying upon the judgments in ***Ajay Hasia and others vs. Khalid Mujib Sehravardi and others, 1981(1) SCC 722***, ***Ramana Dayaram Shetty vs. International Airport Authority of India and others, 1979(3) SCC 489*** and ***Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology and others, 2002(2) SCT 1067,*** the following was observed:

> *"From the decisions referred to above, it would be clear that the form in which the body is constituted, namely, whether it is a society or co-operative or a company, is not decisive. The real status of the body with respect to the control of Government would have to be looked into. The various tests as indicated above, would have to be applied and considered cumulatively. There can be no hard and fast formula and in different facts/situations, different factors may be found to be overwhelming and indicating that the body is an authority under Article 12 of the Constitution…"*

6. A Coordinate Bench of this Court in ***CWP No. 4662 of 2016*** titled as ***Khushhal Singh vs. State of Punjab***, while relying upon ***Kisan Sahkari Chini Mills (supra)***, made the following observations:

> *"**But this Court would make no comment on the judgment since I am of the considered view that a writ is not maintainable against the Mills and to reach the conclusion the ratio in Kisan Sahkari Chini Mills case is the case in point. The respondent Mills are not involved in performance of public duty. If the rights are purely of a private character no mandamus can issue. The activity should be engaged in obligations akin to public duties or State functions to bring it within the sphere of Article 226 of our Constitution. The body to become amenable to writ should be financially, functionally and administratively dominated by or under the control of the Government;** see Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and others, (2002) 5 SCC 111. I find none of the essential ingredients present in this case clearly demonstrated. If the writ petition is not maintainable then it has to be dismissed without any further discussion on facts. **If the petition has to be dismissed for want of maintainability, then the petitioner may avail his remedy***

> ***elsewhere when the right to sue subsists but remedy lies in some other forum for judicial control of administrative acts complained of. Therefore, the merits of the case have not been dealt with in this case after coming to the conclusion that the writ must fail on the point of maintainability.*** *No material has been placed on the record from where the Court may take a different view applying the recognised tests say in V.R. Rudani (supra) or more expansively in Zee Telefilms Ltd. and another v. Union of India and others, (2005) 4 SCC 649."*
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> *(emphasis supplied)*

7. Reliance can also be placed on the judgments rendered by this Court in ***CWP-17214 of 2020*** titled as ***Ram Niwas vs. Haryana State Federation of Cooperative Sugar Mills Limited*** and ***CWP-13579 of 2015*** titled as ***Khajan Singh vs. Kaithal Cooperative Sugar Mill Ltd***.

8. In view of the foregoing discussions, the present writ petition is dismissed being not maintainable. However, the petitioner would be at liberty to avail alternate remedies before the appropriate fora for the redressal of the grievances raised in the present petition.

(HARPREET SINGH BRAR)
JUDGE

19.05.2026
P.C.

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