
(2013) 09 P&H CK 0142
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6080 of 1989

Ajmer Singh Giri	Vs	APPELLANT
The Sangrur District Coop. Union Ltd. and Others		RESPONDENT

Date of Decision : 05-09-2013

Acts Referred:

Constitution of India, 1950 — Article 12, 226, 227

Citation : (2013) 09 P&H CK 0142

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : Jagdeep Bains, for the Appellant; Harit Sharma, Advocate for respondent Nos. 1 and 6, for the Respondent

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Petitioner Ajmer Singh Giri by filing this writ petition under Articles 226 and 227 has assailed order dated 5.10.1988

Annexure P/14 passed by respondent No. 7 Baldev Singh as President of respondent No. 1-The Sangrur District Coop. Union Ltd. (a

cooperative Society). Counsel for respondents No. 1 and 6 submitted that Annexure P14 is only communication of the order of respondent No.

1-Society and in fact order Annexure R/4 was passed by way of resolution of respondent No. 1-Society.

2. Counsel for respondents No. 1 and 6 has raised preliminary objection relating to maintainability of the writ petition against respondent No. 1

being not "State" within the purview of Article 12 of the Constitution of India. Consequently, I have heard counsel for the parties on the

maintainability of the writ petition and perused the case file.

3. Counsel for the petitioner contended that mere existence of alternative

remedy is no bar to the maintainability of the writ petition particularly because the writ petition was admitted vide order dated 18.1.1990 i.e. more than 23 years ago, having been instituted in May, 1989 more than 24 years ago. Reliance in support of this contention has been placed on judgment of this Court in Dr. L.L. Dhawan, Lecturer Vs. D.A.V. College and Another, and judgment of Karnataka High Court in Krishegowda versus Karnataka State Co-op. Apex Bank Limited, 1994 (4) S.C.T. 563. It was also argued that bye-laws have been framed by respondent No. 1-Society in compliance with statutory requirement and for this reason also, writ petition is maintainable against respondent No. 1.

4. On the other hand, counsel for respondents No. 1 and 6 contended that respondent No. 1 is a private cooperative society and is, therefore, not amenable to the writ jurisdiction being not "State" within the purview of Article 12 of the Constitution of India. Reliance in support of this contention has been placed on judgments in S.S. Rana Vs. Registrar, Co-operative Societies and Another, ; General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, U.P. Vs. Satrughan Nishad and Others, and CWP No. 6776 of 1999, Ranjit Singh versus The Registrar Cooperative Societies, Punjab, Chandigarh and another, decided on 13.8.2010.

5. I have carefully considered the matter.

6. There is no dispute with the legal proposition that mere existence of alternative remedy may not be absolute bar to the exercise of writ jurisdiction by this Court although ordinarily writ petition is not entertained when there is efficacious alternative remedy available to the aggrieved party. In the instant case, since writ petition was instituted more than 24 years ago and was admitted more than 23 years ago, the writ petition would not be liable to dismissal on the ground of availability of alternative remedy and in fact even counsel for the contesting respondents has also not raised any such objection to the maintainability of the writ petition. However, counsel for the petitioner is unable to depict that respondent No. 1 comes within the purview of "State" under Article 12 of the Constitution of India so as to be amenable to writ jurisdiction of this Court. Various criteria or factors have been laid down to determine whether a body or entity is "State" or not within the purview of Article 12 of the Constitution of India. In the instant case, respondent No. 1 is a completely private

cooperative society and does not fall within any of the criteria to bring it within the purview of "State" under Article 12 of the Constitution of India. State Government has no share in or control over respondent No. 1-

Society nor State Government provides any funds to respondent No. 1-Society. Consequently, respondent No. 1 is not "State" within the purview

of Article 12 of the Constitution and is, therefore, not amenable to writ jurisdiction of this Court. This view finds support from various judgments

cited by counsel for the contesting respondents noticed hereinbefore. Accordingly, without going into merits of the case, the instant writ petition is

dismissed being not maintainable.