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**(2014) 09 P&H CK 0163**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : C.W.P. No. 18455 of 2014**

Amarjit Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

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**Date of Decision :** 06-09-2014

**Acts Referred:**

Punjab Co-operative Societies Act, 1961 — Section 26, 26-A

**Citation :** (2015) 177 PLR 604

**Hon'ble Judges :** Jaswant Singh, J

**Bench :** Single Bench

**Advocate :** M.S. Bedi, Advocates for the Appellant

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## Judgement

Jaswant Singh, J.—Petitioners are the elected members of The Samadh Bhai Multipurpose Cooperative Service Society Ltd., respondent No. 3 (for short, "Society"). They are aggrieved against the co-option of respondent No. 4-Nirbhai Singh and Tarsem Singh-respondent No. 5 to the Committee of their society vide resolution dated 25.08.2014 (Annexure P-2). Learned Counsel for the petitioners has argued that after the amendment of Section 26-A of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as "1961 Act") vide Punjab Cooperatives Societies (Amendment) Act, 2013 notified on 28.07.2014 (P-1), the two members could not be co-opted by virtue of the deletion of their in Sub-section 2 of Section 26-A of 1961 Act, since the co-option can now only be made from amongst the specified persons under the newly inserted Sub-section 4 to Section 26-A of the 1961 Act.

2. Having heard learned Counsel for the petitioner and going through the provisions of the Act as also the amended Act this Court finds that there is not substance in the plea raised by the petitioner. Before advertng to the facts and arguments of the case it is necessary to reproduce the unamended provisions of Section 26-A of the 1961 Act and amendments made to provisions of Section 26-A operative w.e.f. 28.07.2014:-

"Unamended Section 26-A of 1961 Act:-

26-A Co-option of members-(1) Notwithstanding anything in Section 26 of the Registrar may, by an order in writing, direct the committee of any cooperative society or any class of cooperatives societies to co-opt, in the prescribed manner for serving on the committee such number of members not exceeding two as may be specified in the directions.

(2) Where a direction is issued under sub-section (1), cooption shall be made from amongst members of the cooperative society belonging to scheduled castes, scheduled tribes or backward classes or from amongst members who as landowner or tenant or as both do not hold more than the prescribed area of agricultural land and fulfill the prescribed conditions.

(3) Members co-opted under sub-section (2) for serving on the committee of a cooperative society shall have the same rights and privileges and shall be subject to the same liabilities as elected members of the committee of that Society.

"Amended Section 26-A:-

"11. In the principal Act, in Section 26-A,-

(i) In sub-section (2), the words and sign "scheduled castes, scheduled tribes or", shall be omitted and thereafter the following provision shall be added, namely:-

"Provided that the maximum number of members of the committee shall not exceed twenty one excluding the members co-opted under sub-section (4).

(ii) after sub-section (3), the following sub-section (4) shall be added, namely:-

"(4) Notwithstanding anything contained in sub-section (1), the committee shall co-opt as members from amongst the persons having an experience in the filed of banking, management and finance or having specialization in any field relating to the objects and activities undertaken by such a society:

Provided that the number of such co-opted members of the committee shall not exceed two in addition to twenty one members specified in the first proviso to sub-section (1) of Section 26:

Provided further that such co-opted members shall not have the right to vote in any election of the cooperative society in their capacity as such member and shall also not be eligible to be elected as office bearers of the committee:

Provided further that the functional directors of a cooperative society shall also be the members of the committee and such members shall be excluded for the purpose of counting the total number of members specified in the first proviso of sub-section (1) of Section 26."

(Emphasis supplied)

3. A conjoint reading of the unamended Sub-section 2 and the amendments made to Sub-section 2 of the Section 26-A of the 1961 Act makes it clear that prior to the amendment w.e.f. 28.07.2014, the members of the Scheduled Castes, Scheduled Tribes, Backward Classes and landowners or tenants who did not have more than the prescribed area of agricultural land and subject to fulfillment of prescribed conditions could be co-opted as members of the committee of the Society provided they were members of the cooperative society. After the amendment, from this class of persons specified in Sub-section 2 only the members of the society who were Scheduled Castes and Scheduled Tribes have been omitted to be co-opted as members of the Committee of the society, without making the other class of the members of the society ineligible to be co-opted. To Sub-section 2 a proviso has been added whereby a maximum number of members of the Committee has been ordained not to exceed 21, including the members not exceeding two from the class of persons provided in Sub-section 2. Still further, over and above the maximum number of 21 members of the committee, including the two to be co-opted from class of persons in Sub-section 2, another class has been permitted to be co-opted as members of the committee by insertion of Sub-section 4 subject to the limitation that they shall not exceed 2 in number in addition to 21 members already specified, with further no right to vote in any election etc. The said class of persons need not be the members of the Cooperative Society to be co-opted as members of the Committee of the society. Such specified persons are required to have an experience in the field of Banking, Management, Finance or having specialization in any field relating to the objectives and activities undertaken by the said society. It is thus clear that Sub-section 2 of Section 26-A relates to the co-options from amongst members of a co-operative society belonging to a certain class of persons whereas Sub-section 4 relates to co-option of certain class of persons who are not members of the society.

4. In the present case, it is not the case of the petitioners that the two persons i.e. respondent Nos. 4 & 5 have been co-opted being members of the Scheduled Castes or Scheduled Tribes or not being members of the cooperative society. Thus their co-option as per the amended provision of Sub-section 2 of Section 26-A cannot be faulted in any manner. Their rights to participate in the proceedings as members of the committee are not circumscribed in any manner, since that restriction relates only to the co-opted persons under Sub-section 4 of the Section 26-A, who are not members of the society. In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.