
(2009) 11 P&H CK 0093
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 17764 of 2009

Amrik Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 20-11-2009

Acts Referred:

Haryana Co-operative Societies Act, 1984 — Section 28, 33
Haryana Co-operative Societies Rules, 1989 — Rule 3

Citation : (2009) 11 P&H CK 0093

Hon'ble Judges : Permod Kohli, J

Judgement

Permod Kohli, J.

1 The petitioners have filed this petition seeking to challenge the election schedule notified by respondent No. 3 for holding the election of Managing Committee of the Shahabad Coop. Sugar Mills Ltd., Shahabad, District Kurukshetra on 22.11.2009. There is no averment in the writ petition showing the status of the petitioners. Even though learned counsel for the petitioners claims that the petitioners are the members of the Society, but in absence of there being any specific averment in this regard, the locus of the petitioners cannot be ascertained. As a matter of fact, this petition is liable to be dismissed on this score alone.

2 Be that as it may. The challenge of the election schedule is merely on the ground that the Administrator who has notified the election schedule is not competent to notify the election. In sum and substance, the case of the petitioners is that the term of the elected Managing Committee of the Society expired on 11.10.2007 as averred in paragraph ii) of the writ petition. However, learned counsel for the petitioners referred to Annexure P2 wherein the date of expiry of the term of the earlier Managing Committee is mentioned as 9.10.2009. Since no fresh election could be held, the Administrator in terms of Section 33 of the Haryana Cooperative Societies Act, 1984 (hereinafter referred to as "the Act") was appointed to manage the affairs of the Society and the Sugar Mills

controlled by the Cooperative Societies. It is alleged that the term of the Administrator has expired and thereafter an Administrator is not competent to hold the election of the Society. The other grouse of the petitioners is that the zones have been notified with unequal number of votes. There is unequal distribution of votes in different zones carved out by the Administrator and the same is thus violative of the provisions of the Act. The petitioners have also challenged the voterlist prepared by the Administrator. It is stated that the voter list is without complete addresses of the members of the Society and it would be difficult to recognize the members of the Society at the time of election. A part from above, it is stated that many members of the Society have not been included in the voterlist. Only one example of one Jagat Singh has been who is said to be a member of the Society, but not included in the voterlist.

3 I have learned counsel for the petitioners and perused the provisions of Section 33 of the Act. Sub Section (i) of Section 33 of the Act empowers the Registrar to appoint Administrator where the Committee constituted under the provisions of the Act, Rules and the Byelaws does not exist or has ceased to exist for a period not exceeding six months or till a committee is constituted under Section 28 whichever is earlier. Second Proviso annexed to the aforesaid subSection further requires the Registrar to hold elections within six months upto one year. Third proviso annexed to the aforesaid subSection further empowers the State Government to extend the period of one year upto two years. From the conjoint reading of the aforesaid provisions, it appears that the Administrator can be appointed to continue upto the period of two years. It is argued on behalf of the petitioners that even the two years maximum period for which Administrator can remain in position to manage the affairs of the Society is over and the election schedule issued on 23.10.2009 is beyond the jurisdiction of the Administrator. Learned counsel for the petitioners has not been able to show any provision which requires either the revival of the Committee or any other authority to take over the affairs of the Committee in the event the maximum term of the Administrator expires. The Society cannot be allowed to remain headless. The doctrine of necessity has to come in operation in such an eventuality and the Administrator is deemed to be continued unless a Committee is duly constituted in accordance with rules. The Administrator has notified the election. However, the petitioners have challenged the same for the reasons best known to them. As a matter of fact, that petitioners should have approached the Court for holding the election. Unfortunately, they are opposing the same. There seems to be some purpose and objective for such a move. It is, however, not apparent from the writ petition. In so far as the zones are concerned, Appendix "A" and "B" of the Haryana Cooperative Societies Rules, 1989 (hereinafter referred to as "the Rules") prescribes the procedure for election to the Committee of the Cooperative Societies as also the preparation of list of zones and voter. Rule 3 of the Appendix deals with the preparation of the zone and also prescribes the composition of the zonal committee. Sub Rule (3) of Rule 3 of the aforesaid Appendix empowers the Manager of every Cooperative Society except that of a

Primary Cooperative Society (other than Land Development Bank and some other specified societies) to prepare the tentative list of zones and voters including the names of representatives of the Member cooperative societies under sub para (2). Sub Rule (5) deals with the quorum for the meeting of the Zonal Committee which prescribes two members only. Sub Rule 6 further provides that the tentative lists of zones and voters shall be examined by the Zonal Committee for according approval. Sub Rule (7) requires the publication of the notice in a daily newspaper and inviting objections for the same, whereas sub Rule (8) require the exhibition of the tentative list of zones and voters approved by the Zonal Committee for a period of not less than fifteen days at the places specified therein. The shareholders of Cooperative Societies and voters are entitled to file their objections to the list of zones and voters in terms of sub Rule (9) whereas sub Rule (10) requires the consideration of the objections by the Zonal Committee. There is no specific averment in the writ petition that the tentative zonal list and the voter lists have not been notified in accordance rules. The challenge is totally vaguer without any specific averments. It is also not the case of the petitioners that they filed any objections to the Zonal list and the voter list notified and the same have not been considered. From Annexure P2 it appears that the tentative list of zones and voters was to become final on 9.10.2009 for which deliberations were held by the Zonal Committee. This document further prove that tentative list of zones and voters were notified for information of the members of the Society. The petitioner have not been able to show specific violation of any of the provisions of law. Learned counsel for the petitioners has also relied upon *Anoop Kumar v. The Joint Secretary, Punjab (P&H)*, 1996(3) RCR (Civil) 432. In this judgment, this Court has categorically held that framing of zones is an administrative function and the prerogative of the Societies and the Administrator and no interference is permissible unless the unequal distribution of votes is to such extent which may affect the results of the election. Leaned counsel for the petitioner has referred to the Zonal lists and argued that in some zones, number of voters is 4000 and above whereas in other zones, the numbers of voters are 900 or so. Based upon that it is argued that it is going to affect the result of the election. The fact remains that the Zonal committees notified the zones as is evident from Annexure P2 has not been objected to as there is no whisperin the writ petition that the petitioner objected the framing of zones at any stage. The petitioner cannot be allowed to argue that there is unequal number of voters, after the election and having participated therein. Otherwise also, no specific averment has been made as to in what manner, it is going to affect the outcome of the election. Similar principle will apply to the voterlist merely one voter has been shown to be excluded that does not mean that the entire election would be vitiated. In the totality of the circumstances and keeping in view the fact that the election of the society is going to be held after a long period of two years. No interference is warranted. No merit. Dismissed.