

(1976) 03 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 569 of 1973

Bhag Singh

APPELLANT

Vs

Ranjodh Singh

RESPONDENT

Date of Decision : 08-03-1976

Acts Referred:

Citation : (1976) PLJ 377 : (1984) RRR 448

Hon'ble Judges : R.S.Narula;CJ., J and D.S.Lamba, J

Advocate : Mr. G.C. Mittal, Advocate., Advocates for appearing Parties

Judgement

R.S. Narula, C.J. (Oral)

1. This order will dispose of two connected appeals, i.e. Letters Patent Appeals 569 and 605 of 1973, both of which have been filed against the same judgment of a learned Single Judge of this Court. The litigation relates to the Doraha Cooperative Marketing Society, Doraha (hereinafter called the Society). The last election to the Managing Committee of the Society was held in December 1969. The term of the Managing Committee was due to expire on December 7, 1972. On October 26, 1972, that is well within time before the expiry of the term of the Managing Committee, the then existing committee by a resolution divided the area of the Society into six separate zones, that is three for the societies and three for the individuals. On November 15, 1972, they also passed a resolution finalising the election programme and fixing the dates for filing the nomination papers and for the poll. A copy of the election programme was sent to the Assistant Registrar Cooperative Societies. The Assistant Registrar did not either approve the election programme or appoint any returning officer before the expiry of the period of the previous committee. The term of the previous Committee having expired on December 7, 1972, Hazara Ram respondent was appointed as the Administrator of the Society on December 20, 1972. After his appointment as such he enrolled as many as 493 members on January 31, 1973, and 33 additional members on February 2, 1973. The writ petitioner respondents got apprehensive of the manner in which the new enrolment was being made

and thought that this will upset the scales for the approaching election. It was in the above mentioned circumstances that in February 1973, Ranjodh Singh respondent filed Civil Writ Petition 564 of 1973, in this Court. The writ petition has been allowed by the judgment of the learned Single Judge, dated July 19, 1973. All that has been expressly directed in the order is that the administrator should hold the election expeditiously. Since, however, the order is based on the reasons recorded in Civil Writ Petition 851 of 1973, and it is said in the judgment of the same learned Judge pronounced on the same day (that is July 19, 1973) in that case that the Administrator had no power to enrol new members, the State of Punjab and the official respondents filed Letters Patent Appeal 605 of 1973, against that order. Eight out of the 526 members enrolled by the Administrator filed Letters Patent Appeal 569 of 1973 against the judgment of the learned Single Judge along with C.M. 5393 of 1973, for leave to be impleaded as parties to this litigation. Counsel for the other side has no objection to the grant of the application. We, therefore, allow the application and permit Bhag Singh and seven others to be impleaded as parties to the writ petition at the appellate stage and to file the appeal.

2. Subsequent to the filing of this appeal, Civil Writ Petition 4416 of 1973 was filed by some out of the 526 members. Ranjodh Singh writ petitionerrespondent was a respondent in that case also. With the consent of the parties including that of Ranjodh Singh, the writ petition was allowed, and it was conceded that the petitioners therein had the right to vote.

3. At the hearing of this appeal after a good deal of arguments had already been addressed counsel for the parties have agreed that the Administrator has the power to enrol and admit new members provided his action is bona fide and the members enrolled by him fulfil the requisite qualifications laid down under the law. It is also admitted that the term of appointment of the Administrator having expired and the period of the maximum extension which could be given to him under the law having also finished, the Administrator is no more there. It is further not disputed that the election has now to be held and that if there is any objection to any of the new members already enrolled or wanting now to be enrolled, the same has to be gone into before the election is held. The parties also agree that this process of new enrolment has to stop at least 15 days before the election is held. With their consent and as desired by them, we, therefore, pass the following order :

The Deputy Registrar, Cooperative Societies, Ludhiana, or any Assistant Registrar working under him who may be nominated by him for this purpose shall forthwith invite applications for new membership to be submitted to him on or before March 27, 1976. Objections against the enrolment of any individual or Society may be submitted in writing by April 2, 1976. If any objections have been filed against the enrolment of any of the previous 526 members, or if any objection is filed regarding the enrolment of any of them now, or any objections are filed against any of the persons or Societies who now apply for becoming

members, the same shall be heard and disposed of by the Deputy Registrar or the Assistant Registrar, as the case may be, by the 5th of April, 1976. Submission of fresh applications for enrolment of individuals or Societies as members of the Cooperative Society in question shall cease after March 27, 1976, till the declaration of the result of the poll. No new objection shall be entertained after April 2, 1976. At any time between April 5, 1976 and April 12, 1976, the Deputy Registrar or the Assistant Registrar, as the case may be, shall issue the election programme fixing the requisite dates for all the steps in the election so that the actual poll is held not later than the middle of May, 1976.

The judgment of the learned Single Judge is set aside and the above order shall stand substituted in its place. The parties are left to bear their own costs.