

(1992) 09 P&H CK 0086

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1889 of 1980

Ghasita Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 15-09-1992

Acts Referred:

Citation : (1993) 3 LJR 374 : (1993) PLJ 514 : (1993) 1 RRR 273 : (1993) 1 SCT 358

Hon'ble Judges : N.K.Kapoor, J

Advocate : Mr. S.K. Kapoor, AAG, Haryana., Advocates for appearing Parties

Judgement

N.K. Kapoor, J.—The petitioner has challenged the order of the Deputy Registrar Cooperative Societies, Kurukshetra, dated 21.4.1980, Annexure P3, on the ground that he has got no power to pass such an order.

2. Briefly put the petitioner was a member of the managing committee of the Rajauli Cooperative Credit and Service Society Ltd., Rajauli (for short "the Rajauli Society"). The Manager as well as the salesman working in the said Rajauli Society were not performing their duties properly and so there were numerous complaints against them. One of the complaints of the villagers was that both of them are not properly distributing sugar among the villagers. Various complaints were made to the Assistant Registrar Cooperative Societies, Ambala, the Managing Director, Ambala Central Cooperative Bank Ltd., Ambala and the Deputy Registrar, Cooperative Societies, Kurukshetra, but reasons best known to them none of these mentioned authorities took any step in this regard which consequently led the gram panchayat pass a resolution on 7.3.1980 Annexure P1 that the complaint be sent to the District Food and Civil Supplies Controller, Ambala, as Manager and Salesman were committing irregularities in distribution of sugar.

3. The Deputy Registrar Cooperative Societies instead of examining the complaint sent to him by the peittioner passed an order for removal of the petitioner from the membership of the Rajauli Society on the ground that he has

failed to attend three consecutive meetings of the society i.e. on 7.11.1979, 1.12.1979 and 8.12.1979 as required under the byelaw 37A (vi).

4. The grievance of the petitioner is that neither the Assistant Registrar nor the Deputy Registrar has enquired into the matter whether, in fact, the petitioner absented himself from attending the three consecutive meetings as alleged the meetings on 7.11.1979, 1.12.1979 and 8.12.1979. Even the petitioner denied the allegation that at any time notice was issued to him by the Deputy Registrar and the same was returned back with the report that he has refused to receive the notice. The petitioner further contends that it was obligatory on the part of the Deputy Registrar to give a specific finding to the effect that the petitioner absented himself from three consecutive meetings of the Managing Committee without any cogent reason. Even the order passed by the Deputy Registrar is cryptic and devoid of any reasoning. As regards the objection that the Deputy Registrar had no power to pass the impugned order, the counsel relied upon ByeLaws 37(B) which runs as under :

"37(B) : Unless otherwise laid down by a competent authority, the Registrar shall be competent to declare a person having ceased to be the member of the Managing Committee after due notice to him."

5. A bare perusal of this Byelaw clearly reveals that the Registrar alone is competent to declare a person as having ceased to be a member of the Managing Committee and that too after due notice to him. This court in case reported as *Lakha Singh v. Registrar Cooperative Societies Punjab*, 1972 PLJpage 363, examined this matter in all its details and has come to the conclusion that the matter relating to the election of the members of a committee of a cooperative society and the rights of the member to manage the affairs of the society are rights which may rightly be regarded as analogous to the rights of franchise. Any infringements of such right by the executive, have in accordance with the provisions of the statute and the rules on the subject, is to be looked upon with extreme disfavour. In interpreting such provision, the Court would normally lean in favour of the elected members. To the similar effect is the judgment in the case reported as *Ugar Sain v. State of Punjab*, 1976 PLJ 95 : 1984 R.R.R. 357. Admittedly, no enquiry had been conducted by the Registrar as to whether, in fact, the petitioner abstained from the meetings of the Managing Committee for three consecutive dates. Even there is no clear proof on record that the petitioner, in fact, was served before holding an inquiry in this regard. In addition to these infirmities, even the order has been passed by the Deputy Registrar, whereas the power lies with the Registrar only. I accordingly accept this writ petition and quash the order of Deputy Registrar, Annexure P3. No order as to costs.