

(2001) 11 AHC CK 0094
In the Allahabad High Court
Case No : C.M.W.P. No. 36940 of 2001

Harish Chandra Mishra

APPELLANT

Vs

Uttar Pradesh Co-operative Spg. Mills Federation Ltd. and
Others

RESPONDENT

Date of Decision : 23-11-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 1 AWC 207 : (2002) 93 FLR 910 : (2002) 1 UPLBEC 291

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Ravi Pratap, for the Appellant; R.K. Ojha, for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Petitioner, who claims to be an employee of Nagina Sahkari Katai Mills Ltd., Nagina, district Bijnor, which is a cooperative society registered under the U.P. Co-operative Societies Act. 1965, has challenged the order dated 1.6.2001 by means of this writ petition under Article 226 of the Constitution of India whereby the services of the petitioner have been terminated on account of the fact that the mill has been finally closed down with immediate effect. The termination order also says that according to the service conditions, the emoluments of other payments, which are payable to the petitioner shall be paid to the petitioner as soon as the grant of State Government is received and after furnishing no dues certificate by the petitioner.

2. Heard learned counsel appearing on behalf of the petitioner and Sri R.K. Ojha, learned counsel representing respondent No. 3. Sri Ojha has raised three objections ; firstly that since the order dated 1.6.2001 is challenged by means of this writ petition in the month of November, 2001, petitioner is, therefore, guilty of laches as no explanation has been submitted by the petitioner as to why he has not filed this writ petition earlier, which ought to have been filed normally within ninety days. The second objection raised by Sri Ojha is that the petitioner

has an alternative remedy by means of a petition u/s 128 of the U. P. Co-operative Societies Act and thereafter if he feels aggrieved by the order of the Registrar, he can file an appeal u/s 98 of the Act. The third objection raised by Sri Ojha is that the petitioner can approach the labour court and for all these aforesaid three reasons, this writ petition is liable to be dismissed.

3. Learned counsel for the petitioner stated that the provisions of Section 128 of U.P. Co-operative Societies Act will not be attracted under the circumstances because the order has been passed by the Secretary/General Manager. This argument of the petitioner's counsel is misconceived. The definition of the officers of the co-operative societies u/s 2, Clause (10) includes Secretary as one of the officers. A perusal of the aforesaid definition clause read with Section 128 of the Act clearly demonstrates that petitioner can approach the Registrar u/s 128 of the Act. The petitioner has further a remedy, as suggested by Sri Ojha, before the industrial court. The writ petition, therefore, falls on all the three counts and is accordingly dismissed. There will be no order as to costs.