
(1975) 09 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 107 of 1975

Indraj Singh

APPELLANT

Vs

State of Haryana Cooperative Department

RESPONDENT

Date of Decision : 11-09-1975

Acts Referred:

Citation : (1976) PLJ 91 : (1984) RRR 350

Hon'ble Judges : R.N.Mittal, J

Advocate : Mr. R.C. Setia, Advocate, Mr. H.L. Sibal, Senior Advocate, Mr. G.S. Sandhu, Advocate., Advocates for appearing Parties

Judgement

R.N. Mittal, J.—This writ petition has been filed under Articles 226 and 227 of the Constitution of India for quashing the resolution dated January 2, 1975, of the managing committee of the Radaur Cane Growers Cooperative Society Ltd., Radaur, respondent No. 2 (hereinafter referred to as the Society), by which the petitioner has been removed and ceased from the committee of the aforesaid respondent.

2. Briefly, the facts are that the petitioner is a member of the Society. He was elected as its Director and has been working as such since March 14, 1974. The Committee vide its resolution dated January 2, 1975, removed and ceased the petitioner from the committee on the ground that he was not elected as a delegate from his Zone No. 3 for that year. It is alleged by the petitioner that he was elected as a Director for a period of three years on March 14, 1974, and, therefore, it is stated, was illegally removed from the directorship on the aforesaid ground. He has, therefore, challenged the resolution of the committee dated January 2, 1975. The writ petition has been contested by respondent No. 2.

3. The first contention of the learned counsel for the petitioner is that the Registrar alone is competent to cease a member of the managing committee and this power does not vest in the aforesaid committee. He say that even if it is held that the petitioner has ceased to be a delegate, he cannot be removed from the membership of the managing committee by the committee itself. I find force in

the contention of the learned counsel for the petitioner. The matter is not res integral. A Division Bench of this Court in *Lakha Singh v. Registrar Cooperative Societies, Punjab and others*, 1972 P.L.J. 363, observed that a member does not cease to hold office unless and until a competent authority passes an order in that behalf. It is further observed that the matter has to be decided by an authority invested with the powers of Registrar. Following the aforesaid case, a learned Single Judge of this Court in *Rama Jattan v. The State of Haryana and others*, Civil Writ No. 3611 of 1973, D/d. December 7, 1973 (=1975 P.L.J. 24), observed as follows :

"In *Lakha Singh v. The Registrar Cooperative Societies, Punjab and others*, 1972 P.L.J. 263, a Division Bench of this Court held that before a member of the managing committee could be removed from office on the ground that he ceases to be a member of the committee on account of default committed by him, the Registrar or the authorised Registrar must determine whether he is a defaulter or not. Admittedly, in this case, this matter was not determined by any competent authority. Under these circumstances, the action of respondent No. 4 (The Chhachhrauli Cane Growers Cooperative Society Ltd., Chhachhrauli) in ousting the petitioner from the Society on the ground that he was a defaulter has also to be set aside. I order accordingly". The above case is on all fours with the present case, and the observations therein fully apply to this case.

4. The second contention of the learned counsel for the petitioner is that even if he was to be elected as a delegate for the current year from his zone, he had been elected as a member of the committee for a period of learned counsel for respondent No. 2, on the other hand, had vehemently argued that the petitioner had ceased to be a member of the committee as he was not elected as a delegate. He further submits that it was in accordance with the byelaws of the Society and the Rules. A reference has been made to byelaw No. 22. This matter has also been decided by M.R. Sharma, J. in *Rama Jattan's case* (supra). The learned Judge observed the byelaws of the Society which curtail the period of membership of the Society cannot be treated as valid. Consequently, he struck down the resolution passed by the managing committee. The aforesaid observations are applicable to the present case.

5. In the end, it may be mentioned that the learned counsel for respondent No. 2 took a preliminary objection that the petitioner had an alternate remedy to refer the matter to an arbitrator under Section 55 of the Punjab Co operative Societies Act, 1961. He further submits that this Court should not interfere on the writ side as he had failed, to avail of that remedy. No doubt it is true that the matter can be referred to an arbitrator. This Court, however, is not deprived of its jurisdiction in case alternate remedy is available. This Court can interfere in appropriate cases under Article 226 of the Constitution. In the present case, in my opinion, the alternative remedy is neither expeditious nor efficacious. In the circumstances, I reject the contention of the learned counsel for respondent No. 23.

6. For the reasons recorded above, I accept the writ petition and quash the impugned resolution. I, however, leave the parties to bear their own costs.