
(1977) 01 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 7178 of 1976

Jagir Singh

APPELLANT

Vs

Deputy Registrar, Cooperative Societies, Amritsar

RESPONDENT

Date of Decision : 13-01-1977

Acts Referred:

Citation : (1977) CurLJ 249 : (1977) PLJ 210 : (1984) RRR 313

Hon'ble Judges : A.S.Bains, J

Advocate : Mr. Harinder Singh, Advocate., Advocates for appearing Parties

Judgement

A.S. Bains, J.(Oral)

1. The petitioners were elected as members of the Managing Committee, Valtoha Cooperative Agricultural Service Society Limited, Valtoha, Tehsil Patti, District Amritsar, on 22nd of June, 1975. On 19th May, 1976, a notice under section 27(1) of the Punjab Cooperative Societies Act, 1961 (hereinafter called 'the Act') was served on the petitioners and other officebearers. It was required by this notice to show cause as to why the Committee may not be removed. Copy of the notice is attached with the petition as Annexure 'P1'. The petitioners filed a reply to the notice. Ultimately the petitioners' Committee was removed on 27th August 1976, vide copy Annexure 'P9'. It is against this removal order that the present petition has been filed.

2. Various grounds were raised in the petition, but Mr. Harinder Singh, learned counsel for the petitioners, has confined his argument only to ground 18(f) which is in the following terms :

"The respondents had not consulted the financing Bank before the impugned action was taken though it was obligatory upon them to do so. In the circumstances, impugned action was without jurisdiction."

The reply filed on behalf of the respondents shows that no such consultation was made by the respondents before passing the impugned order, copy Annexure

`P9". Consultation of the financing institution is necessary under section 27(6) of the Act which is reproduced below :

"Before taking any action under subsection (1) in respect of a co operative society, the Registrar shall consult the financing institution to which it is indebted."

3. A reading of the above provision shows that the consultation with the financing institution is mandatory before any action against the Committee can be taken. The consultation is not merely a formality, but it is to be an effective compliance. Such matter also arose earlier in *Ajit Singh and others v. The State of Punjab and others*, 1964 Current Law Journal 157, wherein it was held as under :

"The Registrar is enjoined to consult the financing institution before taking any action under subsection (1). The issue of a show cause notice is not an action under subsection (1). The Registrar was obliged to consult the financing institution before any of the actions contemplated in section 27(1) was taken, and the consultation would be ineffective unless the full material was placed before the financing institution. Without doing this, the requirement of subsection (5) of section 27 of the Act is not complied with."

In that case some consultation was made and the financing institution has written on the suggestion of the Registrar only two words `no objection". The present case stands on better footing as admittedly no reference was even made to the financing institution. In this view of the matter, the impugned order, copy Annexure `P9", removing the petitioners and other members of the Committee is set aside and the petition is allowed with costs. Counsel's fee Rs. 300/.