
(1995) 05 P&H CK 0100
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7313 of 1995

Jai Karan Singh

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 19-05-1995

Acts Referred:

Citation : AIR 1996 P&H 67 : (1996) 112 PLR 273

Hon'ble Judges : M.L. Koul, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : B.S. Khoji, for the Appellant;

Judgement

Jawahar Lal Gupta, J.—The petitioner was a member of the Managing Committee of the Kosli Primary Co-operative Agricultural and Rural Development Society. On January 3, 1995, the Deputy Registrar, Co-operative Societies, Gurgaon, served a notice on the petitioner pointing out that he had been a defaulter in the repayment of loans taken by him, He called upon the petitioner to explain as to why he should not be removed from the Managing Committee of the Society, in view of the provisions of R. 28 of the Haryana Co-operative Societies Rules, 1989. The petitioner submitted his explanation on February 21, 1995. He inter alia stated that "the entire amount of Rs. 18,810/-owed by me to the Bhakli Mini Bank i. e. Rs. 13,900/- as dues standing on 13-1-1993 has been paid back to the Mini Bank",-- On April 4, 1995, the Deputy Registrar ordered the petitioner's removal from the Managing Committee. A copy of this order has been produced as AnnexureP-3 with the writ petition. He found that the petitioner having been a defaulter for a period of more than three months was not qualified to continue on the Managing Committee. Aggrieved by this order, the petitioner has approached this Court through the present petition.

2. The Solitary argument raised by Mr. B. S. Khoji, learned counsel for the petitioner is that since no default existed on the date of. the passing of the order viz. April 4, 1995, the order passed by the respondents cannot be sustained. In order to consider this submission, it is necessary to notice the provision

contained in R. 28. It reads as under:--

"28. Removal from membership of committee.

(1) A member of the committee shall cease to hold office as such if he;--

(a) continues to be in default in respect of any sum due from him to any Co-operative Society for a period of three months;

(b) ceases to be member;

(c) is declared insolvent;

(d) become of unsound mind;

(e) is convicted of an offence involving dishonesty or moral turpitude; or

(f) becomes subject to any of the disqualifications specified in R. 27.

(2) The Committee shall inform the Registrar that a member has incurred the disqualification under sub-rule (1) and as such is liable for removal from the office.

(3) On the receipt of information from a Committee under sub-rule (2), or the application of any member of the society or suo motu, the Registrar may order the removal of the member from office after giving an opportunity to hear the committee and the member concerned."

3. This case is covered by the provision contained in sub-clause (a) of Cl. (I). The provision is categorical. Its language is imperative. It provides that if a member continues to be in default for a period of three months, he shall cease to hold office as such. The purpose is obvious. It is to ensure that those who are charged with the duty of managing the affairs of a Society, should not be defaulters, for a defaulter shall not be in a position to check other defaulters. The rule provides a period of three months during which the member can make the payment. If he does not, the consequence of removal from membership follows. Such a person loses the right to continue as a member of the Committee. In view of the clear and unambiguous language of the Rule, we are unable to accept the contention that the petitioner having made the deposit prior to the passing of the order, he could not be removed from the membership of the Society.

4. What is the position in the present case? It is the admitted position that an amount of Rs. 13,900/- had become due from the petitioner on January 13, 1993. He admittedly did not pay this money till August 12, 1994. Consequently, the default had continued for more than three months. The petitioner had earned the disqualification to continue as a member of the Committee under R. 28. The action of the respondents in ordering his removal from the membership of the Managing Committee, is thus, in strict conformity with the provision of the Rule.

5. Mr. Khoji relied on the decision in *K. Anjaneyulu v. Dy. Registrar, Co-operative Societies, Hindupur* AIR 1994 (NOC) 190. We have perused the note. The

relevant provisions have not been quoted. We are not satisfied that the factual or legal position of the two cases was identical. The petitioner can derive no advantage from this decision.

In view of the above, we find no merit in this writ petition. It is, accordingly, dismissed in limine.

6. Petition dismissed.