
(2013) 10 P&H CK 0084
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20209 of 2013

Jarnail Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2014) 174 PLR 199

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Judgement

Rakesh Kumar Jain, J.—Petitioner is the member of the Kandala Guru Cooperative Agriculture Multipurpose Service Society, Kandala

Guru, tehsil and District Jalandhar (hereinafter referred to as the ""society""), registered under the provisions of the Punjab Cooperative Societies

Act, 1961 (hereinafter referred to as the ""Act""). As per Bye-law 32 of the registered Bye-laws of the society, 9 members are to be elected to the

committee from the members of the general body, each from the village in the area of operation of the society having not less than 50 members.

2. The election of the Managing Committee of the Society was held on 20.08.2013 and out of 11 candidates, 9 were elected. It is alleged that

Jaspal Singh (respondent No. 5) is doing the business of advancing loans to the residents of the village including the members of the society and

has advanced Rs. 5,000/- to the petitioner on 22.07.2013 @ 3% per month and also got executed a pronote from the petitioner. The petitioner,

thus, filed an election petition under Sections 55/56 of the Act for setting aside the election of respondent No. 5 as a committee member of the

society before the Deputy Registrar, Cooperative Societies, Jalandhar on

26.08.2013 who, vide his order of the even date, restrained respondent

No. 5 from taking part in the meeting for election of the office bearers of the society. It is alleged that the case was fixed for hearing on 06.09.2013

but on that date, the Deputy Registrar did not hold the Court and it was adjourned to 09.09.2013. It is also alleged that the respondents did not

file any reply to the election petition but the Deputy Registrar, without getting the reply, vacated the stay on 26.08.2013 and fixed the case for

hearing for 23.09.2013. It is alleged that on the one hand, stay was vacated on 09.09.2013 and on the same day, approval was granted for

holding election of the office bearers of the Society on 13.09.2013 at 11.00 a.m. under Rule 80(i) of the Punjab Cooperative Societies Rules,

1963 (hereinafter referred to as the "Rules").

3. Counsel for the petitioner has submitted that as per Rule 80(i) of the Rules, at least 15 days' clear notice specifying the date, place, time and

agenda for the meeting of a general body/committee and at least seven days clear notice for a meeting of any smaller body is required. However,

short notice can also be given to all the members of the general body/committee or smaller body, as the case may be, with the permission of the

Registrar or under his direction. It is alleged that respondent No. 6 has exercised the power in a mala fide manner and granted permission on

09.09.2013, fixed the meeting on 13.09.2013 and has not even waited for 7 days' notice to be given to all the committee members.

4. Thus, the prayer has been made for quashing the order dated 09.09.2013 by which order dated 26.08.2013 of stay has been vacated and also

order dated 09.09.2013 by which approval has been given for holding emergent meeting on 13.09.2013 at 11.00 a.m.

5. At the time of notice, the operation of order dated 09.09.2013 for holding emergent meeting on 13.09.2013 was stayed by this Court.

6. In reply filed on behalf of respondent Nos. 1 and 2, It is alleged that the writ petition is not maintainable because remedy of revision is available.

The petitioner has neither contested the election nor filed the nomination paper for contesting the election of the society and was not an aggrieved

person. He was not having the locus standi to file the election petition and cannot invoke the writ jurisdiction of this Court as well. It is averred that

the order dated 09.09.2013 has been passed in terms of the decision of this

Court in the case of Satish Mohindroo and Others Vs. Assistant Registrar, Cooperative Societies and Others, .

7. It is submitted by counsel for respondent No. 5 that he is not engaged in private business which is carried on by the Society and denied that he has been doing the business of advancing loans to the residents of the village and members of the society. It is denied that he had advanced a loan of Rs. 5,000/- to the petitioner on 22.07.2013 @ 3% per month. He denied the execution of any pronote. It is submitted that the pronote does not bear his signatures.

8. I have heard learned counsel for the parties and perused the record.

9. The respondents have raised the issue of locus standi of the petitioner to file the present petition on the ground that he is not an elected member of the society who has to elect the office bearers of the society. In this regard, it is argued by counsel for the petitioner that as per Rule 6 of

Appendix "C", Part I of the Rules, the petitioner can object being a voter but insofar as Rule 6 is concerned, it deals only with the scrutiny of

nomination papers for the election of the members of the committee but once respondent No. 5 has been elected as a member of the committee,

Rule 6 would pale into insignificance as it is available to the voters when the nomination paper for the purpose of election by the members to the

committee is filed. Moreover, it is admitted by the petitioner that he has alternate remedy u/s 68/69 of the Act to challenge the impugned order

herein by way of revision. Thus, if the alternate remedy is available under the statute of appeal or revision, the extra-ordinary remedy of writ under

Article 226 of the Constitution of India cannot be invoked. Moreover, the stay order has been vacated by the Deputy Registrar in view of the

decision of this Court in Satish Mohindroo and others' case (supra) in which it is clearly held that merely on filing of election petition, elected

member would not cease to be a member until and unless election is held to be illegal or void and till then he would continue to hold the office. In

view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.