
(1991) 09 SHI CK 0010
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 307 of 1981

Kangoo Co-op. Agriculture Society

APPELLANT

Vs

State of Ors.

RESPONDENT

Date of Decision : 10-09-1991

Acts Referred:

Citation : (1992) 1 ShimLC 382

Hon'ble Judges : V.P. Bhatnagar, J; L.S. Panta, J

Bench : Division Bench

Advocate : J.R. Thakur, for the Appellant; M.L. Chauhan, Asstt. A.G., for the Respondent

Final Decision : Allowed

Judgement

V.P. Bhatnagar, J.—Shri Parkash Singh belongs to village Dhaun-da-Panga in district Hamirpur. He applied for the membership of the Kangoo Co-operative Agriculture Service Society Ltd. Village Kangoo (hereinafter referred to as the petitioner Society) on December 31, 1976 and withdrew from the membership on September 12, 1980. According to the averments made in the writ petition, during the aforesaid period he also remained a member of the Manjheli Co-operative Agriculture Society and in this manner raised loans from both the societies. Moreover, dual membership in two credit societies at the same time is prohibited by virtue of Rule 13 of the Himachal Pradesh Co-operative Societies Rules, 1971 (for short, the Rules) It was on November 17, 1980 that he again applied to be enrolled as a member of the petitioner Society, but his application was rejected on the ground that village Dhaun-da-Panga is not within the area of operation of the Society according to its bye-laws. The petitioner Society also took exception to the alleged fraud played by Prakash Singh inasmuch as he had not earlier disclosed that he remained member of two credit societies at the same time.

2. Respondent 3 (Parkash Singh), aggrieved by the decision of the petitioner Society, filed an appeal dated December 24, 1980 before the District Co-

operative Supplies Officer, Hamirpur who accepted it vide his order dated February 28, 1981 at Annexure P-A to the writ petition. The petitioner Society filed an appeal to the Registrar but it was returned as incompetent, whereafter a revision petition was filed before the Deputy Secretary (Co-operation) to the Government of Himachal Pradesh. This petition was decided vide the Government letter dated September 14, 1981 copy of which has been attached at Annexure P-C. The petition was rejected on the ground that it was time barred. On the above facts, the petitioner-Society has filed the present writ petition praying that the orders dated February 28, 1981 and September 14, (sic) at Annexures P-A and P-C, the effect of which is to require the said society to admit Respondent 3 as a member, be quashed.

3. Shri Parkash Singh, Respondent 3, has not put in his appearance in response to the notice issued to him by this Court. He has, therefore, to be proceeded ex-parte. Respondents 1 and 2 have filed reply stating that Respondent 3 had withdrawn his membership from Manjheli Co-operative Agriculture Service Society on November 17, 1980 and applied to the petitioner Society for its membership on that very day. It has been admitted that village Dhaun-da-Panga is neither in the area of operation of the petitioner Society nor in the area of operation of Manjheli Co-operative Agriculture Service Society. It has also been averred that no revision petition was preferred by the petitioner Society and that, in fact, an appeal was filed, the time limit for the filing of which is sixty days u/s 93(2) of the Himachal Pradesh Co-operative Societies Act, 1968 and that the said appeal was rejected as time barred

4. We have heard the learned Counsel for the parties. Rule 13 of the Rules prohibits membership in two credit societies at the same time. It was on November 17, 1980 that Respondent 3 is stated to have withdrawn his membership from the Manjheli Co-operative Agriculture Service Society and it was on that very date that he submitted his application for being enrolled as a member of the petitioner-Society. This, however, violates the statutory direction contained in Rule 17(1) whereby a member who wants to withdraw from a society has to give three months notice to the Secretary of the Society as regards his intention to resign from the membership of the society. The perusal of Rule 17 further shows that the withdrawal of membership is not automatic but that it takes effect after it has been duly accepted by the Society. We have no material before us to come to a conclusion that the Manjheli Co-operative Agriculture Service Society had accepted his resignation. In fact, this could not be done for want of three months notice to the Secretary of the Society as regards the intention to resign from the membership, as postulated in Sub-rule (1) of Rule 17. Therefore, Respondent 3 continued to be a member of the Manjheli Co-operative Agriculture Service Society as on November 17, 1980 and Rule 13 stood in his way of being enrolled as a member of the petitioner Society.

5. There is yet Anr. reason why it must be held that the petitioner Society rightly rejected Respondent 3's application for enrolment as a member when he

approached the society for the second time on November 17, 1980. It is the admitted case of the parties represented before us that the area of operation of the petitioner Society does not cover village Dhaun-da-Panga. If so, Rule 11(e) is an impediment in the way of Respondent 3 from becoming the member of the petitioner Society. It postulates that no person shall be eligible for admission as a member of the society if he is not a resident of the area of operation of the society for the last six months. The application was verily rejected on this ground and, in our opinion, rightly so. In other words, Respondent 2 was not justified in holding, as was done by him in the impugned order dated February 28, 1981 at Annexure P-A, that Respondent 3's application for admission had been wrongly rejected. The direction issued by him to the petitioner Society to enroll Respondent 3 as a member thereof is also legally not tenable.

6. In view of the above reasons, this writ petition merits acceptance. Accordingly, the orders dated February 28, 1981 and September 14, 1981 at Annexures P-A and P-C to the writ petition are hereby quashed. It is further directed that the said orders will not be given effect to in any manner, whatsoever. There will, however, be no orders as to costs.