
(1986) 03 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 179 of 1979

Kehar Singh

APPELLANT

Vs

Sardar Parkash Singh Badal, Chief Minister, Pun.

RESPONDENT

Date of Decision : 18-03-1986

Acts Referred:

Citation : (1986) PLJ 325 : (1986) RRR 126

Hon'ble Judges : D.V.Sehgal, J

Advocate : Mr. Sanjiv Bindra, Advocate, Mr. G.S. Grewal, A.G. Pb., Mr. B.S. Khoji, Advocate., Advocates for appearing Parties

Judgement

D.V. Sehgal, J.—There were four Cooperative Societies, namely, The New Jethuke Cooperative Agricultural Service Society Ltd., The Jethuke Co operative Agricultural Service Society Ltd., The B. Cooperative Agricultural Service Society Ltd. and The Ghadelli Cooperative Agricultural Service Society Ltd. Ghadelli. All of them were amlagamaled under section 3B of the Punjab Cooperative Societies Act (hereinafter called 'the Act') as amended by Punjab Act No. 8 of 1978, by an order of the Assistant Registrar, Cooperative Societies, respondent No. 5 in the month of October, 1978. The President and the VicePresident of all these four societies thus came to constitute the Managing Committee of the New Society. A resolution Annexure P. 4 is recorded in the Minutes Book of the New Society (New Jethuke Cooperative Agricultural Service Society) hearing dated 14.10.1978, which is shown to have been passed by 5 members of the Managing Committee electing Bhagwant Singh respondent No. 7 and Bhag Singh as President and VicePresident of the said Society. Subsequently a meeting of the Presidents and VicePresidents of the four Societies abovementioned was held on 21.10.1978. It was attended by 7 members of the committee and Bhag Singh petitioner No. 4 and Kehar Singh petitioner No. 1 were elected President and VicePresident respectively of the new Society. The reason for holding this meeting was that the previous meeting dated 14.10.1978 was held without notice to all the members of the committee and as a matter of fact the signatures of some members were obtained subsequently. Pritam Singh son of

Buggar Singh and Bhag Singh son of Rattan Singh, who were shown to have attended the meeting dated 14.10.1978 also attended the meeting dated 21.10.1978. The resolution passed in the meeting held on 21.10.1978 is Annexure P.5. The officebearers thus elected on 21.10.1978 started functioning. A meeting of the Managing Committee was thereafter held on 22.10.1978 under the Chairmanship of petitioner No. 4 and it was attended by as many as 8 other members of the committee including respondent No. 8. Another meeting of the committee was held on 23.10.1978 under the Chairmanship of petitioner No. 4. On 25.10.1978 the New Society was visited by the SubInspector of the circle who recorded his visit note in the proceedings book of the committee on the same date. Thereafter meetings were held on 28.10.1978 and 2.11.1978 which make it clear that the officebearers elected on 21.10.1978 were functioning smoothly ever since their election without any objection from any of the members. Respondent No. 7 later on made a complaint to the then Chief Minister, Punjab, who passed the following order on 13.12.1978 :

"As reported and suggested by S.P. Crime, case be registered against the Secretary, CASS, New Jethuke Principal Society. There seems to be involvement of Puran Singh, Inspector, Cooperative. He should also be joined in investigation. Secretary Cooperation to ensure that officebearers elected on 14th October should be restored to their position as is clear from the report.

Sd/ Parkash Singh 13/12".

In pursuance of this order, the Deputy Inspector General of Police (C.I.D) respondent No. 3 addressed a letter Annexure P. 7 to the Registrar Co operative Societies, respondent No. 4 conveying the order of the Chief Minister containing the direction that the President, VicePresident and the members of the committee of the New Society elected on 14.10.1978 should be restored to their posts and action taken in this regard should be communicated back. The petitioners have through the present writ petition challenged the order of the Chief Minister, Punjab dated 13.12.1978, a copy of which is Annexure P. 6 as also the order of respondent No. 3 Annexure P. 7 as being illegal and ultra vires the provisions of the Act.

2. I have heard the learned counsel for the parties. Mr. B.S. Khoji appearing for the petitioners has contended that if at all respondents No. 7 and 8 were aggrieved against the election held on 21.10.1978 whereby the petitioners No. 4 and 1 were elected President and VicePresident of the Managing Committee of the New Society, the course open to them was to raise a dispute and have the same adjudicated upon and settled under section 56 of the Act. Such a dispute has to be raised by moving a petition before respondent No. 4. Instead of doing so, respondent No. 7 and 8 tried to secure exercise of influence by respondent No. 1 to restore them back to their position of President and VicePresident of the New Society though the meeting held on 14.10.1978 was not in accordance with law and their election was invalid. Petitioners No. 4 and I as shown above were functioning smoothly as President and VicePresident respectively of the New

Society and had been conducting its business without any objection from any of its members. No plausible defence to this contention of the learned counsel for the petitioners could be put forward by the learned counsel for the respondents.

3. If a dispute with regard to the constitution, management and business of a Cooperative Society, which undoubtedly includes election of its office bearers arises, section 56 of the Act provides for its adjudication. This provision could not be bypassed and an order secured from the then Chief Minister to install respondents No. 7 and 8 President and VicePresident respectively in place of petitioners No. 4 and 1, who were duly elected to those offices in the meeting held on 21.10.1978. It is, therefore, imperative to hold that the orders Annexures P. 6 and 7 are ultra vires the provisions of the Act and cannot be sustained.

4. I, therefore, allow this petition and quash the orders Annexures P. 6 and P. 7 passed by respondents No. 1 and 3 respectively. I, however, leave the parties to bear their own costs.