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**(1985) 10 P&H CK 0037**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 1956 of 1981**

Kesar Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision :** 30-10-1985

**Acts Referred:**

**Citation :** (1986) PLJ 519 : (1986) RRR 653

**Hon'ble Judges :** I.S.Tiwana, J

**Advocate :** Mr. C.R. Dahiya, Advocates., Mr. Prem Singh, Advocates for appearing Parties

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## Judgement

I.S. Tiwana, J. (Oral)

1. Besides the various grounds taken by the petitioner for impugning the award of the Arbitrator dated December 27, 1974, passed under section 56 of the Punjab Cooperative Societies Act, one of the grounds agitated before me is that the petitioner's revision petition under section 69 of the Act was dismissed by the Joint Secretary to the Government exercising the powers of the Government, on June 2, 1980 without any prior notice of hearing to him. To be precise, what has been averred in this petition in this regard is that initially the case was fixed before the Joint Secretary for March 19, 1980 but it could not be taken up for hearing as the latter was otherwise busy on account of the Assembly Session. Neither the petitioner nor his counsel was present in the office of the Joint Secretary on March 19, 1980. On account of this absence neither of them was aware of the adjourned date, i.e. June 2, 1980. These factual averments have not been contested by the respondents including the State Government by filing any written statement to this petition, and in the absence of the same these assertions have essentially to be accepted for the purposes of this judgment.

2. In the light of the above noted factual position what is now asserted by Mr. Prem Singh, learned counsel for the petitioner is that either the petition in question could be dismissed by the Joint Secretary for default on March 19, 1980 when neither the petitioner nor his counsel was present in the office of the Joint

Secretary or that having not been done, it could not be dismissed for default on June 2, 1980 without serving either of them with a prior notice of the date of hearing. I see merit in this stand of the learned counsel. As has been pointed out above, neither the petitioner nor his counsel was present in the office of the Joint Secretary on March 19, 1980 and thus they were not aware of the next date of hearing i.e. June 2, 1980. The Joint Secretary having not dismissed the petition for default on March 19, 1980 could not possibly dismiss it on the adjourned date of hearing without any prior intimation of that date of the petitioner or his counsel.

3. I, therefore, allow this petition to the extent that order Annexure P.5 is set aside and the matter is sent back to the Joint Secretary for decision afresh in accordance with law. The petitioner is directed to appear before him on November 28, 1985. Since the matter has not been contested before me by the respondents I pass no order as to costs.