

(1982) 11 RAJ CK 0027

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1689 of 1982

Krishna Dutt Sharma

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 25-11-1982

Acts Referred:

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 19(a)

Citation : (1983) RLW 1 : (1982) WLN 642

Hon'ble Judges : D.L. Mehta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.L. Mehta, J.—Heard Mr. N.N. Mathur, learned Counsel for the petitioner and Mr. R.P. Dave, learned Counsel for the respondents, and perused the writ petition and reply of the rejoinder and Annexures appended therewith.

2. Mr. Mathur, appearing on behalf of the petitioner, has submitted that under the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, Rule 19 (a) provides that in Clause (iii) any autonomous Body created by an Act of State or Central Legislature under the control of the Government (Herein after in this rule referred to "as Borrowing Authority)" the Borrowing Authority shall have the powers of the Appointing Authority for the purpose of placing him under suspension and of the Disciplinary Authority for the purpose of taking a disciplinary proceeding against him. Submission of Mr. Mathur is that the Registrar or the Chief Auditor has no objection to suspend the petitioner in the light of rule 19 (a), referred to above. According to him, only the Borrowing Authority, namely Society which has placed the petitioner on suspension, has the jurisdiction to suspend the petitioner under rule 19 (a). Learned Counsel for the petitioner has submitted that the Co-operative Society has been created under the Rajasthan Co-operative Societies Act (hereinafter referred to as "the Act"), and as such rule 19(a) Clause (iii) applies with full force. The Co-operative Societies are registered under the Rajasthan Co-operative Societies Act and they

are not created under Co-operative Act just like Companies and other Associations. There are promoters and they submit the applications for the registration and the registering authority has the power to register it or to refuse the registration. If the registration is refused, then it may be an Association of the persons but it cannot be a Co-operative Society at all. The Co-operative Society can not be equated with the Corporate bodies created under the Act. The Co-operative Society is a Society registered and not created under the Act. So, the first submission of Mr. Mathur is without force.

3. Mr. Mathur has invited my attention to the second submission that Registry is the appointing authority and as such the Chief Auditor had no jurisdiction to suspend the petitioner vide Ex. I. On behalf of the State, reply has been filed and they have produced Annexure R-1 dated January 19, 1982, the order issued by the Registrar under which the powers of suspension have been delegated to the Chief Auditor. Learned Counsel for the State has also invited my attention to the order Ex. R-2, dated 4.11.82, whereby the Registrar has confirmed the order passed by the Chief Auditor. Though, under Ex. R-1, he was the Chief Auditor and was himself competent to suspend the petitioner, it is an admitted position that the Registrar is the appointing authority and Annexure R-1 is not under challenge. So, the suspension order passed in Exs. R-1 and 2 cannot be said to be bad in law.

4. The third submission of Mr. Mathur is that in the rejoinder, he has referred about the circular dated July 27, 1970, under what circumstances the Government servant should be suspended. Learned Counsel for the State has filed the reply, and in para 7 of the reply, he has given the detail history of what has happened from June 15 to 17, 1982. Learned Counsel for the petitioner has controverted the submissions made by the State that the facts mentioned in para 7 of the reply are not correct. I may not hear to assess the truthfulness of the facts and the allegations and counter allegations made therein. It is the act of the disciplinary authority and the disciplinary authority shall enquire into the matter in proper perspective.

5. In the result, the writ petition is dismissed summarily.