
(2021) 05 UK CK 0057

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 971, 951 Of 2021

Krishna Pal Singh & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 21-05-2021

Acts Referred:

Citation : (2021) 05 UK CK 0057

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Jitendra Chaudhary, B. N. Molakhi, T.S. Phartiyal, G.S. Negi, Ajay Veer Pundir

Final Decision : Allowed

Judgement

Manoj Kumar Tiwari, J

1. Heard learned counsel for the parties through video conferencing.
2. Defect, as pointed out by the Registry is overruled.
3. Since common question of law and facts are involved in these writ petitions, therefore with the consent of parties these writ petitions are being taken up together and are being adjudicated by this common judgment. However, for the sake of brevity, facts of WPMS No. 971 of 2021 are being considered.
4. Mr. Krishna Pal Singh (petitioner in WPMS No. 971 of 2021) was elected as Director/Member of Committee of Management of a Cooperative Society, namely, Buhuddesiya Narsan Gurukul Kisan Sewa Sahkari Samiti Limited, Haridwar, on 23.07.2018. According to learned counsel for the petitioner, thereafter, he was elected as Chairman of the Committee of Management of the said Cooperative Society for a period of five years, thus,

his term as Chairman was to last up-to 10.08.2023. On 8.08.2020, the Committee of Management passed a resolution for removal of Mr. Krishan Pal Singh (petitioner in WPMS No. 971 of 2021) and two more persons, namely, Mr. Vishnu and Mr. Ashok Kumar (petitioners in WPMS No. 951 of

2021) from the membership of Committee of Management of the Cooperative Society on the ground that they have absented from three consecutive meetings of the Committee of Management.

5. Feeling aggrieved by their removal, petitioners approached the District Assistant Registrar, Cooperative Societies, by filing a representation. Based

on the said representation, District Assistant Registrar, Cooperative Society, Haridwar appointed Additional District Cooperative Officer, Narsan,

Haridwar as Inquiry Officer. The Inquiry Officer submitted his report. Based on the Inquiry Report, District Assistant Registrar issued a notice to the

Managing Director of the Cooperative Society concerned on 17.03.2021 calling upon him to show cause as to why disciplinary proceedings may not

be initiated against him for fraudulently removing the petitioners from the membership of the Cooperative Society. It was further provided in the notice

that petitioners shall be permitted to participate in the next meeting of the Committee of Management/Board of Directors.

6. It is the case of the petitioners that pursuant to the order passed by the District Assistant Registrar, they participated in the next meeting of

Committee of Management/Board of Directors held on 18.03.2021.

7. Petitioners are aggrieved by the order dated 31.03.2021, passed by the Registrar, which is on record as Annexure No.-12 to the writ petition. By

the said order, Registrar, Cooperative Societies, Uttarakhand has set-aside the notice/order dated 17.03.2021 passed by District Assistant Registrar,

Cooperative Societies, Haridwar, whereby petitioners were permitted to participate in the next meetings of Committee of Management/Board of

Directors of the Cooperative Society. This order was passed on an application moved by one Mr. Mohit Chaudhary, Director of the Cooperative

Society concerned, who presided the meeting of Committee of Management held on 08.08.2020, in which petitioners were removed from the

membership of Committee of Management.

8. Learned counsel for the petitioners submits that the impugned order passed by the Registrar on 31.03.2021, whereby the order/show cause notice

issued by the District Assistant Registrar on 17.03.2021 was set-aside, has been passed without issuing any notice to the petitioners or without affording any opportunity of hearing to them. He, thus, submits that since the order passed by District Assistant Registrar on 17.03.2021 was in favour of the petitioners, therefore, they were entitled to be heard before setting-aside the said order, as the order impugned passed by the Registrar, was prejudicial to the interest of the petitioners.

9. Mr. T.S. Phartiyal, learned Additional C.S.C. appearing for the State and Mr. Ajay Veer Pundir, learned counsel appearing for respondent no. 5 do

not dispute the submission made on behalf of the petitioners that no notice or opportunity of hearing was given to the petitioners by the Registrar before passing the impugned order dated 31.03.2021.

10. Since the District Assistant Registrar in his order/show cause notice dated 17.03.2021 had provided that petitioners shall be entitled to participate in the next meeting of the Board of Directors/Committee of Management, therefore, it was incumbent upon the Registrar to provide opportunity of hearing to the petitioners before setting-aside the order/notice issued by the District Assistant Registrar.

11. It is settled position in law that any order, which adversely affects the interest of any person or entails civil consequences, can be passed only after providing opportunity of hearing to him. As stated earlier, the order passed by the Registrar adversely affects the interest of the petitioners; therefore, petitioners are entitled for hearing. Since Registrar has passed the impugned order without hearing the petitioners, therefore, the impugned order, which has been passed in violation of principles of natural justice, cannot be sustained.

12. In such view of the matter, the writ petition is allowed, the impugned order dated 31.03.2021 passed by respondent no. 3 is quashed, and matter is remitted back to the Registrar to pass order afresh, in accordance with law, after hearing all the stakeholders, including petitioners.

13. This Court hopes and expects that fresh order shall be passed by the Registrar, as early as possible, but not later than four months from the date of production of copy of this order. However, it shall be open to the petitioners to question the competence of the Registrar to take decision in the matter.