
(1999) 07 P&H CK 0017
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8131 of 1993

Kulwant Singh	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 28-07-1999

Acts Referred:

Citation : (1999) 123 PLR 241 : (2000) 1 RCR(Civil) 150

Hon'ble Judges : Swatanter Kumar, J;K.S. Kumaran, J;H.S. Brar, J

Bench : Full Bench

Advocate : Sukhbir Singh, for the Appellant; Lakhinder Singh, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Swatanter Kumar, J.—In the case of Dhan Singh v. State of Punjab and Ors. (1989 P.L.J 413), while considering the provisions of the Punjab State Cooperative Land Mortgage Bank Bye-laws and The Punjab Cooperative Societies Act, 1961, Hon"ble Mr. Justice A.L. Bahri took the view, that if a person at the time of his election as a representative, satisfies the qualification of being a member of the Managing Committee of affiliated primary society, but later on earns disqualification or ceases to be the member of the Managing Committee of affiliated primary society, such person would automatically cease to be the Director of the Apex Central body, irrespective of the prescribed terms, as provided in Section 26(1)(b) of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as the Act). This view was reiterated by a Division bench of this Court with approval in the case of Mithu Singh @ Iqbal Singh v. State of Punjab and Ors. (1994) 105 P.L.R. 619.

2. However, Hon"ble Mr. Justice A.L. Bahri, while sitting in a Division Bench and considering the present case (Kulwant Singh v. State of Punjab and Ors.), expressed a doubt about the correctness of law settled in the aforementioned cases. His Lordship observed that the view taken in Mithu Singh's case (supra) had not considered the impact and effect of Section 19(2) of the Act. Being

members of co-ordinate bench, their Lordships considered the need for referring the matter to a larger bench. Thus, the Division Bench on 25th January, 1994 passed the following order:-

After hearing counsel for the parties and going through the latest decision of the Division bench in Civil Writ Petition No. 3620 of 1993 Mithu Singh v. State of Punjab, decided on December 8, 1993, the correctness of the aforesaid decision has been doubted. In short, the Division Bench in Mithu Singh's case held that a President of a primary society who was elected in a zonal meeting of such societies as Director of the apex society would cease to be Director, on his ceasing to be the President of the primary society. The decision was based on the bye-laws of the apex society. Bye-law 33 (G) provided that on ceasing to be President of the primary society such a person would cease to be Director. Section 19(2) of the Punjab Co-operative Societies Act, 1961 provides as under:-

"19: Manner of exercising vote:- (1) Every member of Co-operative Society shall exercise his vote in person and no member shall be permitted to vote by proxy.

(2) Notwithstanding anything contained in Sub-section (1), Co-operative Society which is a member of another Co-operative Society may subject to the rules, appoint one of its members to vote on its behalf in the affairs of that other Society."

The statute aforesaid provides that a person to be a Director of the Apex Society has to be a member of the primary society. If as a member of the primary society, a person is elected as Director of the Apex Society, he would complete his tenure of three years. However, if that member happens to be a President of the primary society, his tenure cannot be of three years as Director of the Apex Society as held by the Division Bench. The scope and applicability of Section 19(2) of the Act, was not taken into consideration while deciding Mithu Singh's case (supra). Bye-law of a society can not have over-riding effect over the provisions of the Act. Furthermore, after election as Director of the Apex Society, in the Zonal meeting of representatives of several primary societies, he is to represent such societies. He does not represent as President of particular society. His removal from Directorship is not dependent upon his continuance as President of the primary society. Only on account of disqualification prescribed that he can be removed from Directorship of the Apex Society.

Learned counsel for the parties referred to other judicial decisions. We restrain ourselves from commenting thereon as the case has to be referred to the larger Bench. The papers of this writ petition alongwith writ petition Nos. 1455, 2893 and 3562 of 1993 be put up before Hon'ble the Chief Justice for constituting a larger Bench at an early date."

3. In furtherance to the above order, Hon'ble the Chief Justice directed the matter to be listed before the Full Bench. Before, we travel into the legal controversies arising in the present case, references to the basic facts would be necessary.

4. The petitioner, Kulwant Singh, is a resident of Nawanshahr, District Jalandhar. He is a member of Saloh Cooperative Agricultural Services Society Ltd., Saloh Tehsil Nawanshahr District Jalandhar at Serial No. 39 of the list of the members of society. The petitioner was elected as President of this Society on 22nd September, 1989. He continued to function in that capacity, when on 9.7.1991, the Managing Committee of the Saloh Cooperative Agricultural Service Society Limited, Saloh (hereinafter referred to as the Society) passed a resolution nominating the petitioner to participate and cast the vote in the election for the Director of Nawanshahr Central Cooperative Bank Limited, Nawanshahr (hereinafter referred to as the Central Bank). The election to the Board of Directors of the Central Bank was held on 31st July, 1991. The petitioner contested this election and was elected as one of the Directors of the Central Bank from Zone-2. It may be noticed, that zone No. 2 comprises 16 cooperative service societies including the above society. The tenure of the Board of the Central Bank at the relevant time was three years. So, it was to come to an end on 31st July, 1994, it is averred in the writ petition that out of the 9 elected Directors of the Central bank, 8 belong to Akali Party and one Director namely, Major Singh, belongs to Congress Party and he had been very close to Shri Dilbagh Singh, a cabinet rank minister in the State of Punjab. Shri Dilbagh Singh was interested in dislodging the Board of Directors of the Central Bank and therefore, he was making unnecessary hurdles in the way of functioning of the Board of Directors. In order to achieve his motive, he picked up one Shri K.K. Sharma, respondent No. 2 and allegedly got him appointed as Joint Registrar at Jalandhar. Certain irregularities were allegedly pointed out at clerical level and an inquiry was got marked to Shri K.K. Sharma, who issued a show cause notice for removal of the Board of Directors of the Central Bank.

5. At the same time, an order of suspension of the Board of Directors was also passed on 2nd June, 1992. The petitioner herein challenged the show cause notice as well as the order of suspension dated 2.6.1992 before the High Court in Civil Writ Petition No. 7458 of 1992. A Division Bench of this Court, on 9.6.1992, issued notice of motion returnable on 18.6.1992 and operation of the impugned order was stayed. On 18.6.1992, writ petition was admitted and interim order was confirmed, during the pendency of the writ petition.

6. It is contended that having failed to achieve its ulterior motive in the above described manner, the respondent No. 1 under the influence of respondent No. 2 got issued a show cause notice to the petitioner on 21.10.1992 u/s 26(f) of the Punjab Cooperative Societies Rules, 1963 (hereinafter referred to as the rules) read with Bye-Laws 44 of the Society. Copy of the said show cause notice is dated 21st October, 1992 appended with the writ petition as Annexure P-1. The petitioner challenged the show cause notice dated 21st October, 1992 in Civil Writ Petition No. 14482 of 1992. Operation of the show cause notice was stayed by the Division Bench of this Court, vide order dated 28th June, 1993. Ultimately, a Division bench of this Court disposed of the writ petition by a detailed order permitting the Joint Registrar, Cooperative Societies, Jalandhar to pass an order,

in accordance with law, after hearing the petitioner and considering his reply to the show cause notice. It was further directed that final order, so passed by the Cooperative Society, Jalandhar, will not be given effect to for a period of 15 days. A copy of this order is appended with the writ petition as Annexure P.2.

7. It is further averred in the writ petition that the Joint Registrar, vide order dated 28th June, 1993, which was passed on the basis of the show cause notice dated 21st October, 1992, held that the petitioner had incurred the disqualification and ceased to be the Director of the. Board under Rule 26(f) of the Punjab Co-operative Societies Rules, 1963 read with Bye-law 44. He further held that there was no conflict between the provisions of Section 19(2) and Bye-law No. 44 and as such held the petitioner to be disqualified to hold the post of the Director of the Central Bank. A copy of the order dated 28.6.1993 is appended with the writ petition as Annexure P.4. It is this order, Annexure P.4, which has been assailed in the present writ petition.

8. From the above narrated facts, it is clear that the entire legal controversy arising in the present writ petition revolves on the interpretation of Section 19(2) read with other provisions of the Act and the rules framed thereunder as well as the relevant bye-laws of the Central Bank, more particularly bye-law 44. Thus, it would be appropriate to refer these provisions at the very out set.

9. It is conceded position in law that there are three kind of societies, which are prevalent in relation to a case of the present kind. These are, Primary Society, Central Society and the Apex Body of the Societies. Irrespective of their nomenclature, all these three societies are societies simplicitor and are controlled and governed by the provisions of The Punjab Co-operative Societies Act, 1961 and the Punjab Co-operative Societies Rules, 1963. All the societies are required to be registered under the provisions of this Act and are expected to have their bye-laws in consonance with the provisions of the Act and the statute of the Co-operative Societies Act. Therefore, it is necessary for the Court to look into the basic provisions, which give "right to vote" to a member of the society, disqualification, of being a member, the constitution of the committee and the manner in which the society should be represented in the Central or Apex Body. In fact, it was Section 19(2) of the Act, which persuaded the Division Bench to doubt the correctness of the judgment in the case of Mithu Singh's case.

10. At this stage, it would be appropriate to refer to some of the provisions of the Act and the Rules framed thereunder:-

15. Persons who may become members.- No person shall be admitted as member of a co-operative society except the following namely:-

(a) an individual competent to contract u/s 11 of the Indian Contract Act, 1872 (9 of 1872);

(b) any other co-operative society;

(c) the Government; and

(d) such class or classes of persons or associations of persons as may be notified by the Government in this behalf.

19. Manner of exercising vote.- (1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

(2) Notwithstanding anything contained in Sub-section (1), a co-operative society which is a member of another co-operative society, may subject to the rules, appoint one of its members to vote on its behalf in the affairs of that other society.

26. Election and nomination of members of Committees.- (1) The members of the committee of a co-operative society shall be elected in the manner prescribed and no person shall be so elected unless he is a share-holder of the society.

(1-A) The Committee of any co-operative society may subject to the approval of the Registrar, divide the area of operation of the Society into zones for the purpose of election of members of the committee.

(1-B) The term of office of a committee elected after the commencement of the Punjab Co-operative Societies (Amendment) Act, 1993, shall be five years from the date of its election.

Provided that the term of office of the existing committee remain three years.

Provided further that where in terms of the provisions of the bye-laws of a society one-third members of its committee retire every year, the term of office of such a committee, shall, after the commencement of the Punjab Cooperative Societies (Amendment) Act, 1993, expire on the date on which retirement of any of its one-third members falls for the first time."

Provided that a milk producer's co-operative society or a society dealing in notified commodity may provide in its bye-laws that as nearly as possible one-third members of its committee shall retire every year in the manner laid down in its bye-laws and in the event of such a provision being made the vacancies caused as a result of retirement shall be filled in the prescribed manner.

Rules of The Punjab Co-operative Societies, 1963.

23. Election of Committee. [Section 85(i)] The members of the committee of a co-operative society shall be elected in accordance with the rules given in Appendix "C".

25. Disqualification for membership of committee. [(Section 85 (20 (xii) and (xxxviii))]. No person shall be eligible for election as a member of the Committee if:-

(a) he is in default to any co-operative society in respect of any sum due from him to the society or owes to any co-operative society an amount exceeding his maximum credit limit;

(b) he has, directly, or indirectly any interest in any contract to which the co-operative society is a party except in transactions made with the co-operative society as a member in accordance with the objects of the Co-operative Society as stated in the bye-laws;

(c) he has at any time during the period of one year prior to the date of scrutiny of nomination papers, engaged in any private business, trade or profession of any description which is carried on by the society:-

(d) he has committed any offence involving dishonestly or moral turpitude during a period of five years prior to the date of scrutiny of nomination papers;

(e) he is subject to any of the [restrictions] contained in Rule 29;

(f) he has, during a period of 12 months preceding the date of filing of nomination papers, remained inactive as member or has been carrying on, through agencies other than the co-operative society of which he is a member, the same business as is being carried on by the co-operative society;

(g) he is member of any co-operative society which has ceased to function or which has not fulfilled its objects as stated in its bye-laws and has been included in the list of "D" Class societies maintained by the Registrar or is a member of a society which is under winding up process;

(gg) he has ceased to be a member of an elected committee, of any co-operative society within a period of one year, preceding the date of inclusion of such society in the list of "D" class societies maintained by the Registrar or the operation of order of winding up of such society u/s 57 of the Act.

["Provided that nothing in Clauses (g) and (gg) shall be deemed to debar any person from seeking election if the society under winding up process of which is a member, is a society with limited or unlimited liability and that person discharges all his liabilities including liability as surety, if any, in relation to such a society within two months from the receipt of assessment orders."

(h) [he has incurred] any other disqualification laid down in the bye-laws of the society.

(i) in Clause (g) and (gg), the words "an elected committee of," wherever occurring, shall be omitted; and

(ii) in the proviso to Sub-clause (gg) for the words, "limited liability" the words, "limited or unlimited liability," shall be substituted.

26. Cessation of membership of Committee. Section 85(2) (x) A member of the committee shall cease to hold his office as such if he:-

(a) continues to be in default in respect of any sum due from him to the co-operative society for such period as may be laid down in bye-laws;

(b) ceases to be a member;

- (c) is declared insolvent;
- (d) becomes of unsound mind;
- (e) is convicted of an offence involving dishonesty or moral turpitude; or
- (f) becomes subject to any disqualification which would have prevented him from seeking election, had incurred that disqualification before election.

11. The other provisions, which would be relevant and need to be considered are related to the Central Society i.e. Nawanshahr Central Co-operative Bank Limited: Nawanshahr (Distt. Jalandhar). The provisions in relation to election of the members, board of Directors, their expulsion and constitution of Board of Directors, reference to the following bye-laws would be useful.

8. A member of the Bank may be expelled by the Board of Directors of the Bank for one of the following reasons:-

- (i) If the member persistently defaults in the payment of the share money or other amount due to the Bank.
- (ii) If the member fails to observe the bye-laws without any reasonable cause,
- (iii) If the conduct of the member is contrary to the stated objects of the Bank of prejudicial to the interest or reputation of the Bank.

Board of Directors

30. The Board of Director will be constituted in the following manner:-

- (i) Three directors to be nominated by the Government so long as the Government is a member.
- (ii) Nine directors to be elected by the member societies provided that seven directors will be elected out of member Co-operative Agricultural Service Societies and Co-operative Marketing-cum-Processing Societies, one director to be elected out of member Industrial Co-operative Societies in case the number of these societies exceeds fifty and one director to be elected out of the remaining member cooperative societies.

Provided further that in case the number of member industrial cooperative societies is less than fifty then eight directors will be elected out of member cooperative Agricultural Service and Co-operative Marketing-cum-Processing Societies and one director will be elected out of the remaining member co-operative societies including Industrial Co-operative Societies.

32. The term of the Board of Directors shall be 3 years. The election to the Board of Directors shall be conducted in the manner laid down in the Punjab Co-operative Societies Act, the Rules framed there under and the instructions issued by the Registrar in this behalf time to time.

34. A member of the Board of Directors other than the member nominated u/s

26(2) of the Punjab Co-operative Societies Act, 1961, shall cease to hold office if he:-

- (i) is a representative of the society under winding up or classed "D";
- (ii) ceases to be a share holder of the society he represents or of the Bank. A representative of a society which is defaulter continuously for a period of 3 months.
- (iii) becomes paid employee of;
 - (a) Any Co-operative Society,
 - (b) the Bank,
 - (c) the Government,
- (iv) is convicted of any offence involving dishonesty or moral turpitude.
- (v) applies for bankruptcy or is declared insolvent.
- (vi) becomes of unsound mind.
- (vii) becomes interested directly or indirectly with the Bank or in any Sale or Purchase made by the Bank privately or in auction.
- (viii) become related to any employee of the Bank,
- (ix) Subsequent to his election, a person related to him as defined in Rule 2(k) of the Punjab Co-operative Societies Rules, 1963, is appointed in the Service of the Bank without previous sanction of the Registrar, under Rule 46 of the Punjab Co-operative Societies Rules, 1963."
- (x) he.....(as per existing provision)
- (xi) becomes defaulter in regard to his personal loan or borrows above his maximum credit limit to any society.

36. An elected member of the Board of Directors shall cease to hold office if he absents himself from three consecutive meetings of the Board but he may be reinstated in office by the Board of Directors for sufficient reasons recorded in writing. If he ceases to be a member of the society he represent he shall cease to be on the Board of Directors.

39. The members of the Executive Committee shall hold office for 3 years. An elected member of the Executive Committee shall cease to hold office if he absents himself from 3 consecutive meetings of the committee without sufficient reason approved by the Committee. An interim vacancy caused by resignation or otherwise occurring among the elected members of the committee shall be filled by election by the Board.

12. In the light of the above two statutes, the bye-laws of the Primary Society would have to be referred to determine the cumulative effect of these legislative

provisions.

5. (a) Subject to the provisions of bye-laws 6, any individual shall be eligible for admission as a member of the society if he is;

(i) Over 18 years in age and of sound mind.

(ii) Ordinary resident in the area of the operation of the society.

(iii) of good character.

(b) Notwithstanding anything contained in bye-law (5) (a) above, in case the society is selected as lead society under rural distributions scheme, the link societies attached with it for this purpose may also be admitted as nominal members.

6. No individual shall be eligible for admission as a member of the society if:

(i) he has applied bankruptcy.

OR

(ii) he has been declared as an insolvent,

OR

(iii) he has been sentenced for any offence involving dishonesty or moral turpitude within 5 years preceding the date of admission as a member,

OR

(iv) he is already a member of another primary co-operative credit or service society accepting a land Mortgage Bank/

14.(a) A member be expelled for one or the following reasons:

(i) Ceasing to reside in the area of operation of the society;

(ii) Failure to pay the share-money or amount due from him to the society;

(iii) Conviction of criminal offence involving dishonesty or moral turpitude;

(iv) Application for bankruptcy;

(v) Failing to have minimum turnover of Rs. 50,000 as loan or deposit during the preceding Co-operative year;

(vi) An action which be held by the General body to be dishonest or contrary to interest, and stated objects of the society, such as misapplying a loan, incurring serious outside liability without the society's knowledge or refusing to give information as to his debts etc.

(b) No member shall be expelled except by two third majority of members present and voting. The member so expelled shall have the right of appeal to the concerned Assistant Registrar against the decision of the general body within 60

days of the date of such decision. The order of the Assistant Registrar on appeal shall be binding on the society and the appellant.

15. (a) A person shall cease to be a member of the society in one or more of the following circumstances:-

(i) Death.

(ii) Ceasing to hold at least one share.

(iii) Withdrawal after three months notice to Secretary of the Society provided that the member withdrawing is not debted to the society and is not surety for any unpaid debt and provided further that the share/shares held by the members are disposed of in accordance with by-law 18-19.

(iv) Permanent insanity.

(v) Declaration of bankruptcy.

44. The president shall exercise general control and supervision over the affairs of the society and the work of its employees. He will represent the Society in the affairs, election of the other societies of which the society is a member.

13. All the provisions of, the principal and secondary legislation would have to be construed and read in harmony with each other so as to achieve the basic object of such legislation. In order to analyse the controversy in issue, within the ambit and scope of the above statutory provisions, one must refer to the basic bye-laws of the Primary Society. The basic status of an individual for attaining any position or status in the Central or Apex body would begin and is founded on the basic factor that he will be a member of the Primary Cooperative Society. In other words, member of a Primary Cooperative Society is a condition precedent to an individual being elected as a member of the Managing Committee, President or Vice-President of the Society, nomination to Central or Apex Society and election to President or Managing Director of a Central Co-operative Society or Apex Society, as the case may be. Once a person satisfies the eligibility under bye-law 15-A of the Primary Cooperative Society, he is entitled to be admitted as a member of that society. In what condition the individual would not be eligible for admission as a member to the society are stated in Clause (6) i.e., he has applied for bankruptcy; he has been declared insolvent; he has been convicted and sentenced for the offence involving dishonesty and moral turpitude within five years preceding the date of admission and he has already been a member of another Primary Society.

14. How a member can be expelled, the ground and the procedure has been stated in the bye-laws including the bye-law 15. The condition when a person ceases to be a member of the society has been incorporated in bye-law 15-A. There is no other way by which a person can lose his character of being a member of the society. For becoming a member of the same society or to hold office, he has to be the share holder of the society. The Managing Committee of

the society under bye-law 30 and even under the Act and the rules framed thereunder shall exercise the all powers and discharge duties in relation to the office of society except the ones which has been reserved by general body itself subject to the regulation. In other words, the Managing Committee is duly empowered to carry on the business of the society subject to the bye-laws. The President under bye-law 44 is to exercise the powers given to him therein and the authority to represent the society in the affairs, election of the other society of which the Primary Society is a member.

15. Bye-law 44 is only an enabling provision and obviously would not divest the Managing Committee of passing such resolution as it may consider fit and proper. Under Bye-law 8 of the Central Bank, a member of the bank can be expelled by the Board of Directors. Bye-law 30 provides for constitution of the Board of Directors. Nine directors of the board have to be elected by the members of the society, in accordance with law, and the provisions of the said bye-laws. From the directors, so elected, a President and Vice President and/or a Managing Director has to be elected. A Director or President, elected under bye-law 30 is entitled to hold office for the prescribed tenure of 3 years (as it stood at the relevant time). Bye-law 34 states the conditions or disqualification which if incurred by the Director, he shall cease to hold the office of the Central Bank. All these conditions clearly indicate that infact it is cessation of the membership of the primary society for the reasons of earning disqualification, expulsion or otherwise which invites resultant cessation of membership of the Central or Apex Society. The disqualifications stated In bye-law 34, thus, primarily ensure that the concerned individual ought not have earned cessation, expulsion or disqualification, in his capacity as member of the primary society at the time of his election to the office of the Board of Directors of the Central Society/Bank. The legislature could not have stated its intention more explicitly than what has been stated in bye-law 36, Under this bye-law an elected member of the Board of Directors shall cease to hold office if he ceases to be a member of the Society he represents and would also cease to hold the office of the Board of Directors of Central Bank.

16. In other words, it is not the status of the individual as a member of the Managing Committee of the Primary Society which if lost, would earn the disqualification and result in automatic cessation of the status as Director of the Board of the Central Bank, but it is his status as member of the Primary Society. This is relevant and material consideration for invoking the provisions in relation to automatic cessation or of his position as Director of the Board of the Central Bank.

17. It is in this back ground that the Court has to look into the basic provisions of the Punjab Cooperative Societies Act, 1961. A person is qualified to be a member of the society, if he satisfies the conditions stated in Section 15 of the Act. Restrictions are spelt out in Section 15-A of the Act. How a member of the society is entitled to be elected and/or nominated to be the. member of the committee constituted is provided in bye-law 26. The governing body of a society

is prime and final authority of the management to look after the affairs of the society. Thereafter, it is the Managing Committee, which works and is the authority to determine the matter in relation to the working of the society and its day to day administration. In this process, the most important right available to a member of the society is a "right to vote".

18. Provisions of Section 19 of the Act make it obligatory upon the member of the Cooperative Society to exercise the right to vote personally. But where a Co-operative Society is a member of another Co-operative Society, it is entitled to nominate one of its members to vote on its behalf and in the affairs of that society. The provisions of Section 19(2) of the Act are indicative of the legislative intent not to restrict representation of a Primary Cooperative Society to a Central or other society of which such Primary Society is member, only to the member of its Managing Committee or office bearers thereof. It is for the Primary Society or its Managing Committee to pass a resolution empowering such person to act on behalf of the society in affairs of other society, While determining the scope of 19(2) of the Act, it will not be permissible to alter its interpretation so as to make such provision restricted to a member of the committee of such society. It is a settled rule of interpretation that the Court must interpret the provision of the statutes on the basis of the simple language used by the legislation and not to alter its meaning and object by adding or subtracting the words therefrom or giving a meaning to amplify or restrict its scope beyond the purpose of the Act.

19. Rule 25 of the Punjab Cooperative Society Rules states the disqualification which renders a person ineligible for election as a member of the committee. A member of the committee of the Cooperative Society shall be elected in accordance with rules given in appendix "C" of the Rules. While rule 26 states as to when a member shall cease to hold membership of the Managing Committee. Amongst other if he becomes subject to any disqualification which would have prevented him from seeking election, then he shall cease his membership of the Committee.

20. As already noticed, the election has to be held in accordance with the Clauses of Appendix "C" of the Rules. Relevant part of Clause 10 of Appendix "C; reads as under:-

10. Procedure of casting of vote.- (1) If the Registrar so requires, a voter shall be required to produce an admission card, at the time of casting of his vote, to be issued by the co-operative society under postal certificate. The representatives of member societies, shall in addition, produce resolution of their respective co-operative societies authorising them to represent the co-operative society in the general meeting.

Provided that a copy of resolution duly attested of a cooperative society authorising one of its members to represent it for election, shall reach the Manager of the society whose election is to be held atleast four days before the

date of polling. In case such a resolution is not received by the Manager within the stipulated period, such representative of society shall not be entitled to vote.

21. The scheme of the Act and the bye-laws framed thereunder demonstratively provide a clear distinction between "an individual ceasing to be the member of the Managing Committee" and "ceasing to be the member of the Primary Society." Identical distinction is explicitly indicated in relation to incurring of a disqualification. Thus, ordinarily, it would necessarily mean that a person who has ceased to be the member of the Managing Committee would also cease to be the member of that society. The individual must be shown to have actually incurred any disqualification or cessation relating to any of the aforesaid status. In other words, individual must fall in the narrow scope of restriction, disqualification and conditions of cessation prescribed under the relevant law governing the respective society, the dispute in relation to which comes for determination before the Court.

22. The learned counsel appearing for the petitioner relied upon the judgments in the cases of *Thakur Janak Singh v. State of Punjab* 1974 P.L.J. 119 and *Raikot Co-operative Marketing-cum-Processing Society Ltd. v. State of Punjab and Ors.* (1988) 94 P.L.R. 19, as well as the order of reference to substantiate his arguments that the impugned order suffers from lack of inherent jurisdiction. It was also contended on his behalf that the bye-laws of the Punjab State Co-operative Agricultural Development Bank Limited, Chandigarh bye-law 33(g) is liable to be quashed and declared ultra vires of the provisions of the Punjab Co-operative Societies Act and the Rules framed thereunder. As per this bye-law an elected member of the Board shall cease to hold office if he ceases to be member of the Primary Co-operative Agricultural Bank.

23. As far as the first submission of the learned counsel for the petitioner is concerned, we would shortly proceed to discuss its merits in view of the above principles and provisions of law. But as far as the later part of the submission is concerned, the same neither arises before us nor the provisions of bye-laws of the Punjab State Co-operative Agricultural Bank Limited, Chandigarh have been assailed by any of the petitioners. The validity or otherwise of the said bye-laws is not in question before us. The Agricultural Development Bank is not a party in any of the petitions. Thus, we find it totally un-necessary to adjudicate upon this submission in the facts of the present case.

24. The learned counsel appearing for the respondents has contended that the impugned order has been passed correctly by the concerned authorities and the impugned order does not suffer from any error which could imply that the order is beyond the scope of the relevant provisions of the Act and the Rules.

25. Having referred to the various provisions of the relevant laws and their cumulative effect, we would now proceed to discuss the basic question, which has been raised and argued with great emphasis by the learned counsel for the parties. In substance, the short question that falls for consideration is, whether

the provisions of Rule 26(f) would become effective or come to the aid of the respondents in disqualifying the petitioner from being a Director/Managing Director of the Central Society. Rule 26 falls in Chapter-IV of the Punjab Cooperative Societies Rules, 1963. Rule 25 provides that no person shall be eligible for election as a member of the Committee unless he satisfies the conditions stated in that Rule. In other words, the said disqualification relate to the membership of the Committee and not to a person being the member of the Society. Rule 26(f) states that a member of the Committee shall cease to hold his office if he becomes, subject to any disqualification, which would have prevented him from seeking election and incur that disqualification before election. It is this provision which has been relied upon by the respondents in passing the impugned order.

26. It must be noticed that Rule 26(f) specifically directs that where a person ceases to be a member of the Society he would cease to hold his office as a member of the Committee. The Managing Committee of a Society, primary or central, is entitled under the rules to authorise any member of the Society to participate and cast vote on its behalf in any society, where the said Society is a member. The legislature has unambiguously prescribed a clear distinction between the member of a Society and member of the Committee.

27. The Managing Committee of a Society is responsible for governance thereof, it has the power under the rules and even by necessary implication to authorise any person, so far he is member of the Society, to participate in the affairs of another Society. Bye-law 44 of the Primary Societies in the present case only relates to the functions and duties of the President, which are obviously subject to the control of the Managing Committee and the governing body. A person can be President only if he is member of that Society. His basic character as member of the Society is the only relevant factor for determining his subsequent status i.e. his status as a member of the Managing Committee of that Society, member of Managing Committee of a Central Society and President or Vice-President or Managing Director of the Central body or the Apex body, as the case may be. Unless the law otherwise specifically provides and such law is in conformity with the principal legislation, it is cessation of the basic membership of primary society of an individual which can result in his ceasing to be member of the Managing Committees of primary, central or apex society, as the case may be. The other consideration being if individual incurs under the bye-laws or rules any stated disqualification as a member of the Committee or President or Vice President of the Central or Apex body.

28. Thus, we must consider the secondary question now whether the bye-laws of the Nawan Shahr Central Bank provide for any such dis-qualification or not. We have already noticed that where bye-laws 30 provides for constitution of the Board of Directors of the bank, there member of the Board of Directors shall cease to hold office if he earns any of the disabilities or disqualifications stated in bye-law 34 and 36 of the said bye-laws. The language of bye-law 36, thus,

clearly supports the view which we have taken above as the later part of the language of bye-law 36 states "An elected member of the Board of Directors shall cease to hold office if, he ceases to be a member of the Society he represents." The clear emphasis under different rules and bye-laws, which are subject matter of interpretation in the present case, is on the term "member of the Primary Society" and not that of "member of the Managing Committee etc." There is no embargo upon the governing body or the Managing Committee empowering one of its member of the Primary Society to participate and vote on behalf of the Primary Society in the Central or the Apex Body, as the case may be. The relevant bye-laws, seen in the light of the provisions of the Act and the rules framed thereunder make this concept unassailable. The delegation of power to the Managing Committee or to a member is permissible and, in fact, is an inevitable incident of growing cooperative movement. Various cooperative societies pooling their resources and organizational capacity to achieve higher ends of larger public goods necessitate for constitution of the Central or Apex Society. Thus, consequential representation and participation by the Primary Societies in the affairs and management of the Central or Apex Body is inevitable function of the Primary Society. One of the cardinal principles of interpretation of statutes is that intention of the legislature has to be gathered from the words used by it in various provisions of the statute. The various expressions, which have been intentionally used by the legislature, do not in any way infringe or destroy the underlying feature of granting dual status to the member of a Primary Society. He may be the member of the Managing Committee of the Primary Society or the Board of the Directors of the Central bank. Thus dual status of the individual is primarily found on one and the same factor i.e. the membership of the primary society. In the present case, the petitioner had been authorised by resolution dated 9.7.1991. The relevant part of the resolution reads as under:-

".....Resolved that Shri Kulwant Singh, President of this Society is hereby nominated to participate and vote the elections for the Board of Directors of the Nawanshahr Central Cooperative Bank Limited, Nawanshahr, which is being held on 31.7.1991. A copy of this Resolution is being given to Shri Kulwant Singh, President, so that he is able to participate and cast the vote."

29. It is clear from the above resolution that it was Shri Kulwant Singh, who was President of the Society, at the relevant time, and was empowered not only to vote but also to participate in the election for the Board of Directors of the Central Bank. It is conceded case that Kulwant Singh was a member of the Society at the relevant time and he continues to be a member even at the time of passing of the impugned order, Annexure P/4. The election was held in July, 1991 and petitioner was elected as Director of the Central Bank on 31st July, 1991. His normal tenure would have expired on 30th July, 1994 but for passing of the impugned order.

30. Provisions of Rule 26(a) and (f) of the Punjab Cooperative Societies Rule do

not come into operation in the present case. The show cause notice dated 21st October, 1992 and order dated 28.6.1993, Annexure P/1 and Annexure P/4 respectively are based on mis-conception of the applicability of these provisions to the case of the petitioner. We have already discussed at some length that a member would cease to be the Director of the Central Bank only if he earns disqualification in relation to his membership of the society or ceases to be a member of the Primary Society to which he represents. The cessation of his partnership or disinvestment of his status as President of the Society per se would not effect his position as a Director of the Board of the Central Bank. It may also be possible that he ceases to be the Director of the Board of the Central Bank if he earns disqualification under the bye-laws of the Central Bank or ceases to be a Director as per bye-laws of that Society for his acts and misdeeds as contemplated under bye-laws 34 and 36 of the Central Bank.

31. The scheme of the principal legislation and other ancillary legislation make it obligatory upon the concerned authority not to intermingle the fine distinction provided in the language of the statute in relation to being a member of the society and a member of the Managing Committee. Once this distinction is understood in its correct perspective keeping in mind the statutory provisions then there would hardly be any difficulty in applying the principle that these two classes fall in different compartments, different and distinct rules govern them and variable obligation and consequences flow therefrom. The very purpose of the Act to ensure that the elected body completes its full tenure and get freedom in execution of its work would stand frustrated, if the very protection provided is rendered infructuous by introducing disqualification, which is not specifically provided in such provisions, it is a settled rule of interpretation that the provisions of disqualification or cessation of beneficial status should be strictly construed. Thus, we see no reason to read the words "member of the society" and "member of the committee" or vice-versa. Different provisions have been provided for meeting different situations. Intermingling of such provisions or their meanings would not certainly help to further the cause of the Act.

32. Section 19(2) of the Act is the substantive provision, which gives right to every member of a cooperative society to exercise the right to vote personally. All other rules framed under this Act or by-laws of the Society must fall in comity to this provision. In number of judgments, it has been repeatedly held that the Managing Committee of a Cooperative Society is competent to appoint, in terms of Sub-section 2 of Section 19, a member of that Society to represent the society in election of the Board of Directors of Apex Society. In this regard, reference can be made to the cases of *Raikot Co-operative Marketing-cum-Processing Society Ltd. v. State of Punjab and Ors.* (1988) 94 P.L.R. 19 (supra) and *Sadhu Ram v. State of Haryana* (1976) 78 P.L.R. 308.

33. The right to vote basically is personal to the member of the society and in the event of the society being a member of the Apex or Central Body, a member is fully competent to act, provided empowered by the resolution of the Managing

Committee. Upon his election in the Central or Apex body, he attains a definite status in that Managing Committee of which he can be divested only in accordance with law or upon losing his basic membership of the Primary Society.

34. The cumulative but harmonious reading of Section 19(2), Clause 10(1) of Appendix "C" as per Rules 23, Rules 14, 18, 25 and 26, Model Bye-laws 5(a), 6, 15, 33 and 35 read with bye-laws, 34, 36 and 39 of the Nawanshahr Central Cooperative Bank Limited is a clear precept to the analysis arrived at by us above. Legally unaltered membership of Primary Society of an individual is the very foundation of cause and consequences under these relevant laws, unless the bye-laws validly framed in consonance with the Act otherwise provide the loss of the office in the Managing Committee of a Primary Society per se will not become disqualification against the individual in relation to his status in the Managing Committee or a Central or Apex Body. It is cessation of basic membership which could result in inviting order u/s 26(f) of the Rules in the facts and circumstances of the present case, it appears to us that the authorities have acted on wrong assumption of law, its applicability and obviously with some element of bias.

35. The petitioner in the present case could not have earned disqualification, as stated in the impugned order because he was a member of the primary society in July, 1991 when the election to the Central Bank was held. At that time, he was a member of the Primary Society and could have been empowered by the Managing Committee by means of the resolution to attend and participate in the meeting and election of Central Bank. The fact that he ceases to be the member or Vice President of the Managing Committee of the Primary Society could not be sustained in law as a ground for cessation of his status as Director of the Central Bank. .

36. For the reasons aforesaid, with respect, we are unable to persuade ourselves to concur with the view expressed by the Hon'ble Division Bench in the case of Mithu Singh's case (supra). The law enunciated in Mithu Singh's case, thus, is not applicable to the present case and order dated 28.6.1993, Annexure P/4 cannot be sustained on the principle stated in Mithu Singh's case (supra).

37. Having already answered the legal controversy involved in the present case, we have no hesitation in allowing this writ petition and quashing order dated 28.6.1993, Annexure P/4. But we cannot grant any further relief to the petitioner because, even as per his own showing, his term as Managing Director of the Nawanshahr Central Cooperative Bank Limited, Nawanshahr, District Jalandhar has expired as back as in the year 1994. We would prefer to leave the matter at that.

38. Consequently, the writ petition is allowed to the limited extent aforesaid, order dated 28.6.1993, Annexure P/4 is set aside. However, in the facts and circumstances of the present case, there shall be no order as to costs.