
(2000) 08 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12389 of 1999

Maan Singh

APPELLANT

Vs

The Registrar, Co.op. Societies

RESPONDENT

Date of Decision : 04-08-2000

Acts Referred:

Punjab Co-operative Societies Rules, 1963 — Rule 80

Citation : (2000) 08 P&H CK 0005

Hon'ble Judges : S.S. Sudhalkar, J;Bakhshish Kaur, J

Bench : Division Bench

Advocate : Mr. D.V. Sharma, for the Appellant; Mr. Anil Sharma, DAG, Ms. Kulvinder Kaur and Mr. R.K. Sharma, for the Respondent

Judgement

S.S. Sudhalkar, J.—Election of the Managing Committee of the Kharar Primary Cooperative Agricultural Development Bank Limited, Kharar (hereinafter referred to as the "Bank") took place on 12.5.1999. Petitioners No. 3 to 6 and respondents No. 5 and 6 were elected as members of the Managing Committee of the Bank. Petitioners No. 3 to 6 belonged to one party and respondents No. 5 and 6 belonged to another party. The agenda for convening a meeting of the Managing Committee of the Bank for 2.6.99 was issued on 17.5.99. The meeting was for co-opting two members of the Managing Committee of the Bank as provided u/s 26-A of the Punjab Cooperative Societies Act (hereinafter referred to as the "Act"). The agenda for meeting was issued to all the members of the Managing Committee of the Bank under certificate of posting. As the notice for the co-option was issued on 17.5.99, an application was filed before the Registrar Cooperative Societies, Punjab on which the Registrar restrained petitioner No. 6 from performing his duties as Director. On coming to know of passing of the order, petitioner No. 6 filed C.W.P. No. 7150 of 1999 in this Court and a Division Bench of this Court, on 26.5.1999 issued notice of motion and ordered that in the meanwhile, operation of the order dated 19.5.99 passed by the Registrar will remain stayed.

2. A meeting of the Managing Committee of the Bank was held on 2.6.99, respondents No. 3 and 4, though present in the meeting, did not participate in the meeting and got themselves marked present in the meeting. In the said meeting petitioners No. 1 and 2 were co-opted as members of the Managing Committee of the Bank. Respondent No. 5 and 6 filed a petition under Rule 80 of the Punjab Cooperative Societies Rules, 1963 (hereinafter referred to as the "Rules") on the ground that the notice of the meeting was not given to them. It is contended by the petitioners that the notice of the meeting was duly sent to all the members of the Managing Committee of the Bank under certificate of posting. Moreover, petitioners No. 1 and 2 who were the co-opted members of the Managing Committee were not impleaded as respondents in the said petition. The said petition was allowed by the Deputy Registrar, Cooperative Societies, Ropar vide his order dated 30.7.99 (copy annexure P/6). In the meantime the election of the office-bearer was also fixed for 8.7.99 by the Manager of the Bank. 15 days notice was given to hold the meeting. The said meeting was also stayed by the Deputy Registrar, Cooperative Societies, Roper on 6.7.99 (copy annexure P/7). By this petition, the petitioners have challenged the orders Annexures P/6 and P/7.

3. We have heard learned counsel for the parties.

4. Counsel for the petitioners argued that in order dated 30.7.99 (annexure P/6), the petitioners are not parties. It is an appeal filed by respondents No. 5 and 6 against the Bank and its Manager. In annexure P/7 also the petitioners are not parties. Counsel for the petitioners argued that the orders annexures P/6 and P/7 are passed behind the back of the petitioners and, therefore, the said orders deserve to be set aside. Counsel for respondents No. 5 and 6 argued that they were elected and that regarding meeting dated 2.6.99 they were not informed and, therefore, the impugned orders are proper. It is the case of the petitioners that the agenda of the meeting was circulated by post and the certificate of posting was obtained for the same. This contention is taken in para 6 of the petition. Respondents No. 1 to 4 in their written statement have nothing to say about this contention. Respondents No. 5 and 6 have denied this contention and have stated that it is wrong that the agenda dated 17.5.99 has been issued to all Managing Committee members for the meeting to be held on 2.6.99. Be that as it may, counsel for the petitioners argued that the impugned orders are passed behind the back of the petitioners. It is not in dispute that the petitioners No. 3 to 6 were elected members. They have not been joined as parties in the appeals annexures P/6 and P/7. On this short point only, the orders annexures P/6 and P/7 deserves to be quashed.

5. As a result, this writ petition is allowed and the impugned orders annexures P/6 and P/7 are quashed. However, it is open to the authorities to proceed as per law.

6. Petition allowed.