

(2002) 01 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1759 of 2000

Managing Committee, The Dachar Cooperative Credit and Services Society Limited, Dachar and Another APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 09-01-2002

Acts Referred:

Haryana Co-operative Societies Act, 1984 — Section 34(1)

Citation : (2002) 2 RCR(Civil) 688

Hon'ble Judges : Jawahar Lal Gupta, J

Bench : Single Bench

Advocate : None, for the Appellant; Palika Monga, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—The Managing Committee of the Dachar Cooperative Credit and Services Society Limited, Dachar and its President, are the petitioners. They are aggrieved by the order dated January 10, 2000 passed by the Assistant Registrar, Cooperative Societies, Kamal by which the entire Managing Committee has been ordered to be suspended. The petitioners allege that no proceedings for removal of the Managing Committee had been initiated u/s 34(1) of the Haryana Cooperative Societies Act, 1984. No opportunity had been granted. Thus, the impugned order is vitiated. On this basis, the petitioners pray that the order dated January 10, 2000 be quashed.

2. A written statement has been filed on behalf of the respondents by Rao Dalip Singh, Assistant Registrar, Cooperative Societies, Kamal. It has been averred by way of a preliminary objection that the petitioners were placed under suspension vide order dated January 14, 2000. A Show Cause Notice had been issued for removal of the Committee vide letter dated February 28, 2000. The specific averment in paragraph 16 of the petition that proceedings for removal had not been initiated before passing the order of suspension, has not been controverted.

3. The petitioners have filed a replication to which a reply has been filed. Alongwith this rejoinder, a copy of the notice dated February 18, 2000 has been produced as Annexure R.1.

4. No one has appeared for the petitioners.

5. The short question that arises for consideration is - Does the impugned order conform to the requirements of Section 34?

6. A perusal of this provision shows that the Registrar is competent to order the removal of the Committee if it "persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws orafter giving the Committee an opportunity to state its objections...." Under Clause (2), the Registrar can "while proceeding to take action under Sub-section (1)" order the suspension of the Committee "during the period of proceedings ...till the proceedings are completed."

7. A perusal of the provision shows that the order of suspension can be passed only when the proceedings for removal are pending. The claim of the petitioners is that proceedings for removal of the Committee had not been initiated before the order of suspension was passed. In fact, it appears that it was only after the filing of the writ petition on January 31, 2000 that the notice for removal was issued on February 18, 2000. In any event, nothing has been placed on record to show that proceedings u/s 34(1) were pending on the date on which the petitioners were ordered to be placed under suspension. This position was reiterated by the petitioners in their replication. Still, while filing a rejoinder, it has not been averred that proceedings u/s 34(1) had been initiated.

8. It is, thus, clear that the order does not conform to the requirements of Section 34. It is, thus, vitiated. Resultantly, the writ petition is allowed. The impugned order is quashed. However, the parties are left to bear their own costs.