
(1999) 07 SHI CK 0011
In the High Court Of Himachal Pradesh
Case No : C.M.P. No"s. 14 and 35 of 1999

Nand Parkash Vohra and etc.

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 26-07-1999

Acts Referred:

Evidence Act, 1872 — Section 115

Citation : AIR 2000 HP 65 : (2000) 1 ShimLC 104

Hon'ble Judges : Surinder Sarup, J; Kamlesh Sharma, J

Bench : Division Bench

Advocate : Tarlok Chuhan and Anand Sharma, for the Appellant; B.P. Sharma, A.A.G., R.M. Bisht, Asstt. A.G., D.D. Sood A.K. Bansal and Prem Goel for Ajay Goel, for the Respondent

Final Decision : Allowed

Judgement

Kamlesh Sharma, J.—These two writ petitions (C.W.P. No. 14 of 1999 and C.W.P. No. 35 of 1999) are being disposed of by a common judgment as in both of them, inter alia, same order dated 27- 12-1998 (Annexure P-15) of the Registrar, Co-operative Societies, Himachal Pradesh (hereinafter called "the Registrar") has been assailed on the same set of facts and law points. By the said impugned order the Registrar has accepted the appeal filed by respondent No. 6 Jagdish Shankhyan and set aside the award dated 26-10-1998 of the Arbitrator, the District Audit Officer. Co- operative Societies, Mandi District, Mandi, who had allowed the election petitions of the petition- ers in both these writ petitions, namely, Nand Parkash Vohra, Prem Lal and Deepak Sharma and set aside the elections to the Managing Committee of respondent No. 5 the Bilaspur Truck Operators Co-operative Transport Society Ltd. (hereinafter called "the Society") held on 25-5-1998, in which respondent No. 6 Jagdish Shankhyan was elected as President, who further nominated respondents Nos. 7 and 8 Sunder Lal Dogra and Balak Ram as Vice-President and Cashier respectively besides other members of the Managing Committee.

2. It is not in dispute that the petitioners and respondents 6 to 8 are the members and shareholders of the Society, which is a primary Co-operative Society registered under the Himachal Pradesh Co-operative Societies Act, 1968 (hereinafter called "the Act"). After completion of normal tenure of the Managing Committee of the Society its elections were scheduled to be held on 25-5-1998 but on that date the election only to the post of the President was held and respondent No. 6 Jagdish Shankhyan was elected as President. The contest for the post of the President was between petitioner Nand Parkash Vohra and respondent No. 6 Jagdish Shankhyan and the latter was elected as President by defeating the former by 76 votes. Nand Parkash Vohra secured 258 votes, whereas, Jagdish Shankhyan secured 334 votes. So far the posts of other Office-Bearers and Members of the Managing Committee are concerned, no election was held and the ejected President Jagdish Shankhyan was authorised by a resolution passed by the General House to make nominations. Accordingly, respondents Nos. 7 and 8, namely, Sunder Lal Dogra and Balak Ram were nominated as Vice-President and Cashier besides other Office-Bearers and Members of the Managing Committee.

3. Feeling aggrieved, two separate election petitions were filed on 19-6-1998 before the Deputy Registrar, Co-operative Societies, Central Division, Mandi, one by petitioner Nand Parkash Vohra, who had contested election for the post of the President and the other by petitioners Prem Lal and Deepak Sharma, who were aspirants to the posts of Vice-President and Cashier respectively but could not contest, as no election was held for the said posts besides other posts of Office-Bearers and Members of the Managing Committee. Apprehending that the hearing of the election petitions was being delayed, the petitioner Nand Parkash Vohra filed C.W.P. No. 624 of 1998 seeking directions for early disposal of his election petition. The said writ petition came up for hearing before this Court on 31-8-1998 and it was finally disposed of directing the Deputy Registrar, Co-operative Societies, Central Division, Mandi to decide the matter in accordance with law on merits within eight weeks from the date of the order. Thereafter on 15-9-1998 two orders were passed by the Deputy Registrar, Co-operative Societies. By one order (Annexure P-6) the application for stay was dismissed and by the other order (Annexure P-6/A) in exercise of powers u/s 73(1)(C) of the Act, the District Audit Officer, Co-operative Societies, Office of the Assistant Registrar, Co-operative Societies, Mandi was appointed as Arbitrator to decide the election dispute between the parties within a period of one month. Accordingly, the Arbitrator gave his award on 26-10-1998 (Annexure P-17) setting aside the elections to the Managing Committee on the grounds that no voter list was prepared and photo copy of the list of members was used as voter list, which also contained the names of defaulter and deceased members. It was also held that the elections to the posts of Vice-President, Cashier and other Office-Bearers as well as Members of the Managing Committee were required to be held simultaneously with the post of the President in accordance with law and General House could not authorise the President to make nominations for these

posts. So far the objection that non- members and/or ineligible members had cast their votes is concerned, it did not find favour with the Arbitrator for the reason that no such objection was raised by the petitioners on the spot.

4. The award dated 26-10- 1998 of the Arbitrator was challenged by respondents Nos. 6 to 8 by filing appeal u/s 93(2)(b) of the Act before the Registrar, who by his order dated 31-10-1998 stayed the operation of the impugned award during the pendency of the appeal (Annexure P-11) and thereafter allowed the appeal by order dated 27-12-1998 (Annexure P-15) holding that having signed the election results, which were recorded in the Minutes of the General House Proceedings Whereby certifying that voting had taken place to his satisfaction, petitioner Nand Parkash Vohra was estopped to challenge the election on the ground that ineligible voters had cast the votes or there was rigging of votes or proper procedure for issuing ballot papers and casting votes and counting the votes etc. etc. was not followed. It is also held that the objections raised in this regard were vague and devoid of material particulars.

5. On the other point that the elections were not held for the posts of other Office-Bearers and Members of the Managing Committee and elected President was authorised to nominate for those posts, the Registrar has not found any invalidity in it in view of Section 31 of the Act, which provides that final authority in the Co-operative Society vests in the General Body of the Members in General Meeting. According to the Registrar, the nominations of other Office-Bearers and Members of the Managing Committee by the elected President as per the resolution of the General Body of the Members of the Society could be challenged by requisitioning a Special General House Meeting in terms of Section 34-A of the Act wherein the relevant issue could be discussed in terms of Rule 28(2) read with Rule 43(1) of the Himachal Pradesh Co-operative Societies Rules, 1971 (hereinafter called "the Rules"), instead of filing the election petition. These findings of the Registrar are under challenge in these writ petitions.

6. After hearing learned counsel for the parties and going through the record, we are not inclined to go into the disputed questions of fact whether list of Members, used as voter list, contained the names of defaulter and deceased Members or votes were cast by number of ineligible Members or irregularities were committed in issuing ballot papers or in casting votes or in counting votes, as alleged by the petitioners, in view of petitioner Nand Parkash Vohra as well as respondent No. 6 Jagdish Shankhyan, both contesting candidates for the post of the President, signing the Minutes of the Meeting of the General House held on 25-5- 1998 whereby certifying as under :--

"voting was done in the presence of both the candidates, we two candidates are fully, (hundred per cent) satisfied with this polling. We both are hundred per cent satisfied with this polling, we have no doubts about it. Sd/-Nand Parkash Vohra, 25-5- 1998 Sd/-Jagdish Sankhyan, 25-5- 1998."

7. The explanation of petitioner Nand Parkash Vohra to the rejoinder-affidavit

that he was made to sign on the blank page of the proceeding book on which later on the alleged certificate was interpolated, cannot be accepted. Had it been so, he would have pointed it out at his earliest or at the latest in his election petition filed on 19- 6-1998. It is not in dispute that election was conducted under the supervision of District Inspector of Co-operative Societies, Bilsapur, who along with Mr. Devi Ram, District Audit Officer and Mr. Gopal Dass Garg, Inspector (Head Quarter) was present to ensure that the election was held in accordance with law, to whom the petitioners could raise these objections, which shows that these are afterthoughts to challenge the election.

8. Respondent No. 9 Ram Dass Thakur, who was Chairman of the Meeting to the General House in which election was held, has also not recorded the objections of the petitioner alleged to have been raised during the course of the Meeting. Though, in his reply- affidavit(s) before the Deputy Registrar, Co-operative Societies, Central Division, Mandi as well as before this Court he has supported the petitioner but in the absence of any contemporaneous material on record it is of no use. The proper course for him was to sign the proceedings after recording his objections and not to abstain from signing the proceedings and later on make allegations about the alleged illegalities and irregularities in holding elections. In these circumstances, we uphold the objections raised on behalf of the respondents that having participated in the election and having signed the proceedings and the certificate that he was hundred per cent satisfied with the polling in which respondent No. 6 was elected as President by a margin of 73 votes, he is estopped by acquiescence to challenge the election process.

9. In *Reghuni Nayak v. Dist. Magistrate, Darbhanga*, AIR 1959 Patna 7, the Division Bench of Patna High Court has held that where the petitioners knowing of the illegality participated in an election and thus acquiesced or concurred in the election, they would be estopped from challenging the validity of that election after having lost. Similarly, in *Dr. B.N. Sarin v. State of U.P.*, AIR 1967 Allahabad 465, the learned Judge has held that the issue of a writ under Article 226 of the Constitution is guided by the principles of equity. Having failed to inform the District Magistrate about the non-service of the notice of a meeting to pass no-confidence resolution against him after having come to know of the date, time, place and purpose of the meeting the President was not permitted to question the resolution passed in the meeting on the principles of equitable estoppel by acquiescence and want of good faith.

10. In another Division Bench judgment of Punjab and Haryana High Court in *Ram Nath v. Ramesh*, AIR 1975 Punj Har 33, it was held that having been defeated in the election to the office of the President, Municipal Committee the petitioner could not challenge that the meeting was illegally convened or the women (co-opted members) had not right to attend the meeting as their co-option was illegal on the ground that he never objected to their presence in the meeting or their right to take part in the voting for the election of the President for the reason that their nominations and co-options were not in accordance with

the Rules.

11. In *Satyanarain Dudhani v. Uday Kumar Singh* AIR 1993 SC 367 the learned Judges of the Supreme Court while setting aside the order of the High Court allowing the election petition as a result of recount observed in para 10:--

"It is thus obvious that neither during the counting nor on the completion of the counting there was any valid ground available for the recount of the ballot papers. A cryptic application claiming recount was made by the petitioner-respondent before the Returning Officer. No details of any kind were given in the said application. Not even a single instance showing any irregularity or illegality in the counting was brought to the notice of the Returning Officer. We are of the view when there was no contemporaneous evidence to show any irregularity or illegality in the counting. Ordinarily, it would not be proper to order recount on the basis of bare allegations in the election petition. We have taken through the pleadings in the election petition. We are satisfied that the grounds urged in the election petition do not justify for ordering recount and allowing inspection of the bellot papers. It is settled proposition of law that the secrecy of the ballot papers cannot be permitted to be tinkered lightly. An order of recount cannot be granted as a matter of course. The secrecy of the ballot paper has to be maintained and only when the High Court is satisfied on the basis of material facts pleaded in the petition and supported by the contemporaneous evidence that the recount can be ordered." And in para 11:--

"As stated above only three line objection application was filed before the Returning Officer. No objection whatsoever was raised during the conting and no irregularity or illegality was brought to the notice of the Returning Officer. Even the material in the election petition has been pleaded with the object of having a fishing enquiry and does not inspire confidence."

12. Another objections raised on behalf of the respondents is that the petitions are bad for non-joinder of necessary parties i.e. the other Office-Bearers and Members of the Managing Committee, who were nominated by the elected President Jagdish Sankhyan. Relying upon the judgments of Punjab and Haryana High Court in *Munshi Ram v. State of Punjab* 1974 Pun LJ 22 and *Managing Committee, Dhagana Co-operative Society v. Sarabjit Singh Sandhu* 1975 Punj LJ 481 learned counsel for the petitioners has urged that if it is found that the election is illegal, being violative of mandatory provisions of law, it is non est conferring no right on the elected Office-Bearers and Members of the Managing Committee, they need not be heard by impleading them party respondents for quashing the election. The learned counsel for the petitioners has also relied upon the judgment of the Supreme Court in *Daman Singh and Others Vs. State of Punjab and Others*, to urge that notice to individual Members of the Committee is not necessary as the Society is before this Court to protect the interest of the Managing Com- mittee. In Para 11 of this judgment it is held:--

"..... We have no hesitation in rejecting this submission also. Once a person

becomes a member of a co- operative society, he loses his individuality qua the society and he has no independent rights except those given to him by the statute and the by-laws. He must act and speak through the society or rather, the society, alone can act and speak for him qua rights or duties of the society as a body. So if the statute which authorises compulsory amalgamation of cooperative societies provides for notice to the societies concerned, the requirement of natural justice is fully satisfied. The notice to the society will be deemed as notice to all its members. That is why Section 13(9)(a) provides for the issue of notice to the societies and not to individual members. Section 13(9) (b) however, provides the members also with an opportunity to be heard if they desires to be heard. Notice to individual members of a co- operative society, in our opinion, is opposed to the very status of a co- operative society as a body corporate and is, therefore, unnecessary. We do not consider it necessary to further elaborate the matter except to point out that a member who objects to the proposed amalgamation within the prescribed time is given, by Section 31(11) the option to walk out. as it were, by withdrawing his share, deposits or loans as the case may be."

13. We have no hesitation to hold that these observations of learned Judges of the Supreme Court were made in a different context and are not attracted in the present case. So far the legal proposition held in *Munshi Rain v. State of Punjab* 1974 PLJ 22 and *Managing Committee Dhagana Cooperative Society v. Sarabjit Singh Sandhu* 1975 PLJ 481 (supra) is concerned, we will examine whether the election was held in violation of mandatory provisions of law and can be treated as non est. So far alternative submission made on behalf of the petitioners is concerned that since three of the Office-Bearers i.e. President, Vice-President and Cashier besides the Society are impleaded as the party respondents and grounds for challenging their elections are same as that of other Office- Bearers and Members of the Managing Committee, their non- impleadment is not of much consequence, we find substance in it. In support of his argument learned counsel has relied upon the Judgment of the Supreme Court in *B. Prabhakar Rao v. State of Andhra Pradesh* AIR 1986 SC 210. In para 23 of this judgment it is held that in a writ petition by Government employees challenging the Or- dinance relief is claimed against the Government, therefore, failure to implead all the affected employees could not make the writ petition unmaintainable. This judgment may be of some assistance to the petitioners if we come to the conclusion that due to some illegality the election can be held as non est, non-impleadment of some of the Office- Bearers and Members of the Managing Committee will be of no consequence as no right has accrued to them. Otherwise also they are similarly situated to President. Vice-President and Cashier who are already party respondents and duly represented by counsel.

14. Learned counsel for the petitioners has further argued that in the absence of any specific provision for nomination in the Act, Rules and Bye-laws, the findings of the Registrar as given in the impugned order dated 27-12-1998 (Annexure P-15) that the nomination by the elected President to the posts of Vice-President,

Cashier and other Office-Bearers and Members of the Managing Committee are in consonance with the will of the General House expressed by way of resolution as provided u/s 31 of the Act, are wrong, illegal, unjust and against the specific provisions in the Act, Rules and Bye-laws prescribing for the elections to the Managing Committee.

15. In order to appreciate this submission, we would like to refer to the relevant provisions of Act, Rules and Bye-laws:--

The H.P. Co-operative Societies Act, 1968.

"31. Final authority in Co-operative Society:-- The final authority in a Co-operative Society shall vest in the general body of members in a general meeting;

Provided that where the bye-laws of a cooperative society provide for the constitution of a smaller body consisting of delegates of the society elected or selected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society;

Provided further that nothing in this section shall affect any power conferred on a committee or any officer of a co-operative society by the rules or the bye-laws.

32. Annual General Meeting:-- (1) A general meeting of every society shall be held once at least in every co-operative year for the purpose of? ?..

(b) election, if any, in the prescribed manner of the members of the committee other than the nominated members;

34. Managing Committee:-- The management of every society shall vest in a managing committee constituted in accordance with the rules and the bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the bye-laws.

72. Dispute which may be referred to arbitration:--

(1) Notwithstanding anything contained in any law for the time being in force. In any dispute touching the constitution, management, or the business of a co-operative society arises.

(2) For the purposes of Sub-section (1) the following shall be deemed to be disputes touching the constitution, management, or the business of a co-operative society, namely:--

(c) any dispute arising in connection with the election of any officer of the society.
?..

73. Reference of disputes to arbitration:-- (1) The Registrar may, on receipt of the reference of a dispute u/s 72,--

(a) decide the dispute himself; or

(b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf; or

(c) refer it for disposal to an arbitrator. ?..

(4) The Registrar or the arbitrator to whom the dispute is referred, after giving the parties a reasonable opportunity of being heard, shall give the decision or award as the case may be.

93. Appeal:-- (1) An appeal shall lie under this section against:--

(h) any decision or award made u/s 73; ?..

(2) An Appeal against any decision or order under Sub-section (1) shall be made within sixty days from the date of decision or order,--

(a) if the decision or order was made by the Registrar, to the Government; or

(b) if the decision or order was made by any other person, to the Registrar.

(3) No appeal shall lie under this section from any decision or order made by the Registrar in appeal.

109. Power to make rules:-- (1) The State Government may, for the whole or any part of the State and for any co-operative society or class of co-operative societies after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

?..

(j) the powers of the general house; (k) writing off any bad debts and assets; (1) the election of member of committee by the general body of a society;"

The H.P. Co-operative Societies Rules, 1971.

"2. Definitions -- In these rules, unless there is anything repugnant in the subject or context:- -

?..

(xxi) "primary society" means a society which does not enrol societies as its members;

?..

37. Election of committee -- Notwithstanding anything contained in the foregoing rules, the members of the managing committee of a Co-operative Society shall be elected in accordance with the rules given in Appendix "A".

38. Constitution of Managing Committee-- (1) The managing committee of a Cooperative society shall be constituted by:--

(a) election from amongst the members of the society at the annual/special general meeting;

(b) appointment by the Registrar in the manner provided in the Rule 39;

(c) nominees of the Government u/s 35 of the Act; and

(d) nominees of the other Co-operative Societies as provided in the bye-laws.

(2) The managing committee of the society shall have not less than five nor more than twenty-one members, including the Government nominee as may be fixed in the bye-laws.

(3) The terms of the Managing Committees constituted under Sub-rule (1) shall be?

(a) in relation to Primary Societies . . . 2 years;

(b) in relation to secondary societies ... 3 years; and

(c) in relation to Apex Societies ... 4 years; Provided that the outgoing managing committee shall, unless the State Government otherwise directs, continue to function till another Managing Committee is constituted under these rules;.

(4) The committee shall, as soon as may be possible, elect from among its members a President, Vice-President and such other officers as are specified in the bye-laws unless they provide for such election by general meeting. ?..

(6) Any dispute relating to the election to a committee of a member or an officer shall be referred to the Registrar u/s 72 of the Act within 30 days from the date of declaration of the result of such election."

16. Appendix "A to the Rules contains Rules of Election to the Committee. Its Rule 1(a) provides that "Election" means the election of the Committee. Its Rule 2 provides that no person shall be eligible for election as a member of the Committee if he is subject to any disqualification mentioned in Rule 41 of the Rules. Its Rule 3 provides for preparation of voters" list and Rule 4 provides for holding election. However, Sub- rule (8) of Rule 4 provides that the Registrar may by general or special order grant exemption from the provisions of Rules 3 and 4 to any co-operative society or any class of co-operative societies. Its Rule 5 provides for admission to the General Meeting and Rule 6 for voting. Sub-rule (1) of Rule 6 provides for voting by secret ballot but the Registrar has been authorised to grant exemption from this sub-rule to any co- operative society or any class of co-operative societies by general or special order. Lastly, Rule 7 provides for maintenance of law and order.

17. The perusal of these provisions of law, more specifically Sections 32(1)(b) and 34 of the Act read with Rules 37 and 38 of the Rules makes it clear that managing committee of a co- operative society is constituted by election from amongst the members of the society at the annual/special general meeting, appointment by the Registrar in the manner provided in Rule 39 of the Rules,

nominee of the Government u/s 35 of the Act in case of primary co-operative society. Rule 39 provides for appointment of an additional number of members to the Managing Committee not exceeding 1/3rd of the elected members by the Registrar in order to represent appropriate interest. Similarly, Section 35(1) of the Act provides that the Government or any authority specified by the Government in this behalf shall have the right to nominate not more than 3 members or 1/3rd of the total number of members of the Committee of the Society whichever is less if it has financial interest in the society as stated therein. Since the Government has no financial interest in the Society with which we are concerned in the present writ petitions, its Managing Committee should consist of only elected members and members appointed by the Registrar, if any.

18. Sub-rule (4) of Rule 38 of the Rule makes it clear that after the constitution of the Managing Committee its Members elect a President. Vice-President and such other officers as are specified in the bye-laws unless they provide for such election by general meeting. On our asking learned counsel appearing for the Society has placed on record its Model Bye-Laws. Bye-law 30 provides that Managing Committee of the Society consists of not less than 21 members. Bye-law 31 provides for eligibility for election as Member of the Managing Committee of the Society, whereas. Bye-law 33 provides when a Member of the Managing Committee shall cease to hold office. There is no bye-law under which it is provided that elections of the President, Vice-President and other Office-Bearers of the Managing Committee can be held simultaneously with the election of the Members of the Managing Committee. From all these provisions it is clear that General Body will elect the Members of the Managing Committee, who from amongst themselves will elect President, Vice-President and other Office-Bearers of the Managing Committee. Learned Additional Advocate General for the State and learned counsel appearing for the Society and other respondents have not been able to point out any provision either in the Act or in the Rules or in the Bye-laws to show that General Body can directly elect the President and thereafter authorise him by way of resolution to nominate other Officer Bearers and Members of the Managing Committee, as has been done in the present case. Their only submission is that this has been the practice in case of the primary society, which cannot be accepted as no practice can have a legal sanction if it is in violation of the provisions of law.

19. Their further argument that since u/s 31 of the Act final authority in Co-operative Society vests in the General Body of Members in a General Meeting, the General Body was within its jurisdiction to pass a resolution authorising the elected President to nominate other Office-Bearers and the Members of the Managing Committee is also without any substance. Such an interpretation is not permissible being in violation of Sections 31(2)(b) and 34 of the Act, Rules 37, 38(1)(a) and (4) and Appendix "A" to the Rules. In fact the final authority of the General Body is in respect of all the purposes for which it holds its annual general meeting/special general meeting as provided u/s 32 of the Act and one of the purposes is the election. By now it is well settled that such an interpretation

should not be given to a provision of law as to make the other provisions of the statute redundant. Moreover, the interpretation as canvassed by the learned Additional Advocate General and learned counsel appearing for other respondents will be against the spirit of the co-operative movement, which forms a part of the Scheme of Decentralisation of Power, in this regard the following observations of the learned Judges of the Bombay High Court in *Hindurao Balwant Patil v. Krishnarao Parshuram Patil*, AIR 1982 Bombay 216, will be most appropriate:--

"..... .Co-operative movement cannot be permitted to be polluted or choked by internal or individual strike nor it can be permitted to be polluted by party politics. Cooperative capitalism despotism is not cooperation. On the other hand co-operation is a substitute for self interest of an individual or a group of individuals for the benefit of whole community. Therefore, if the society itself while framing and adopting its own code of conduct in the form of bye-laws, which are to be duly approved by the Registrar, has not made any provision for removal of the Chairman and Vice-Chairman by passing a vote of no-confidence, it cannot be said that the step taken by the Society or Registrar in that behalf is not a regulatory one nor is in the interest of the society or the general public. The so-called mandate theory can not be pushed to ridiculous extremes to convert co-operative movement into an arena or akhada of power politics. Whenever the legislature thought that a person is not fit to continue as a member of the Board, specific provisions are made for his removal. A person is elected as Chairman or Vice-Chairman for a particular term. His office is controlled by the provisions of the Act."

20. While interpreting almost similar provisions in *Bapauli Co-operative Agricultural Service Society v. State of Haryana*, AIR 1976 Punj & Har 283, the learned Judges of the Punjab and Haryana High Court have also held in paragraph 18 of the judgment:--

"The final authority in a co-operative society does of course vest in the general body of its members or its managing body elected in accordance with its bye-laws as laid down in Section 23 of the Act. but this authority is not absolute and free from restraints. Even the general body of the members cannot take any steps which may be derogatory to the promotion of the economic interests of the members of a society in accordance with co-operative principles: nor can the general body take any decision which may be contrary to the Act or the Rules framed thereunder. When considered in this light. Section 23 of the Act has to be interpreted in such a manner so that its operation does not set at naught some of the other provisions of the Act. It is settled law that two provisions of a statute have to be read in such a manner that one of them does not necessarily repeal the other. The question of repeal of one provision of a statute by another arises only when two of them are wholly incompatible with one another or if they are read together they would lead to wholly absurd consequences. If on a fair and proper interpretation these two provisions can be reconciled with each other, the

Courts of law are under a duty to adopt such an interpretation and to give full effect to the two provisions of the Act instead of holding that one of them is repealed by the other....."

21. The result of above discussion is that the election of respondent No. 6 Jagdish Sankhyan to the post of President and further nominations by him to the posts of Vice-president, Cashier, other Office-Bearers and Members of the Managing Committee are illegal, non est and do not confer any right on respondents Nos. 6 to 8, other Office-Bearers and Members of the Managing Committee. In this view of the matter, we have no option but to accept these writ petitions set aside the election to the post of President and nominations to the posts of Vice-President, Cashier and other Office- Bearers as well as Members of the Managing Committee of the respondent- Society held on 25-5-1998. Order accordingly. The impugned order dated 27- 12-1998 (Annexure P-15) is set aside and the Registrar is directed to hold election of the respondent-Society at the earliest in accordance with law. No order as to costs.