
(1997) 04 SHI CK 0012
In the High Court Of Himachal Pradesh
Case No : O.M.P. (M) No. 4 of 1995

Om Prakash Dehlu

APPELLANT

Vs

Himachal Fruit Growers Co-operative Society

RESPONDENT

Date of Decision : 23-04-1997

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (1997) 3 ShimLC 6

Hon'ble Judges : Surinder Sarup, J

Bench : Single Bench

Advocate : B.M. Chauhan, for the Appellant; L.C. Kapoor and V.K. Verma, Asstt. A.G., for the Respondent

Final Decision : Dismissed

Judgement

Surinder Sarup, J.—This application has been filed under Article 227 of the Constitution of India against the order dated 28-8-1993 of the Joint Secretary, (Co operation) read with review order dated 1-2-1994, seeking the dismissal of the orders dated 28-9-1993 and 1-2-1994 of the Joint Secretary (Co-operation) to the Government of Himachal Pradesh and also for dismissing the arbitration claim as filed by the Respondent,

2. Briefly, the facts as pleaded in the application are that reference was made u/s 72 of the H.P. Co-operative Societies Act, 1978 by Respondent No. 1 to the Arbitrator against the applicant on 4-3-1993. The Arbitrator i.e. the Deputy Registrar, Co-operative Society (Marketing), H. P Shimla issued notice for hearing on 21-5-1987 vide Annexure A-I. In pursuance of the same, the applicant appeared before him and pursued the case Further it remained in abeyance till 1987 when Anr. notice u/s 73(A) of the H.P. Co operative Societies Act was issued by the said Arbitrator for recovery of Rs. 6,274 and the hearing was kept for 20-6-1989, The Arbitrator was convinced that there was no case against the applicant and as such the proceedings against him were ordered to be dropped It is further stated that on 2 -3-1988 Respondent No. 1 made a second reference to

the Arbitrator vide Annexure A-2 for the recovery of Rs. 15,532 which was disallowed. However, earlier reference which was made for Rs. 6,274 was confirmed. That amount was directed to be paid within one month, falling which interest at the rate of 18% per annum was ordered to be charged on principal amount. Copy of the order dated 6-11-1992 is Annexure A3.

3. The Respondent filed an appeal before the Secretary, Co-operative Societies, exercising the appellate powers u/s 93 of the H.P. Co-operative Societies Act, 1968. The order of this appeal was announced on 28-8-1993 in the presence of the parties as well as their counsel whereby the appeal was allowed. However to the surprise of the applicant when he obtained copy of the judgment on 4-1-1994 he came to know that the appeal filed by him was dismissed by the Joint Secretary, Co-operations. A copy of that order passed in appeal is Annexure A.4. Then he moved an application u/s 94 of the said Act, for review of the order dated 28-8-1993 passed by the Joint Secretary. Copy of that application is Annexure A-5. However, the same was returned back with the observation that the State Government does not have powers to review any order passed by the Government or any officer authorised on its behalf. The letter to that effect is Annexure A-6,

4. The impugned order passed by the joint Secretary, Co-operation as well as the Arbitrator has been challenged on various grounds. The main ground as taken up in the application which has been vehemently argued and pressed by the learned Counsel for the applicant before me is that the impugned orders have been passed on no evidence as there is not an iota of evidence to support the conclusion. More particularly, he has submitted that record does not show that there was any contract between the applicant and Respondent No. 1, in the dispute.

5. In the reply the assertions as taken up in the application have been controverted. In this connection, I have gone through the impugned order vide Annexure A-3 on page 14 of the same. It has been mentioned that from a bare perusal of the record, it is clear that Sh. Om Parkash Dehlu, applicant one of the partners was dealing with the distribution of packing materials and he was himself also member of the society. This shows that there was some evidence before the Arbitrator. Even if the argument of the learned Counsel for the Appellant is accepted, it becomes a disputed question of fact. It is not amendable to the jurisdiction of this Court under Article 227 of the Constitution. At this stage the matter can be looked at from another angle also. The jurisdiction of the High Court under Article 227 of the Constitution of India is limited to the superintendence and control of lower Courts and quasi judicial authorities in order to ensure that they do not transgress their jurisdiction and confine themselves within its parameters. No case has been made out in the present application of any transgression of jurisdiction by the authorities below i. e. the Arbitrator and the Joint Secretary, Co-operation. That being the position there is no ground for interference made out and the application is wholly misconceived.

6. For the reasons recorded above, this application fails and is dismissed with costs Counsel fee assessed at Rs. 500. The interim order passed on 4-1-1996 for staying the operation of the impugned order till the final disposal of the main petition automatically stands vacated.