
(1998) 04 P&H CK 0062

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 6856 of 1997

Preet Kawal Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 24-04-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 121 PLR 100 : (1998) 3 RCR(Civil) 546

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : Amar Singh, for the Appellant; Sarjit Singh and Parminder, for the Respondent

Judgement

H.S. Bedi, J.—By this judgment, I propose to dispose of Civil Writ Petition Nos. 6856 of 1997, 8510 of 1996 and 1992 of 1997. The facts have been taken from Civil Writ Petition No. 6856 of 1997. Vide advertisement, Annexure P-1, issued in the "Daily Ajit", dated the 6th August, 1991, the Punjab State Co-operative Bank-respondent No. 2, invited application for the award of scholarship of Rs. 24,000/- per annum to student studying in technical courses. Petitioner No. 1, who had already got admission in the Bachelor of Engineering Course and petitioner No. 2 who had taken admission in the course of Agricultural Engineering, applied for the scholarships. The Bank finding their applications to be in order, awarded the scholarship of Rs. 24,000/- for the year 1991-92 and the amount of Rs. 24,000/- was also released to them. The case of the petitioners is that as they were studying in a four year course, they were entitled to the scholarship of Rs. 24,000/- per year for the duration of their course, but the respondents failed to pay the scholarship for the year 1992-93 onwards despite the fact that the petitioners continued to fulfil the qualifications for the receipt of the scholarship. The petitioners, accordingly, filed a revision petition u/s 69 of the Punjab Cooperative Societies Act, 1961 "(hereinafter called "the Act"), before the State Government seeking a direction to the respondent-Bank for the release of the scholarships. The State Government, vide its order dated 91th August, 1995

Annexure P-10 to the petition, dismissed the revision petition with an additional direction that an enquiry into the affairs of the Bank be held in the light of the suo-motu powers conferred u/s 51 of the Act. The respondent Bank thereafter gave legal notices to the parents of the petitioners (Annexures P-12 and P-13 to the petition) calling upon them to refund the amount of the scholarships. Aggrieved thereby, the petitioners have come to this Court impugning the order Annexure P-10 and the notices Annexures P-12 and P-13.

2. Notice of motion was issued in this case and a reply has also been put in on behalf of the respondent-Bank. It has, inter-alia, been pleaded that the release of the scholarships had been withheld by the Bank as the scholarships had been granted without authorisation and in contravention of the rules which governed the business activities of the Bank. It has also been pointed out that the scheme for the award of scholarships had been withdrawn in July, 1993 and as no indefeasible right had accrued to the petitioners for the receipts of the scholarship, they could not challenge the withdrawal of the same. It has also been pleaded that the State-Government, while making the order Annexure P-10, had been deeply influenced by the fact that the power to award the scholarships conferred by the Board of Directors on the Bank had been grossly misused and as the scholarships had been granted to the petitioners who happened to be sons of senior officers of the Bank, the very exercise of the power, was mala fide.

3. Mr. Amar Singh, the learned counsel for the petitioners has argued that once the Bank had undertaken to give a scholarship for four years as envisaged by Annexures P-1/1, the same could not have been withdrawn, as the petitioners had been given to understand that they would be entitled to the scholarships for the entire duration. In the alternative, he has argued that the Registrar, Cooperative Societies had been present at the meeting in which the decision to award the scholarship had been taken and as such, the reasons given in Annexure P10 that the decision to award the scholarship had been taken without the authority of the Registrar, was incorrect. He has finally argued, that the State Government while exercising the power u/s 69 of the Act, could not issue a direction to the Registrar, Cooperative Societies under Sections 51 and 52 of the Act, to conduct an enquiry into the affairs of the Bank, and this direction too did not have the authority of law.

4. As against this, Mr. Parminder Singh, the learned counsel representing the Bank has pointed out that in addition to the stand taken in the written statement it was apparent from the order Annexure P-10 that the action of the Bank in awarding the scholarships was wholly unauthorised. In this connection, he has referred to the findings recorded by the State Government in the order Annexure P-10 and has culled out the reasons that had led to the making of the order.

5. I have heard the learned counsel for the parties and have gone through the record with their assistance,

6. Mr. Amar Singh's first argument with regard to the promise held out by the Bank for the grant of the scholarship for four years lacks merit. It is the admitted position that the petitioners had got admission in the educational institutions in which they were studying prior to the issuance of the advertisement Annexure P1 dated 6th August, 1991. It is, therefore, apparent that by the withdrawal of the scholarship for the year 1992-93 onwards, no action detrimental to the petitioners has been taken. It is also apparent from the order Annexure P-10 as also the reply filed by the Bank that Mr. Amar Singh's second argument is also equally without merit. It will be seen from the order Annexure P-10 (which is an exhaustive one) that a number of reasons had weighed with the State Government in taking the decision which it did. It had been pointed out that as per the decision taken by the Board of Directors of the Bank for the award of the scholarship, it was incumbent upon the Chairman of the Bank to constitute a sub-committee and to lay down conditions for the actual grant but the record revealed that no such committee had been constituted and in fact, a committee under the aegis of the Chairman had been constituted which had itself awarded the scholarships to the petitioner and to 15 other candidates. It is also to be noted that in addition to the fact that scheme had not been fairly implemented, the very applicability of the scheme was open to serious criticism as the 17 candidates who had been awarded scholarships had been arbitrarily picked up for the reasons that they happened to be closely related to the officials of the Bank. It is further evident that another reason that had weighed with the State Government was that the prior or even ex-post facto approval had not been taken from the Registrar, Cooperative Societies as required by law. Mr. Amar Singh has however, referred to paragraph 11(b) of the writ petition in which it has been pleaded that the Registrar, Cooperative Societies or his nominee was a member of the Board of the respondent-Bank and the resolutions passed by the Bank, were thus with the concurrence of the Registrar, or his nominee who attended the meetings and had argued that as a matter of fact, the Registrar or his nominee had attended the meeting in which the final decision with regard to the award of the scholarship had been taken. This argument is without basis as the facts have been generally pleaded and there is no specific averment as to whether the Registrar or his nominee had, in fact, attended that particular meeting. Moreover, it is apparent that the grant of the scholarships did not confer any right on the petitioners as they had taken admission prior to the grant of the scholarships and as such, it could be withdrawn at any time. Mr. Amar Singh's arguments with regard to the direction issued by the State Government under Sections 50 and 51 of the Act, is also without merit. It is to be noted that the petitioners before this court are students who were initially granted the scholarships which were later on withdrawn and the direction issued with regard to the initiation of an enquiry to be conducted by the Registrar did not pertain to the petitioners whatsoever and as such, they do not have the locus standi to challenge this part of the order.

7. It has finally been argued that the petitioners had already received the

scholarships for one year and as such they should not be called upon to refund the same as demanded in the notices Annexures P-12 and P-13. To my mind, the prayer of the petitioners, to this limited extent, is justified. The petitioners had been granted scholarships under a policy of the Bank, which was subsequently found to be unwarranted. To my mind, therefore, the notices Annexures P-12 and P-13 were not justified and they are, accordingly, quashed. Relief is granted to the petitioners to this limited extent only. These petitions are accordingly dismissed qua the other claims. There will, however, be no order as to costs.