
(2000) 02 P&H CK 0070
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7150 of 1999

Rajinder Singh

APPELLANT

Vs

The Registrar, Co-operative Societies, Punjab

RESPONDENT

Date of Decision : 17-02-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 RCR(Civil) 750

Hon'ble Judges : N.K. Sodhi, J;Bakhshish Kaur, J

Bench : Division Bench

Advocate : Mr. D.V. Sharma, for the Appellant; Ms. H.S. Sra, D.A.G., Punjab, Ms. Devinder Kaur and Mr. R.K. Sharma, for the Respondent

Judgement

N. K. Sodhi, J.—Elections of the Managing Committee of the Kharar Primary Cooperative Agricultural Development Bank Ltd., Kharar (for short the Bank) where held on 12.5.1999 and the petitioner was elected a Director from Zone No. 3. The election programme was challenged by Harjit Singh respondent by filing a revision petition u/s 69 of the Punjab Co-operative Societies Act, 1961 (hereinafter called the Act). When the petition came up for hearing before the Registrar, Co-operative Societies on 19.5.1999 he passed the following order :

"Issue notice. Rajinderpal Singh from Zone No. 3 is restrained from performing his duties as Director."

2. It is common case of the parties that after passing of this interim order, the revision petition was consigned to the record room and has not been taken up for consideration till date. It is against this order that the present petition has been filed under Article 226 of the Constitution.

3. The argument of the learned Counsel for the petitioner is that the Registrar, Co-operative Societies has no jurisdiction to entertain the revision petition much less restrain the petitioner from performing his duties as a Director as he had been duly elected from Zone No. 3 in pursuance to the election programme

settled by the Deputy Registrar exercising the powers of the Registrar. We find merit in this contention. It is by now well settled that an elected representative cannot be restrained from functioning till his election is set aside in an election dispute properly raised in accordance with the Rules governing such disputes. Reference in this regard can be made to a decision of (his Court in Satish Mohindroo and others v. The Assistant Registrar, Co-operative Societies, Gurdaspur and others 1989 PLJ 239 : 1989(2) RCR 25 (P&H). Moreover, the revision petition itself was not maintainable u/s 69 of the Ad. A petition can be entertained by the State Government or the Registrar as the case may be for the purpose of examining legality or propriety of any decision or the order passed in any proceedings under the Act. There was no order passed by any authority which was challenged before the Registrar nor were any proceedings pending, the propriety of which could be examined by him. What was sought to be challenged in the revision petition was the election programme approved by the Deputy Registrar exercising the powers of the Registrar and not the election of the petitioner as a Director. In this view of the matter, the order of the Registrar restraining the petitioner from performing his duties as an elected Director of the Bank is without jurisdiction.

4. Before concluding we may mention that Harjit Singh respondent has raised an election dispute challenging the election of the petitioner as Director of the Bank and the same is pending adjudication before the Additional Registrar, Co-operative Societies, Punjab. The said petition will, however, continue and the Additional Registrar shall dispose of the same in accordance with law.

5. In the result, the writ petition is allowed, the impugned order dated 19.5.1999 restraining the petitioner from performing his duties as Director quashed. There is no order as to costs.

6. Petition allowed.