
(2002) 09 AHC CK 0061
In the Allahabad High Court
Case No : C.M.W.P. No. 38104 of 2002

Rajiv Kumar Pal

APPELLANT

Vs

Assistant Registrar, Co-operative Society and Others

RESPONDENT

Date of Decision : 10-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 5 AWC 3498

Hon'ble Judges : S.P. Mehrotra, J

Bench : Single Bench

Advocate : Neeraj Pandey, P.K. Singh, Ram Mohan and Neeraj Tripathi, for the Appellant; K.M. Mishra and S.C., for the Respondent

Final Decision : Dismissed

Judgement

S.P. Mehrotra, J.—This writ petition has been filed under Article 226 of the Constitution of India, inter alia challenging the suspension order dated 27.5.2002 (Annexure-2 to the writ petition) passed by Managing Director, Kisan Sewa Sahkari Samiti Limited, Kayamganj Daskhini, Farrukhabad.

2. It is inter alia, alleged by the Petitioner that the Petitioner was initially appointed on the post of "Ankik" on compassionate ground in place of his deceased father who died in Harness. The Petitioner had joined the post of "Ankik" on 19.11.2000, and since then the Petitioner has been performing his duty with loyalty and efficiency, and that the Petitioner is class II Ird employee working in the Kisan Sewa Sahkari Samiti Limited, Kayamganj Dakshini, Farrukhabad and that a show cause notice was issued on 17.5.2002 ; and that without ensuring service of the said show cause notice dated 17.5.2002 on the Petitioner, the Respondent No. 2 passed the impugned order dated 27.5.2002 ; and that the Petitioner has made a representation through appropriate channel before Assistant Registrar, Co-operative Society, U.P., Fatehgarh, district Farrukhabad (Respondent No. 1) on 25.7.2002.

3. Thereafter, the Petitioner has filed this writ petition, inter alia, challenging the said suspension order dated 27.5.2002.

4. I have heard Sri Ram Mohan, Advocate, holding brief for Sri Neeraj Tripathi, learned Counsel for the Petitioner, Sri K. M. Mishra, learned Counsel for the Respondent Nos. 2, 3 and 4 and learned standing counsel appearing for the Respondent No. 1.

5. Sri Ram Mohan submits that the suspension order passed by the Respondent No. 2 is illegal.

6. In reply, Sri K. M. Mishra, learned Counsel appearing for Respondent Nos. 2, 3 and 4 submits that the Petitioner has got an alternative remedy u/s 128 of the U.P. Co-operative Societies Act, 1965, and as such, this writ petition is liable to be dismissed on the ground of availability of alternative remedy to the Petitioner.

7. Having considered the submissions made by the learned Counsel for the parties, I am of the opinion that the submission made by Sri K. M. Mishra, learned Counsel for the Respondent Nos. 2, 3 and 4 is correct. Section 128 of the U.P. Co-operative Societies Act, 1965 (in short "the Act") provides as follows:

Registrar's power to annul resolution of a co-operative society or cancel order passed by an officer of a co-operative society in certain cases. The Registrar may:

(i) annul any resolution passed by the Committee of Management, or the general body of any co-operative society ; or (ii) cancel any order passed by an officer of a co-operative society ;

if he is of the opinion that the resolution or the order, as the case may be, is not covered by the objects of the society, or is in contravention of the provisions of this Act, the rules or the bye-laws of the society, whereupon every such resolution or order shall become void and inoperative and be deleted from the records of the society:

Provided that, the Registrar shall, before making any order, require the "Committee of Management, general body or officer of the co-operative society to reconsider the resolution, or as the case may be, the order, within such period as he may fix but which shall not be less than fifteen days, and if he deems fit may stay the operation of that resolution or the order during such period.

8. Under Clause (i) of Section 128 of the Act, the Registrar, within the meaning of Section 2(r) read with Section 3 of the Act, has power to annul any resolution passed by the Committee of Management, or the general body of any co-operative society. Further, under Clause (ii) of Section 128 of the Act, the Registrar has power to cancel any order passed by an officer of the co-operative society.

9. A perusal of the impugned suspension order dated 27.5.2002 (Annexure-2 to the writ petition) shows that the said order dated 27.5.2002 has been passed pursuant to the resolution No. 3 dated 27.5.2002 passed by the Administrative

Committee of the Co-operative Society in question. The Petitioner has got an alternative u/s 128 of the Act to challenge the said resolution No. 3 dated 27.5.2002, as well as the said suspension order dated 27.5.2002. As such, this writ petition is liable to be dismissed on the ground of availability of alternative remedy to the Petitioner.

10. The writ petition is accordingly dismissed on the ground of availability of alternative remedy to the Petitioner. It is, however, observed that, in case, the Petitioner approaches the appropriate authority u/s 128 of the Act within a period of three weeks from today by filing requisite application/ representation along with a certified copy of this order, the appropriate authority will entertain the same without raising any objection as to limitation, if any. In case, requisite application/representation is filed by the Petitioner within the aforesaid period, the appropriate authority will take decision thereon expeditiously.

11. It is made clear that no directions are being given on the merits of the case, as it is for the appropriate authority to take decision in this regard in accordance with law.