

(1973) 12 P&H CK 0009
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 3611 of 1973

Ram Rattan

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 07-12-1973

Acts Referred:

Citation : (1976) PLJ 24 : (1984) RRR 380

Hon'ble Judges : M.R.Sharma, J

Advocate : Mr. G.S. Sandhu, Advocate., Advocates for appearing Parties

Judgement

M.R. Sharma, J.

1. The petitioner was elected as Director of the Chhachhrauli Cane Growers Cooperative Society, Limited Chhachhrauli (hereinafter referred to as the Society), on the 10th April, 1971. On 18 September, 1973, the members of the managing committee of the Society passed resolutions whereby the petitioner was removed from the membership of the committee. His grievance is that under section 26B(2) of the Punjab Co operative Societies Act, 1961 (hereinafter referred to as the Act), he is entitled to hold office for a period of three years from the date of his election. According to him, the resolution of the managing committee being opposed to the mandatory provisions of the statute, is null and void.

2. In the return filed on behalf of respondent No. 4, it has been mentioned that according to the byelaws of the Society, every person has to members of the managing committee. For the year, in dispute, the petitioner was not able to get himself elected as delegate and so he could not remain a Director. The other point raised is that the petitioner was a defaulter and under the byelaws of the Society, a defaulter could not remain a member of the managing committee. The latter position is, however, hotly contested by the learned counsel for the petitioner.

3. Section 8(c) of the Act lays down that if the proposed byelaws of the society

are not contrary to the provisions of the Act and the rules, the Registrar may register the society and its byelaws. Section 10 of the Act inter alia lays down that the Registrar may suo motu revise the byelaws of a Society in order to bring them in conformity with the provisions of the Act. From these provisions of law, it is obvious that the byelaws cannot provide for anything which runs counter to the express provisions of the statute. Even otherwise, it is a settled principles of law that neither the rules; nor the action taken under the rules can travel outside the ambit of the statutory provisions. In this view of the matter, the byelaws of the Society which curtail the period of membership of the Society cannot be treated as valid. For the same reasons, the resolution passed by the managing committee of respondent No. 4, has to be struck down, and I order accordingly.

4. In *Lakha Singh v. The Registrar Cooperative Societies, Punjab and others*, 1972 P.L.J. 363, a Division Bench of this Court held that before a member of the managing committee could be removed from office on the ground that he ceases to be a member of the committee on account of the default committed by him, the Registrar or the authorised Registrar must determine whether he is a defaulter or not. Admittedly, in this case, this matter was not determined by any competent authority. Under these circumstances, the action of respondent No. 4, is ousting the petitioner from the Society on the ground that he was a defaulter has also to be set aside. I order accordingly.

5. This petition is, therefore, allowed, but with no order as to costs.