

(1993) 06 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6588 of 1993

Ran Singh Malik and Others	Vs	APPELLANT
Registrar Co-operative Societies and Others		RESPONDENT

Date of Decision : 02-06-1993

Acts Referred:

Haryana Co-operative Societies Rules, 1989 — Rule 86

Citation : (1994) 106 PLR 748

Hon'ble Judges : R.K. Nehru, J;G.R. Majithia, J

Bench : Division Bench

Advocate : S.S. Dalal, for the Appellant;

Final Decision : Dismissed

Judgement

R.K. Nehru, J.—The petitioners, who claim themselves to be the members of the Managing Committee of the Hisar Animal Husbandry Cooperative House Building Society Ltd., Sunder Nagar, Barwala Road, Hisar, have challenged the order of the Registrar, Cooperative Societies, Haryana, Chandigarh dated May 21,1993, affirming, on appeal, the order of the Deputy Registrar (Stores), Cooperative Societies, Haryana, Chandigarh dated April 16,1993, accepting the election petition, setting aside . the election of the petitioners as members of the Managing Committee of the aforesaid Society held on November 14, 1991 and ordering fresh voters list, in this petition under Articles 226/227 of the Constitution of India.

2. Dr. Hari Singh Dahiya, a Member of the Animal Husbandry House Building Cooperative Society Ltd., Hisar ("the Society" for short), challenged the election of the petitioners as Members of the Managing Committee of the Society held on November 14, 1991 through an election petition. The Deputy Registrar (Stores), Cooperative Societies, Haryana, Chandigarh, after recording the evidence, arrived at the following conclusions: -

i) Proper electoral rolls/voters lists were not prepared by the Election Manager.

As against the total number of 769 members of the Society, the Election Manager only submitted a list of 560 members to the Returning Officer for his approval. Since proper list of voters was not prepared, a large number of members of the Society could not exercise their right of vote. Reliance was placed on the statement of Shri Lok Nath Verma, Returning Officer, recorded on June 8, 1992, to arrive at this conclusion;

- ii) The Election Manager was not appointed by a competent authority; and
- iii) All the members of the Society, who were entered as voters, were not informed about the date of election.

He accepted the election petition, set aside the election of the members of the Managing Committee of the Society and ordered holding of fresh election in accordance with the law after preparing a fresh voters lists. The petitioners, aggrieved against the order of the Deputy Registrar (Stores), Cooperative Societies, Haryana, assailed the same in appeal u/s 114 of the Haryana Cooperative Societies Act, 1984 ("the Act" for short) before respondent No.1 only on the ground that the same was illegal since he did not move for extension of time for rendering the award in terms of Rule 86 of the Haryana Cooperative Societies Rules, 1989 ("the Rules" for short). According to the counsel who also appeared before the Appellate Authority, since the provisions of Rule 86 had been violated, the order passed by the Deputy Registrar (Stores) was invalid. On merits, he refused to advance any argument. The Appellate Authority in para 4 of its order observed thus:-

"The learned counsel, in any case, did not advance any arguments on the merits of the case and rather stated that he did not wish to disclose his defence at this stage. He prayed for quashing the impugned order only on the ground of technicality."

The Appellate Authority opined that Rule 86 of the Rules was only directory. It found that the Deputy Registrar (Stores) had heard the matter on various dates, i.e., September 8, 1992, September 29, 1992, November 25, 1992, December 8, 1992, January 6, 1993, January 11, 1993, January 25, 1993, February 25, 1993, March 5, 1993, April 8, 1993 and April 16, 1993 and that the counsel who has appeared for the writ-petitioner also appeared for the Society before him (Deputy Registrar Stores) on January 11, 1993, January 25, 1993, February 4, 1993, February 10, 1993, February 16, 1993. In arriving at the conclusion that the rule is directory, the Appellate Authority took into consideration the fact that the case was got adjourned on various dates by the petitioners.

3. Before us, the learned counsel for the petitioners challenged the conclusions arrived by the Deputy Registrar (Stores) stated supra. He made the following submissions:-

- i) Rule 86 of the Rules is mandatory; and
- ii) Respondent No. 2 Shri Ramji Lal, Ex.M.P. did not want the control of the

Society being passed over to the elected members of the Managing Committee of the Society.

4. Rule 86 of the Rules reads as under:-

"The arbitrator or the Registrar shall make his award within six months after his entering on the reference or within such extended time as the next higher authority may allow."

A reading of Rule 86 indicates that the same is couched in a mandatory form. It is only directory in nature. The election dispute was referred to the arbitrator and the Deputy Registrar (Stores), Cooperative Societies, Haryana was appointed as the arbitrator. He was to render the award within six months from the date of entering on the reference. He rendered the award after six months since the petitioners, who were arrayed as respondents in the election petition, sought adjournments. Reference to these facts has been made in the order under challenge. The petitioners acquiesced the transfer of the arbitrator and participated in the proceedings even after the expiry of the period of six months. It is impermissible for them now to urge that the award of the arbitrator is invalid on the ground that it was rendered after six months of its entering on the reference. To us, it appears that the petitioners who were not validly elected at the alleged election of the members of the Managing Committee of the Society want to sustain their illegal status by taking hypo-technical objections and cooking up false allegations. It was not their case before the arbitrator (Deputy Registrar) (Stores) in the election dispute and as appellants before the appellate authority (Registrar, Cooperative Societies, Haryana) that Shri Ramji Lal, Ex-M.P. wanted to retain the control of the Society by getting the election of the validly elected members of the Managing Committee declared Invalid. He has been introduced for the first time in the writ proceedings obviously for some sinister design.

4. For the reasons stated above, we find no merit in the writ petition.

The same is dismissed in limine.