

(2011) 05 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9467 of 2011

Ravinder Singh Waraich

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

Date of Decision : 26-05-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Haryana Co-operative Societies Act, 1984 — Section 30, 30A, 34

Citation : AIR 2012 P&H 17 : (2011) 164 PLR 155 : (2011) 3 RCR(Civil) 661

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mehinder Singh Sullar, J.—The crux of combination of the facts, culminating in the commencement, relevant for disposal of the present writ

petition and emitting from the record, is that in the wake of election of office bearers of the Board of Directors of The Kurukshetra Central

Cooperative Bank Limited-respondent No.3 (for brevity ""the respondent-Bank""), the petitioner was elected as its Chairman on 02.06.2008, in

view of the provisions of The Haryana Cooperative Societies Act, 1984 (hereinafter to be referred as ""the Act"") and the rules framed thereunder.

The majority of the elected Directors of the respondent-Bank were not satisfied with the functioning of the petitioner and they moved

representation dated 03.05.2011, to consider the resolution of "No Confidence Motion" against him (petitioner). The Managing Director of the

respondent-Bank issued the notice/agenda dated 04.05.2011 (Annexure P-1) for the meeting, scheduled to be held on 20.05.2011 for the said

purpose.

2. Aggrieved by the action of the respondents, the petitioner challenged the issuance of notice/agenda dated 04.05.2011 (Annexure P-1) by way of earlier Civil Writ Petition No.8296 of 2011, which was dismissed by this Court by virtue of order dated May 10, 2011.

3. Thereafter, in pursuance of the agenda/notice (Annexure P-1), a meeting was held on 20.05.2011, wherein the impugned resolution (Annexure P-2) of "No Confidence Motion" was passed against the petitioner by 2/3rd majority.

4. The petitioner still did not feel satisfied and preferred the instant writ petition, challenging the impugned resolution (Annexure P-2) of "No Confidence Motion", invoking the provisions of Articles 226/227 of the Constitution of India.

5. The case set-up by the petitioner, in brief, insofar as relevant, was that the impugned resolution of "No Confidence Motion" was passed against

the provisions of Section 30-A of the Act and Bye-Law 34. The petitioner claimed that the allegations of misconduct alleged in the impugned

resolution, are not sufficient to warrant his removal, by means of passing the resolution of "No Confidence Motion". On the basis of aforesaid

allegations, the petitioner sought to challenge the impugned resolution (Annexure P-2), in the manner indicated hereinabove.

6. After hearing the learned counsel for the petitioner, going through the record with his valuable help and after deep consideration of the entire

matter, to my mind, there is no merit in the instant writ petition in this context.

7. As is evident from the record that the petitioner lost majority of the elected Directors of the respondent-Bank. They moved representation dated

03.05.2011 and the Managing Director issued agenda/notice dated 04.05.2011 (Annexure P-1) for the meeting, scheduled to be held on

20.05.2011. The meeting was actually convened and the impugned resolution of "No Confidence Motion" was passed against the petitioner by

2/3rd majority, which in substance is, as under:

Agenda Decision

1. To consider the representation dated 1. No Confidence Motion against Sh. Ravinder

03.05.2011 given by the Directors of the Singh Waraich, Chairman considered. All the

Kurukshetra Central Co-operative Bank present elected Directors alleged that they have

Ltd., Kurukshetra regarding No confidence in the working of Shri Ravinder

Confidence Motion against Sh. Ravinder Singh Waraich, Chairman, due to his style of

Singh Waraich, Chairman of the Bank. functioning. The loaning other than agriculture

(NFF) sector is reducing due to his interference

in the bank working. He has failed to give

leadership to the management of the Bank, due

to which the bank has undergone a heavy loss of

Rs.360.00 lacs (Rupees Three Crores Sixty

Lacs only) during the year 2010-11. The elected

Directors have lost confidence in him, as such

No Confidence Motion against Shri Ravinder

Singh Waraich, Chairman is passed

unanimously.

8. Ex facie, the arguments of the learned counsel that as the allegations alleged against the petitioner were not sufficient to warrant his removal and

the entire Board was liable to be removed u/s 34 of the Act, therefore, the impugned resolution (Annexure P-2), is illegal and against the statutory

provisions, are not only devoid of merit but misconceived as well.

9. As indicated earlier, there are direct allegations, depicted in the impugned resolution (Annexure P-2) that the elected members had no

confidence in the working of the petitioner, due to his style of functioning and the amount of loan other than the agriculture (NFF) Sector has been

considerably reduced, on account of his interference in the Bank working. It has been specifically claimed that the petitioner has failed to provide

leadership to the management, due to which, the respondent-Bank has undergone a heavy loss of Rs.360 lacs (Rupees three crores and sixty lacs)

during the financial year 2010-2011.

10. As is clear that Section 30-A of the Act escalates that the elected members of the committee may bring a motion of no confidence against the

elected office bearers, i.e., Chairman and Vice-Chairman other than the Government nominees, by levelling specific allegations against such

Chairman and Vice-Chairman. If the motion of no confidence is passed by a resolution of 2/3rd majority of the total number of elected members of

the society concerned at a meeting specially convened for the purpose, the Chairman or Vice-Chairman shall cease to function as such with

immediate effect and the election of new office bearers shall be held within two months of the removal in accordance with Section 30 of the Act.

11. Therefore, since there are direct allegations against the petitioner, described in the impugned resolution, inter alia, with regard to causing huge

losses of Rs.360 lacs to the respondent-Bank, so, there is a complete compliance of Section 30-A of the Act.

12. Sequelly, the next celebrated argument of the learned counsel for the petitioner that other members of the Board were also responsible for

causing the indicated loss to the respondent-Bank, again is not tenable and relevant. The moot point to be decided in the instant case is, as to

whether the petitioner enjoys the majority of the elected members or not? It is not a matter of dispute that motion of "No Confidence" (Annexure

P-2) was passed by a resolution of 2/3rd majority of the total number of elected members, of the respondent-Bank, in the meeting specially

convened for particular indicated purpose. The moment, a resolution of "No Confidence" is passed, then the Chairman or Vice-Chairman shall

cease to function, as such, with immediate effect and the election of new office bearer shall be held within a period of two months of the removal,

as contemplated u/s 30-A of the Act.

13. To my mind, while deciding the validity or otherwise of the meeting of "No Confidence Motion", only statutory majority of 2/3rd members is

required and is only a paramount consideration in this respect. The petitioner can remain the Chairman of the respondent-Bank only with the

support of majority of the members and not otherwise. If the majority of the elected Directors is of the opinion that they do not want the person

holding the post of Chairman to continue in that post, then the petitioner should retire gracefully. The opinion of the majority has to be respected in

a democratic regime. The moment, they vote against him in a special meeting, he ceases to be a Chairman and he cannot possibly be permitted to

find fault here and there in convening and proceeding of the special meeting on technical defects, as urged on his behalf, unless any kind of

prejudice is shown to have been caused to the petitioner or vitiated the proceedings of resolution, in any manner, in this relevant behalf, which are

totally lacking in the instant case. Moreover, learned counsel for the petitioner did not point out that how, in what manner and stage, any legal

provision was violated, vitiating the resolution of "No Confidence Motion". If the petitioner is so confident, then again he can participate in the fresh

election, in accordance with law. Once, the petitioner has lost the majority, then he cannot be permitted to remain in chair of such grass-root

democratic institution. The support of majority is a paramount consideration and basic feature of such democratic institutions. The clear legislative

intent contained in Section 30-A of the Act has to be respected and implemented in the manner, as commanded by it and not otherwise.

14. In this manner, it is held that since the petitioner has lost the majority, so, the resolution(Annexure P-2) of "No Confidence Motion" was rightly

passed and he has no legal right to remain on the post thereafter. Therefore, the contrary arguments of the learned counsel for the petitioner ""stricto

sensu"" deserve to be and are hereby repelled under the present set of circumstances.

15. No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the petitioner.

16. In the light of aforesaid reasons, as there is no merit, therefore, the instant writ petition is dismissed in the obtaining circumstances of the case.