
(1968) 10 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2405 of 1968

Shri Jagdish Ram

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 09-10-1968

Acts Referred:

Co-operative Societies Act, 1961 — Section 50

Citation : (1968) 10 P&H CK 0006

Hon'ble Judges : Balraj Tuli, J

Bench : Single Bench

Advocate : J.L. Gupta, for the Appellant; R.L. Narula for Advocate-General and Mr. R.L. Sharma for Respondents Nos. 5 to 10, for the Respondent

Final Decision : Allowed

Judgement

B.R. Tuli, J.—Jagdish Ram and Raghbir Dass petitioners are the President and Member, respectively, of the Ghamirpur Soil Conservation Co-operative Society, Ghamirpur, Tehsil Anandpur Sahib, District Rupar. The said Co-operative Society was formed in the year 1953 and one of the business of the Society was said and is to grow forests. A General Meeting of the Society was held on the 30th July, 1967, at which new members of the Executive Committee were elected. In that meeting, one of the items to be considered was "the conduct of the Secretary and the Guard about the irregularities and misappropriation committed by them as has been reported by a Sub-Committee appointed on the 8th of July, 1967." It is alleged that respondents 5 to 10 were fully conscious and aware of their duties and also their deeds and misdeeds and as such they purposely absented themselves from the meeting. They even persuaded some other persons to absent themselves from the meeting. Consequently, about 25 persons out of a total membership of 68 were absent and Baldev Dass respondent No. 6, who was the Secretary of the Society, did not produce the records and the minute-book containing the details of the previous meeting and absented himself purposely from the meeting. The minutes of the meeting of 30th July, 1967, were recorded

in a new minute-book. The Secretary Shri Baldev Dass was dismissed in the general meeting held on 30th July, 1967, and he moved an application before the Assistant Registrar, Co-operative Societies, on 4th August, 1967, making various allegations particularly at the meeting held on 30th July, 1967, that the quorum was not present and the signatures of the members shown as present were obtained surreptitiously. The Assistant Registrar, respondent No. 4, appointed Shri Gurdarshan Singh, Inspector, soil Conservation Societies, Kurali, to hold an enquiry into the matter. It is alleged that the petitioner and other members, who attended the meeting, were not given any proper notice in this behalf. In the meantime, the action taken by the Committee against the Forest Guard was approved by the Divisional Forest Officer, Rupar, who was the competent authority in this behalf. On 17th of August, 1967, petitioner No. 1 wrote two applications for seeking clarification regarding the enquiry proposed by the department but did not get any reply in this behalf. On 24th August, 1967, respondents 5 to 10 as also some other members are stated to have held a general meeting at which election of office-bearers took place. At that meeting, certain other persons were elected as office-bearers. A dispute, therefore, arose as to which meeting was a valid meeting. An enquiry was held by the Inspector, Shri Gurdarshan Singh, on 26th of August, 1967, and he made a report that the meeting held on 30th July, 1967 was not genuine. Against that order, an appeal was filed before the Registrar as also the Minister. On 26th of December, 1967, the Government appointed Shri S. S. Pal, the Assistant Registrar (Headquarters) to hold an enquiry. Mr. Pal held a preliminary enquiry and reported to the Government that a regular enquiry as provided u/s 50 of the Co-operative Societies Act, 1961 (hereinafter called the Act) should be held. As a result of his recommendation, the Government appointed Shri Bhatti, Inspector, Headquarters, to hold an enquiry. Shri Bhatti gave notice of the enquiry to both the parties, examined the records of both the parties, made the spot inspection to find out if there was any loss of trees etc. and thereafter, he reported that respondents 5 to 10 had bungled matters, misused and converted to their own use the property of the Society. The Government thereafter vide their memorandum dated 23rd April, 1968, issued instructions to the Registrar directing :

- (1) That the meeting of the 30th of July, 1967 is declared valid.
- (2) Shri Baldev Dass, Secretary and Shri Anand Ram, Guard should be dismissed.
- (3) That the record of the Society, which was in possession of Shri Baldev Dass, Secretary be taken from him and handed over to the President.
- (4) That the loss of trees etc. be got assessed through the authorities of the Forest Department and the guilty persons be asked to make good that loss, and that.
- (5) The accounts etc. be got audited through the Head Auditor.

This assertion of the petitioners in para 19 of the petition with regard to the

memorandum dated 23rd April, 1968, has been admitted in the return filed on behalf of respondents 1 to 4.

2. After this decision was conveyed to the petitioners, petitioner No. 2 made a representation to the Assistant Registrar asking him to direct respondents Nos. 5 to 10 and in particular Shri Baldev Dass to desist from selling the property of the Society. By letter dated 29th June, 1968, the Assistant Registrar, Co-operative Societies, Rupar, directed Shri Baldev Dass not to sell any property. In this letter, the decision of the Government regarding the validity of the meeting held on 30th July, 1967, was also conveyed to Shri Baldev Dass as also to petitioner No. 1. Thereafter, a deputation led by Rattan Singh Thor met Chaudhary Kartar Singh, Minister for Co-operation and Parliamentary Affairs, on July 24, 1968, and the Minister directed that the Joint Registrar should look into the matter and if it was found that unauthorised persons were auctioning the grass, a direction restraining those persons from auctioning the grass should be issued. In compliance with these orders of the Minister, an enquiry was held by Shri Sukhinder Singh, Assistant Registrar. He directed that the auction of the grass should be stayed pending the enquiry. It is against this interference by the Minister that the petitioners have filed the present writ petition for restraining the respondents 1 to 4 from reopening the matter with regard to the validity of the meeting held on 30th July, 1967, and starting the enquiry, over again, directing them to implement the order of 23rd of April, 1968 and holding that the Minister is not competent to review the matter.

3. From the fact given above, about which there is no dispute, it is abundantly clear that the order made by the State Government which was conveyed by memorandum dated 23rd April, 1968, was a final order u/s 69 of the Co-operative Societies Act and this matter could not be reviewed and reopened as no power of review has been given to the State Government under the Cooperative Societies Act. The action of the Minister for staying the auction of the grass by the Managing Committee elected on 30th of July, 1967, was an undue interference in the affairs of the Society and cannot be supported by any provision of law. The Action taken by Shri Sukhinder Singh, Assistant Registrar, in consequence of that order of the Minister, was also without jurisdiction and had been rightly objected to by the petitioners. It is undisputed that the officers of the executive Government have to justify their actions under some provisions of the law. No provision of law has been brought to my notice under which after an order had been passed by the State Government u/s 69 of the Co-operative Societies Act, it was competent to the Minister to reopen that matter and thus interfere in the internal management of the Society. The Minister has no power of supervision under the Act with regard to the Co-operative Societies and, therefore, his action cannot be upheld.

4. For the reasons given above, this writ petition is allowed with costs and it is held that the members of the Managing Committee elected in the meeting held on 30th July, 1967, were validly elected and have the right to manage the

business and affairs of the Co-operative Society. The respondents are directed to implement the order passed by the State Government as contained in the memorandum dated 23rd of April, 1968, the contents of which have been admitted in the return filed on behalf of respondents 1 to 4. The order of the Assistant Registrar staying the auction is quashed.