

(2014) 05 SHI CK 0096

In the High Court Of Himachal Pradesh

Case No : RP No. 4103 of 2013 and COPC No. 166 of 2014

Shri Labdh Ram and Another

APPELLANT

Vs

Shri Thakur Dass Bhardwaj and Others
 Shri Thakur
Dass Bhardwaj and Others Vs Shri R.D. Nazeem

RESPONDENT

Date of Decision : 22-05-2014

Acts Referred:

Himachal Pradesh Co-operative Societies Act, 1968 — Section 93, 94, 94(1)

Citation : (2014) 05 SHI CK 0096

Hon'ble Judges : Mansoor Ahmad Mir, Acting C.J.;V.K. Sharma, J

Bench : Division Bench

Advocate : Rajiv Rai, Advocate for RP No. 4103 of 2013, Mr. Shrawan Dogra, Advocate General, Mr. V.S. Chauhan, Additional Advocate General and Mr. Kush Sharma, Deputy Advocate General for RP No. 4109 of 2013, Mr. R.L. Sood, Senior Advocate and Mr. Arjun Lall, Advocate. COPC No. 166 of 2014, Advocate for the Appellant; R.L. Sood, Senior Advocate, Mr. Arjun Lall, Advocate COPC No. 166 of 2014 and RP Nos. 4103 and 4109 of 2013 for Respondents Nos. 1 to 7, Mr. Shrawan Dogra, Advocate General, Mr. Romesh Verma and Mr. V.S. Chauhan, Additional Advocate Generals and Mr. Kush Sharma, Deputy Advocate General COPC No. 166 of 2014 and RP No. 4103 of 2013 for Respondents Nos. 8 to 11, Mr. Romesh Verma, Additional Advocate General for Respondents No. 8 to 10 and Mr. Rajiv Rai, Advocate RP No. 4109 of 2013 for Respondents No. 11 and 12, Advocate for the Respondent

Judgement

Mansoor Ahmad Mir, Actg. C.J.

1. Both the review petitions and the contempt petition are outcome of the judgment and order, dated 14th November, 2013, made by this Court in CWP No. 7587 of 2013, on the grounds taken in the memo of review petitions and the contempt petition, thus, are being disposed of by this common order.

2. It appears that the proceedings were pending before Registrar, Co-operative Societies, which were determined vide its order, dated 27th May, 2013. Feeling aggrieved, the writ petitioners in CWP No. 4277 of 2013-H questioned the said

order by the medium of CWP No. 4277 of 2013-H alongwith the order, dated 22nd February, 2013, passed by the Principal Secretary (Co-operation) to the Government of Himachal Pradesh, and the communication, dated 14th March, 2013, addressed by the Principal Secretary (Co-operation) to the Government of Himachal Pradesh to one of the writ petitioners in CWP No. 4277 of 2013-H.

3. This Court determined the said lis vide its order, dated 26th June, 2013, with a direction to the Registrar to pass fresh orders. The matter came up before the Registrar and after hearing the parties, made the order, dated 11th September, 2013. Feeling aggrieved by the said order, the writ petitioners in CWP No. 7587 of 2013 again questioned the same by the medium of CWP No. 7587 of 2013-I.

4. This Court vide its judgment and order, dated 14th November, 2013, disposed of the said writ petition with a direction to the writ petitioners to present revision petition within one week from the date of the judgment before the Revisional Authority and ultimately, the Revisional Authority was directed to decide the revision petition within three weeks from the date of presentation of the revision petition. The parties were further directed to appear before the Revisional Authority on 25th November, 2013 at 11.00 A.M.

5. The review petitioner in RP No. 4109 of 2013, i.e. Registrar Co-operative Societies, is aggrieved by the said judgment and order made by this Court, dated 14th November, 2013, on the ground that remarks have been made against him in the said judgment and order, which are uncalled for.

6. The review petitioners in RP No. 4103 of 2013 have filed the review petition on the ground that the judgment and order, dated 14th November, 2013, suffers from the mistakes and errors, which are apparent on the face of the record.

7. Heard.

8. In para-3 of the judgment and order under review, this Court has held that though this Court has, prima facie, found force in the grievances of the writ petitioners, but thought it proper to relegate them to resort to remedy of revision u/s 94 of the Himachal Pradesh Co-operative Societies Act, 1968 (hereinafter referred to as "the Act") and made observations that the Revisional Authority can consider all the questions, factual as well as legal, in accordance with law, on merits, with a further direction to examine all the questions afresh. This Court has not only stopped here but has held that the Registrar, Co-operative Societies has passed the judgment and order on the same lines, which were made basis for the earlier judgment and order, virtually reiterating the same position stated by him in the first order, which was set aside by this Court while determining CWP No. 4277 of 2013.

9. It appears that the mistakes and errors are apparent on the face of the record. In one breath, this Court has held that, prima facie, there is force in the grievance of the writ petitioners but relegated them to invoke the remedy of revision in terms of Section 94 of the Act and in the second breath has also held

that the Registrar has passed the same order, which it has passed earlier reiterating the same position and concluded that the order is bad. It is apt to reproduce Section 94(1) of the Act herein:

94. Review and Revision:-

(1) The state Government except in a case in which an appeal is preferred u/s 93 may call for and examine the record of any inquiry or inspection held or made under this Act or any proceedings of the Registrar or of any person subordinate to him or acting on his authority, and may pass thereon such orders as it thinks fit.

10. A bare perusal of Section 94(1) of the Act reveals that the Government can exercise powers and call for records of the proceedings pending before the Registrar or of any person subordinate to him or acting on his authority. Meaning thereby, the Revisional Authority has powers to examine order of the Registrar or of any person who is subordinate to him.

11. It is nowhere prescribed or concluded in the judgment and order under review that the order impugned in the said writ petition was set aside. Meaning thereby, the Revisional Authority has to examine the revision petition which was to be presented by the writ petitioners against the order of the Registrar and what the Revisional Authority had to do in terms of the order of the Writ Court is not forthcoming in view of the findings recorded by this Court in the said judgment and order, whereby the order of the Registrar was held to be bad, illegal and came to be remanded in breach of the judgment and order of this Court made in the earlier writ petition. Thus, the mistakes and errors are apparent on the face of the judgment and order under review.

12. With the consent of the learned counsel for the parties read with the discussions made hereinabove, we deem it proper to allow the review petitions, recall the order, dated 14th November, 2013 and restore the writ petition. Ordered accordingly.

CWP No. 7587 of 2013

13. The writ petition is taken on Board with the consent of the learned counsel for the parties and is disposed of by providing that the order made by the Registrar, which is the subject matter of this writ petition, is set aside and the revision petition alongwith record is withdrawn from the dockets of the Registrar and transferred to the Principal Secretary (Co-operation) to the Government of Himachal Pradesh, who is already seized of the matter, in terms of the order passed by this Court on 14th November, 2013.

14. We hope and trust the Principal Secretary (Co-operation) to decide the revision petition, uninfluenced by any observation made by this Court in the judgment and order, dated 26th June, 2013 in CWP No. 4277 of 2013 and in the judgment and order, dated 14th November, 2013, in CWP No. 7587 of 2013, which stands reviewed, within eight weeks w.e.f. 2nd June, 2014.

15. The parties through their counsel are directed to cause appearance before the Principal Secretary (Cooperation) on 2nd June, 2014.

16. It is made clear that the observations and remarks made by this Court against the Registrar, Co-operative Societies stand expunged and the proceedings drawn by any Authority against him in terms of the said judgment and order shall stand dropped.

COPC No. 166 of 2014

17. In view of the observations made (supra), the petitioner does not intend to press this contempt petition. Hence, the contempt petition is dismissed as not pressed alongwith pending applications, if any.

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