
(2013) 09 P&H CK 0335
In the Punjab And Haryana At Chandigarh
Case No : CM No. 12458 of 2013

Sultan Singh and Others

APPELLANT

Vs

The Registrar, Cooperative Societies and Another

RESPONDENT

Date of Decision : 06-09-2013

Acts Referred:

Citation : (2014) LabIC 347

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : S.S. Dinapur, for the Appellant; G.S. Sandhu and Rajeev Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Prayer in this application is for restoration of the writ petition, which was dismissed for non-prosecution vide order dated 23.08.2013 due to non-appearance of the counsel for the applicant-petitioners. Notice of motion.

Mr. G S. Sandhu, Advocate accepts notice on behalf of Respondent No. 2 and states that the respondent has no objection to the prayer made in the application.

2. For the reasons mentioned in the application and in the light of the statement made by the counsel for Respondent No. 2, the present application is allowed. Order dated 23.08.2013 is recalled and the writ petition is restored to its original number.

3. On the request made by the counsel for the parties, this main writ petition is taken on board for final decision.

CWP No. 1320 of 1992

4. Petitioners have approached this Court impugning the decision of the Mustafabad Cane Growers Co-operative Society Limited-respondent No. 2 (hereinafter referred to as "Society") dated 19.05.1990 vide which through a

majority resolution, the services of the petitioners are sought to have been terminated because of the cancellation of the resolution No. 1 dated 24.04.1990 passed by the said Society. Appeal preferred by the petitioners against their termination before the Registrar, Co-operative Societies stands dismissed vide order dated 29.11.1991 (Annexure P-6).

5. It is contention of the learned counsel for the petitioners that the petitioners were appointed in pursuance to an advertisement dated 22.03.1990 issued in the Indian Express Newspaper. They applied in pursuance thereto and were interviewed on 24.04.1990. After interview, Resolution No. 1 was passed by the Society on 24.04.1990 (Annexure P-2), vide which Petitioner Nos. 1 and 2 were appointed as Supervisors and Petitioner No. 3 as Clerk in the Society. Appointment letters were issued to them, according to which they were required to join on 26.04.1990. Pursuant thereto, petitioners joined their services. Thereafter, vide a Resolution dated 19.05.1990 (Annexure P-5), Resolution No. 1 vide which the petitioners were appointed, has been cancelled along with Resolution Nos. 2 and 3 of the same date. This had the effect of termination of the services of the petitioners. This action of the respondent-Society was challenged by the petitioners by filing appeal before the Registrar, Co-operative Societies, Haryana, which was dismissed vide order dated 29.11.1991 (Annexure P-6) holding therein that the powers exercised by the Managing Committee are within the provisions of the Act and the Rules as also the bye-laws of the Society. Counsel further contends that subsequently vide Resolution No. 4 dated 29.06.1991 (Annexure P-7), the respondent- Society has appointed 15 daily paid Kamdars on seasonal basis, which shows the mala fide intention on the part of the Society as the annulment of the earlier Resolution vide which the petitioners were appointed was based upon a premise that the salary expenses could not be borne by the Society when compared with the income, which was generated by it. He, therefore, contends that the termination of the services of the petitioners cannot sustain. His further contention is that the Resolution dated 19.05.1990 passed by the respondent-Society is not in accordance with Bye-law 24 of the Society as according to the said bye-law, the attendance of at least 5 members of the Managing Committee is mandatory for disposal of any business and in the meeting dated 19.05.1990 when the resolution was passed there were only 4 members present. He, on this basis, contends that the coram was not complete and the decision taken in the said meeting, therefore, has no force of law. Accordingly, he prays for setting-aside the impugned resolution as also the appellate order with a further direction to the respondents to reinstate the petitioners with all consequential benefits.

6. On the other hand, learned counsel for the Society submits that the bye-laws of the Society have been amended and as per the new Bye-law 22, the Managing Committee consists of 7 elected members. As per Bye-law 24, the attendance of at least 3 members shall be required for disposal of any business. He, on this basis, contends that the impugned resolution dated 19.05.1990 was passed by 4 members and, therefore, the minimum mandated members, i.e., 3 was

exceeded. The resolution, thus, passed is in accordance with the Bye-laws of the Society. That apart, he states that well reasoned and considered opinion has been reached by the Society as the resolution itself projects the financial burden which the Society would have incurred in case the petitioners had been continued in service which would have virtually rendered the Society penniless, rendering the society non-viable. Counsel further contends that the appeal preferred by the petitioners has already been considered by the competent authority and the same stands dismissed. Prayer has, thus, been made for dismissal of the writ petition.

7. I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case.

8. In the light of the amended bye-laws of the Society as contained in Bye-laws 22 and 24, the Managing Committee consists of 7 elected members and the attendance of at least 3 members is required for the disposal of any business. The amended provisions clearly bring the resolution impugned in this case, i.e., dated 19.5.1991 (Annexure P-5) within the legal composition and the powers of the Managing Committee and since the resolution has been passed as per the applicable bye-laws, the same cannot be said to be not in accordance with the bye-laws of the Society and, therefore, not having any force of law. Further, there are justifiable reasons given for cancelling Resolution No. 1 dated 24.04.1990 vide which the petitioners were appointed and the same cannot be faulted with as the financial condition of the Society, which had to make the appointments, depict the difficult situation which it was likely to face in case the services of the petitioners were continued. It is also not out of place to mention here that as per the bye-laws of the Society, the appointment of the employees is to be approved by the Registrar, which process has also not been initiated nor the appointments of the petitioners have still been approved when the resolution vide which they were appointed has been cancelled by the Society. As a matter of fact, the petitioners only worked for 26 days with the respondent-Society. The order passed by the Appellate Authority also goes against the petitioners and in the said order dated 29.11.1991 passed by the Registrar, Cooperative Societies, Haryana, the termination of the services of the petitioners has been found to be in accordance with the provisions of the Act, Rules and Bye-laws of the Society. There is no illegality found in this order also. In view of the above, finding no merit in the present writ petition, the same stands dismissed.