courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 19/09/2026

(1971) 10 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : C.W. No. 571 of 1967

Tara Chand and others APPELLANT

Vs

The State of Haryana and others RESPONDENT

Date of Decision : 13-10-1971

Acts Referred:

Punjab Co-operative Societies Act, 1961 — Section 59

Citation : (1971) 10 P&H CK 0005

Hon'ble Judges : Bal Raj Tuli, J

Bench : Single Bench

Advocate : Surinder Sarup, for the Appellant; Hari Mital for Respondent Nos. 1 and 2, for the Respondent

Final Decision : Allowed

Judgement

B.R. Tuli, J.—The petitioners are members of the Mohindergarh Co-operative Dairy Society Limited, Mohindergarh, which was ordered to be wound up in 1965. The liquidator passed orders on various dates determining the liability of the petitioners for contribution to the assets of the said co-operative society in order to pay off its liabilities. The amount for which each of the petitioners was held liable for contribution was approved by the Assistant Registrar. Thereafter notices were issued to the Petitioners demanding the sum of Rs. 254.76 from each of them. In order to contest the notices of demand, the present petition was filed.

2. The main plea of the petitioners is that no notice was issued to them before determining their liability. Section 59 of the Punjab Cooperative Societies Act, 1961, empowers the liquidator to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of the deceased members or by any officers or former officers, to the assets of the society. In order to carry out the objects of the Co-operative Societies Act, rules have been framed called the Punjab Co-operative Societies Rules, 1963. Rules 58 and 59 are as under:-

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/tara-chand-and-others-appellant-...

58(1). The liquidator shall, as soon as the order of winding up of the co-operative society takes effect, publish by such means as he may think proper, a notice requiring all claims against the cooperative society, the winding up of which has been ordered, to be submitted to him within one month of the publication of the notice. All liabilities recorded in the account books of a co-operative society shall be deemed ''ipso facto'' to have been duly submitted to him under this sub-rule.

(2) The liquidator shall, after settling the assets and liabilities of the co-operative society as they stood on the date on which the order for winding up is made, proceed next to determine the contribution to be made by each of its members, past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers to the assets of the society under clauses (b) and (c) of sub-section (2) of section 59. Should necessity arise, he may make a subsidiary order regarding such contributions and such order shell be enforceable in the same manner as the original order.

(3) The liquidator may, at any time, call a meeting of the members or of the creditors or a joint meeting of the members and creditors and such meeting shall be called, hell and conducted at such time and place and in such manner as a liquidator may deem fit.

59. An order passed by the liquidator under clause (b) of sub-section (2) of section 59 shall be submitted by him to the Registrar for approval. The Registrar may modify sum order or refer it back to the liquidator for further enquiry or action.

Since the liability to pay of each member has to be determined, the proceedings for determination are quasi-judicial in nature and his incumbent on the liquidator to issue a notice to the members to show cause why they should not be saddled with the liability proposed. If the member does not object, the liability can be fastened on him but if he raises an objection, that objection has to be gone into and decided. It is not permissible to the liquidator to pass an order of contribution against a member without issuing such a notice to him. The matter is not res Integra. In similar circumstances, it was held by Kapur, J. (as his Lordship then was) in Dharam Pal Vs. The Jagadhri Thatera Co-operative Society, , that a notice was necessary to be issued to a member before determining his liability. In that case, the liability of Dharam Pal was determined by the liquidator u/s 42(2)(b) of the Co-operative Societies Act, 1912, without issuing any notice to him. The order was confirmed by the Assistant Registrar, Co-operative Societies. When the liquidator took proceedings for recovery of money from Dharam Pal through a Civil Court, he objected that he had never been given any notice by the liquidator before his liability was determined. The learned Judge held that the doctrine of natural justice is a cardinal principle of administration of Justice in this country and any determination by a liquidator without giving an opportunity to the person whose liability is to be determined is a nullity as it is contrary to natural justice. Respectfully agreeing with that dictum, I hold that the notices of demand issued to the petitioners in the present

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/tara-chand-and-others-appellant-…

case are nullities and are liable to be quashed.

3. It may be pointed out that the liquidator of the Co-operative Society (respondent 3) has not chosen to file any return to the petition or has arranged for any appearance on his behalf. The return filed by respondents 1 and 2 is not helpful on this point.

4. The result is that this petition is accepted with costs and the notices of demand issued to the petitioners are hereby quashed. The costs are to be paid by respondent 3. The liquidator will be at liberty to redetermine the matter after notice to the petitioners. Counsel''s fee Rs. 100.00.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/tara-chand-and-others-appellant-…