
(1985) 10 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4727 of 1978

Tara Singh

APPELLANT

Vs

Landra Co-op.Agri.Service Society Ltd.Landra

RESPONDENT

Date of Decision : 18-10-1985

Acts Referred:

Citation : (1986) PLJ 643 : (1987) 1 PLR 661 : (1986) RRR 544

Hon'ble Judges : G.C.Mital, J

Advocate : Mr. J.C. Batra, Advocate., Advocates for appearing Parties

Judgement

G.C. Mital, J. (Oral)

1. The petitioner filed a revision under section 69 of the Punjab Cooperative Societies Act, 1961, before the State Government. The Deputy Secretary, Cooperative Societies took up the revision on October 5, 1976, at Chandigarh. The petitioner was represented by a counsel and his counsel appeared on that date. On that date, the counsel was informed that the case was fixed on October 7, 1976, at Jullundur, in the Cooperative Bank premises. The petitioner was not present on October 5, 1976, and, therefore, his counsel tried to contact him on phone to inform him that he had to appear at Jullundur on October 7, 1976. However, the counsel was unable to inform the petitioner due to paucity of time as the telephone call did not mature. The case was taken up on October 7, 1976, and the revision was dismissed on merits in the absence of the petitioner vide order Annexure P2. The petitioner filed a review application to hear his revision in his presence. That application was dismissed vide order dated January 10, 1978, Annexure P 3, on the ground that he had no power to set aside the ex parte order of his predecessor. In this writ petition, orders P2 and P3 have been impugned on the ground that the petitioner was entitled to be heard before the matter was decided and there was wholly insufficient time for the petitioner to appear or make arrangement for hearing on October 7, 1976.

2. Notice of the writ was served on the respondents during motion hearing. In spite of service none had appeared on behalf of the respondents. Even at the

time of final hearing, in spite of service of notice, none has appeared nor any reply has been filed. Accordingly, I proceed to decide the case ex parte.

3. After hearing the learned counsel for the petitioner, I am of the view that this writ petition deserves to succeed. The undisputed facts on record clearly go to show that the petitioner had filed a revision through a counsel and the case was fixed for October 5, 1976, at Chandigarh, where the counsel appeared. Two days' date was given for appearance at Jullundur. This was not sufficient time for the counsel for the petitioner at Chandigarh to inform his client to appear at Jullundur on October 7, 1976, and hence I am of the view that there has been a violation of principles of natural justice, as sufficient time was not afforded to the petitioner to make arrangement for appearance at Jullundur.

4. Accordingly, order Annexure P2 deserves to be set aside.

5. Order Annexure P.3 also suffers from legal infirmity. A decision of this Court was cited before the Authority who was hearing the review application to the effect that an ex parte order like Annexure P. 2 can be set aside by that Authority and that decision was distinguished on the sole ground that the reviewing authority had no jurisdiction to set aside the ex parte order of its predecessor. The Authority remains the same whether it is manned by one officer or the other and under law even a successor officer has the power to recall or set aside the ex parte order of his predecessor. Hence the reviewing authority failed to exercise jurisdiction vested in him for recalling the order Annexure P. 2. Hence the order Annexure P. 3 also deserves to be quashed.

6. For the reasons recorded above, orders Annexure P. 2 and P. 3 are quashed with the result that the revision filed by the petitioner becomes pending. The petitioner through his counsel is directed to appear before the Deputy Secretary to Government, Punjab, Cooperative Department, on November 18, 1985. The concerned authority shall proceed to decide the case after issuing notice to the respondents in accordance with law. There will be no order as to costs.