
(2013) 01 RAJ CK 0210
In the Rajasthan High Court
Case No : Civil Special Appeal No. 52 of 2013

Tej Singh

APPELLANT

Vs

Hanumangarh Central Co-Operative Bank Ltd. and Others

RESPONDENT

Date of Decision : 23-01-2013

Acts Referred:

Rajasthan Co-operative Societies Act, 2001 — Section 125, 30B

Citation : (2013) 4 CDR 2245 : (2013) 2 WLN 250

Hon'ble Judges : Amitava Roy, C.J.; Mahendra Maheshwari, J

Bench : Division Bench

Advocate : H.S. Sidhu, for the Appellant; Anand Purohit, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Amitava Roy, C.J.—Being aggrieved by the order dt. 15.01.2013 passed in S.B. Civil Writ Petition No. 13461/2012 dismissing the appellant/writ-petitioner's challenge to the direction of the Registrar, Cooperative Societies, Rajasthan, Jaipur (for short, hereafter described as Registrar) as referred to in the impugned office order dt. 04.12.2012 whereby it was proposed to terminate his contract services, he seeks redress in the instant appeal. We have heard Mr. H.S. Sidhu, learned counsel for the appellant and Mr. Anand Purohit, learned Additional Advocate General appearing on behalf of respondent no. 4. For the order proposed to be passed in the instant appeal, we are not issuing any formal notice to the respondents No. 1, 2 and 3.

2. Shortly put the facts necessary for the present adjudication are that the appellant/writ-petitioner, who had been serving as Manager with the Hanumangarh Central Cooperative Bank Limited, Co-operative Society under the Rajasthan Cooperative Societies Act, 2001 (for short, hereafter referred to as the Act), had retired on 30.11.2012 on reaching the age of superannuation i.e. 60 years. Thereafter, in recognition of his services, the Society in its meeting held on 29.11.2012, to cater to the administrative exigencies, resolved to

appoint him on contract basis for a period of six months. As a result, the appellant/writ-petitioner started rendering his services as such as a contractual employee as Manager of the Society. Thereafter, vide office order dt. 04.12.2012, the Managing Director of the Society in response to the instructions contained in the letter dt. 12.10.2012 of the Registrar, Cooperative Societies to the effect that such post retirement contractual appointment was invalid, proposed to terminate his services. Being aggrieved, he approached this Court and by the judgment and order impugned, his challenge was negated.

3. Mr. Sidhu with reference to Sections 30B as well as 125 of the Act has urged that having regard to the vested autonomy of the Co-operative Society amongst others in the matter of recruitment of its staff, the Registrar had no overriding jurisdiction to intervene and thus, the proposed termination of his services as communicated vide office order dt. 04.12.2012 is void ab initio. As the learned Single Judge missed to notice this vital legal aspect of the controversy, the impugned judgment and order is liable to be interfered with, he urged.

4. Mr. Anand Purohit, on instructions and on an interpretation to the above two provisions of the Act, has submitted that in view of the proviso to Section 125 of the Act, which visibly restricts the power of the Registrar of Cooperative Societies to curtail and undermine the autonomy of the Society as recognized in Section 30B, the contemplated termination of the contract services of the appellant/writ-petitioner seems to be in contravention of these provisions.

5. We have considered the submissions of the learned counsel for the parties.

6. Sections 30B and 125 of the Act are extracted hereunder:-

30B-Autonomy in all financial and internal administrative matters.- Notwithstanding anything contained in this Act or any other law for the time being in force, a short term cooperative credit structure society shall have autonomy in all the financial and internal administrative matters including the following areas, namely-

- (a) personal policy, staffing, recruitment, posting and compensation to staff;
- (b) issues relating to affiliation and disaffiliation with any federal structure of its choice including entry and exit at any level.
- (c) area of operation according to its business requirements; and
- (d) internal control systems.

225. Power of Registrar to rescind certain resolutions.-(1) If in the opinion of the Registrar, any resolution passed at the meeting of any co-operative society or committee thereof is opposed to the objects of the society or is prejudicial to the interests of the society or its members at large, or is in excess of the powers of the society, the Registrar, may staying execution of the resolution interimly, propose to rescind the resolution:

Provided that the Government or the Registrar shall not do anything or take action or issue any order or directive which has effect of curtailing any of the freedom or powers given under this Act to any short term co-operative credit structure society or adversely affect the provisions of this Act.

(2) In case where the Registrar has interimly stayed execution of any resolution under sub-Section (1), he shall, within a period of forty five days, send the proposal of rescinding the resolution to the Tribunal for consideration.

(3) The Tribunal shall, after giving the society an opportunity of being heard, decide upon the proposal of the Registrar and pass its final orders.

7. A plain reading of these two provisions would demonstrate in clear terms that not only the Society in terms of Section 30B has been vested with the autonomy amongst others in the matter of recruitment of its staff, the proviso to Section 125 in no uncertain terms prohibits any interference on the part of the Registrar of Cooperative Societies in a manner having the potential of curtailing or undermining such autonomy.

8. As admittedly the appellant/writ-petitioner had been appointed on contract basis for a period of six months in acknowledgment of the services rendered by him and his continued utility in administrative exigencies as felt by the Society, the resolution to appoint him on contract basis is patently in exercise of its power traceable to Section 30B of the Act. In that view of the matter, the intervention of the Registrar of Co-operative Societies Jaipur in the manner done, as is evident from the office order dt. 04.12.2012 of the Managing Director of the Society, in our view, is opposed to the letter and spirit of the proviso to Section 125 of the Act. In the above view of the matter, we are inclined to intervene. As a result, the decision to terminate the contract services of the appellant/writ-petitioner as communicated by the office order dt. 04.12.2012 is held to be illegal and in violation of the provisions of the Act. As it has been submitted on behalf of the appellant/writ-petitioner that meanwhile he has been relieved of the charge of the office of the Manager, which he had been holding on the basis of contract services, we consequently direct that the charge be restored to him. The appeal is thus allowed. We, however, make it abundantly clear that this adjudication has been made in the facts and circumstances of the case and should not be construed to be the liberty granted to the Society to make further appointment to the appellant/writ-petitioner on such contract basis. It would, however, be open to it to make its own assessment of its requirement and take an appropriate action on the basis thereof.

No costs.