
(1991) 10 P&H CK 0016

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12297 of 1990

The Central Co-operative Consumers Store Ltd., (Super Bazar)

APPELLANT

Vs

The Secretary Co-operation, Chandigarh Administration and Others

RESPONDENT

Date of Decision : 10-10-1991

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1992) 101 PLR 139

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Nemo, for the Appellant; Anand Swaroop Ajay Tiwari, for the Respondent Nos. 1 to 3 and B.S. Khoji, for the Respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jhanji, J.—Gagan Narula, respondent No. 4 was employed by Central Cooperative Consumer's Store Limited (hereinafter referred to as the Society) and was working as a Salesman in Super Bazar, Chandigarh. He was dismissed from service by the General Manager, Super Bazar, vide order dated 31-7-1990 (Annexure P-6). Being aggrieved against the order of dismissal, he preferred an appeal before the Sub-Divisional Magistrate exercising the powers of Joint Registrar, Cooperative Societies, Chandigarh, who by order dated 1-8-1990 (Annexure P-8) entertained his appeal and stayed the order of dismissal. The petitioner-Society has filed the present writ petition challenging the order dated 1-8-1990 (Annexure P-8) passed by the Sub-Divisional Magistrate exercising the powers of Joint Registrar, Cooperative Societies, Chandigarh, staying dismissal order.

2. The main challenge in the writ petition is that delegation of all his powers by the Registrar, cooperative Societies to the Sub-Divisional Magistrate, Chandigarh,

who was already conferred with the powers of Joint Registrar, Cooperative Societies, is illegal, without jurisdiction and against the provisions of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as the Act), as applicable to the Union Territory, Chandigarh. The challenge is also made on the ground that under sub-section (3) to Section 3, it is only the Government which may, by special or general Order, confer all or any of the power of the Registrar, Cooperative Societies on any person as the Registrar himself is not competent to do so.

3. On the other hand, the respondents have defended the action of the Sub-Divisional Magistrate exercising the powers of Joint Registrar, Cooperative Societies in entertaining the appeal and staying the order of dismissal.

4. In order to appreciate the respective stand of the parties, it is necessary to reproduce the definition of Registrar as well as Section 3 which is to the following effect :-

"2(j) "Registrar" means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar."

"Section 3(1).-The Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint other persons to assist him.

(2) The Government may, by general or special order, confer on any person appointed to assist the Registrar all or any of the powers of the Registrar under this Act.

(3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2). subject to the general superintendence and control of the Registrar."

5. Sub-section (2) of section 3 of the Act makes it clear that the Government, by general or special order, is empowered to confer On any person powers of the Registrar. So far as the present case is concerned, it is not disputed that on 12-9-1963, Punjab Government, in exercise of the powers conferred under sub-section (2) of Section 3 of the Act, issued a notification conferring on all Joint Registrars, the powers of Registrar under the Act. For facility of reference, relevant portion of the notification is reproduced as under :-

"No. S.O. 403/P.A. 25/61 /S. 3/63.-In supersession of all previous notifications delegating the powers of Registrar upon the Joint Registrar, Deputy Registrars and Assistant Registrars, and in exercise of the powers conferred by sub-section (2) of Section 3 of the Punjab Co-operative Societies Act, 1961 (Punjab Act 25 of 1961), the Governor of Punjab is pleased to confer on the following officers of the Co-operative Department such powers of the Registrar as are noted against each :-

(a) All Joint Registrars, Co-operative All the powers of Societies, Punjab and Deputy the Registrar exer- Registrars, Co-operative Societies, cisable under the Punjab. aforesaid Act. (b) xxx xxx xxx xxx H. S. Achreja,

Additional Secretary to Govt. Punjab, Agriculture and Cooperation Deptt."

6. Chandigarh Administration again vide notification dated 29-11-1988 (Annexure P-2) in exercise of powers conferred by sub-section (2) of Section 3 of the Act, as applicable to the Union Territory, Chandigarh, appointed the Sub-Divisional Magistrate, Union Territory, as Joint Registrar, Co-operative Societies, Union Territory, Chandigarh.

7. The challenge of the petitioner that the Registrar has no authority to delegate such powers to the Joint Registrars is without any substance as no such delegation has been made by the Registrar to the Joint Registrars but it is only the Government who has conferred the powers of Registrar on the Joint Registrars which, of course, it was competent to do so in view of sub-section (2) of Section 3 of the Act. Thus, in view of the notifications dated 12-9-1963 and 29-11-1988, the Sub-Divisional Magistrate, Union Territory, Chandigarh, was competent to entertain the appeal and pass any order thereon.

8. As a result, I find no merit in the writ petition and the same is dismissed. However, parties are left to bear their own costs.