

(1976) 10 P&H CK 0011
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 3940 of 1976

Uksi Cooperative Agricultural Service Societies Uksi	APPELLANT
Vs	
Assistant Registrar, Cooperative Societies, Package Programme, Ludhiana	RESPONDENT

Date of Decision : 26-10-1976

Acts Referred:

Citation : (1977) PLJ 24 : (1985) RRR 545

Hon'ble Judges : Gurnam Singh, J

Advocate : Mr. B.S. Shant, Advocate, Advocates for appearing Parties

Judgement

Gurnam Singh, J.

1. The Uksi Cooperative Agricultural Service Society, Uksi, Tehsil and District Ludhiana (hereinafter referred to as the society) through its Cashier Sh. Malkiat Singh and Sh. Malkiat Singh Cashier of the Society, have filed this writ petition under Articles 226 and 227 of the Constitution of India for quashing the order dated 28.6.1976 vide which the Managing Committee of the Society, has been removed under section 27 of the Punjab Cooperative Societies Act (hereinafter referred to as the Act) on the grounds that the order, copy annexure P. 3 is not a speaking order that the same has been passed without application of mind that it is without jurisdiction, that it was passed mechanically, blindly relying on the exparte report of the Inspector, Cooperative Societies which was never brought to the notice of the Society, that the Society was not given an opportunity to meet the comments given by the Inspector, that no show cause notice was served upon the members of the Managing Committee individually, that no advice of the Board of Directors of the Bank was sought, that the Assistant Registrar, Co operative Societies was not competent to exercise jurisdiction under section 27 of the Act, that the charges were wholly vague and that the Managing Committee was functioning rightly. The Assistant Registrar respondent No. 1, has not appeared in spite of service.

2. The Assistant Registrar, Cooperative Societies, P.P. Ludhiana, pointed out the

following shortcomings regarding the work of the Society as reported by the SubInspector and the Inspector Cooperative Societies who were incharge of this Society also :

(1) That the Society is defaulter of the Central Bank since 30.6.1972 and no work is being carried out with regard to the recovery from the members. Also the defaulters cases of members are not being prepared.

(2) A large amount of cash in hand has been kept and thus the funds of the society are being misused. Regarding this, the SubInspector and the Inspector have told the Committee a number of times because the Committee has not passed a resolution regarding the limit of the cash in hand with the Cashier.

(3) The SubInspector has told the Secretary and the Committee a number of times orally as well as in writing that the loan and subsidy for the construction of godown, has been sanctioned since long and the steps should be taken for the construction of the same. The Secretary has not applied his mind to this.

(4) On 18.7.1974 and 29.7.1975, the SubInspector got recorded a resolution in the Proceedings Book that steps should be taken against the defaultermembers for recovery and the notice cards in the names of such members be prepared with regard to the arbitration references and should be sent by registered post but no notice has been sent to any such members. From this it is proved that the society is not willing to proceed against the defaultermembers because some of their family members are defaulters.

(5) In view of the above, the Managing Committee has failed to discharge its duties in accordance with the byelaws.

3. The Society, in its reply copy annexure P. 2 stated that it was not defaulter of Central Bank since 30.6.1972, that only the loan obtained for Rabi 197475 was due from the Society, that the Society had fixed the limit of cash in hand, that the construction of godown has already started that old loans were given 15 days, notice on 29.11.1975 and that the Society was discharging its duties in accordance with the byelaws. It is further stated that by 28.2.1976 the Society would recover Rs. 60,000/ and that it will comply with the directions of the Department.

4. On receipt of the reply from the Society the Assistant Registrar, Co operative Societies, sent the same to Inspector, Cooperative Societies at Dehlon for his comments. The comments of the Inspector were received on 19.4.1976. The Assistant Registrar considered the comments of the Inspector and observed that the reply filed by the Society was not satisfactory and removed its Committee and appointed respondent No. 2 as its Administrator.

5. If in the opinion of the Registrar a Committee persistently makes defaults or is negligent in the performance of the duties imposed on it, he may after giving the Committee a reasonable opportunity to state its objections, remove the same (Committee) and may appoint an Administrator. The order passed by the

Registrar under section 27 of the Act is appealable under section 68 of the Act. Section 27 of the Act requires that before any action is taken for the removal of the Committee, the Registrar has himself to form an opinion that the Committee was persistently making a default in performing its duties or is acting prejudicially to its interests. In the instant case the Assistant Registrar exercising the powers of the Registrar, while removing the Committee did not say that it was persistently making defaults in performing its duties or was acting prejudicially to its interests. He simply observed that after considering the comments received from the Inspector, Co operative societies, Dehlon, the reply of the Committee cannot be considered satisfactory. In a case where an appeal is provided against an order, the order must contain the full details of the facts so as to enable the Appellate Authority to come to the conclusion whether the order has been made correctly or not. The order passed by the Assistant Registrar gives no details of the defaults made by the Society or of the negligent acts committed by it. The Assistant Registrar also did not say anything in his order as to how he arrived at the conclusion that the Society was not functioning properly. The quasijudicial decision must be supported by reasons so that it is shown that the Registrar has applied his mind. If that is not done, the Appellate Authority will not be able to know as to how he came to the decision under appeal before it. Since the order made by the Assistant Registrar is not in accordance with law as it is not a speaking order, it has to be quashed. As the Assistant Registrar acted in flagrant violation of the rules of natural justice, so the writ petition is competent under Article 226 of the Constitution of India. The reply filed by the Managing Committee of the Society shows that their working was not faulty and as such there was no ground for its removal. The order passed by the Assistant Registrar, copy annexure P. 3, is, therefore, quashed and this writ petition is accepted.