

(2021) 01 SHI CK 0046
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 4337 Of 2020

Veerta Devi & Another

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Himachal Pradesh Co-Operative Societies Act, 1968 — Section 93

Citation : (2021) 01 SHI CK 0046

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Ajay Sharma, Anandita Sharma, Sumesh Raj, Dinesh Thakur,
Sanjeev Sood, Divya Sood, B.C. Negi, Surinder Saklani

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioners have primarily prayed for the following reliefs:-

â??a) That impugned orders dated 30.07.2020 passed by respondent No.3 available in Annexure P-6 may very kindly be quashed and set aside with

directions to respondents No.2, 3 and the proforma respondent herein, i.e. Assistant Registrar Cooperative Societies, Nurpur, to look into the matter as

per provisions of the Act and Rules and allow joining to the petitioners as Secretary and Salesman, respectively, in respondent No.5-society;

b) That respondent No.1 or in the alternative, learned Chief Secretary of the State of H.P. may very kindly be directed to hold an inquiry or get it

conducted against respondent No.3 for misconduct as per provisions of service jurisprudence and take action accordingly and file Action Taken

Report on the records of proceedings of this case;

c) That incumbents managing the affairs of respondent No.5-society may very kindly be banned from participating in the affairs of the cooperative

societies, particularly respondent No.5-society, for the period as is deemed fit by this Honâ??ble Court and they be fined heavily in terms of money

as is deemed fit by this Honâ??ble Court to be recovered from them and paid to the petitionersâ??.

2. The issue involved in this petition is with regard to the legality of order dated 30.07.2020, passed by the Court of learned Additional Registrar,

Cooperative Society, H.P. Dharamshala, District Kangra, in case No.251 of 2020, titled as The Mathari Cooperative Agriculture Service Society Ltd.

Mathari Versus The Assistant Registrar Cooperative Societies Nurpur, instituted under Section 93 of the H.P. Cooperative Societies Act, 1968. Said

appeal was filed before the said statutory authority by Mathari Cooperative Agriculture Service Society Ltd., feeling aggrieved by order dated

30.01.2020, passed by Assistant Registrar, Cooperative Societies Nurpur.

3. Having heard learned counsel for the parties and having perused the pleadings, as impugned order dated 30.07.2020, prima facie, can neither be

said to be a speaking or reasoned order, in my considered view, interest of justice will be served in case this petition is disposed of by setting aside

order dated 30.07.2020 and by remanding the matter back to the Appellate Authority for adjudication afresh in accordance with law. The reason as to

why this Court has come to conclusion that impugned order is a non-speaking order, is that the appeal has been disposed of by the Appellate Authority

by simply making a two lines observation that as the authority concerned was of the opinion that Assistant Registrar, Cooperative Society, Nurpur has

passed order dated 30.01.2020 in a hasty manner, therefore, the order was liable to be set aside. The body of the order does not suggests any

reasoning assigned therein so as to substantiate the finding so returned by the Appellate Authority. It is well settled law that Quasi Judicial Authority is

required to pass a reasoned and speaking order which besides reflecting the respective contentions of the parties, is also to reflect the reasoning, on

the basis of which final finding is so arrived at by the authority concerned.

4. Accordingly, order dated 30.07.2020 is quashed and set aside, on the limited ground that the same is an unreasoned and non- speaking order, by

remanding the order back for adjudication afresh. Registrar, Cooperative Society

is directed to ensure that the matter is now listed before an officer other than the one who had passed the said order, in the interest of justice. Further, in the process of hearing the appeal, present petitioners before this Court shall also be heard and thereafter a reasoned and speaking order shall be passed by the authority concerned. In other words, petitioners before this Court are impleaded as parties in the said appeal and the appeal shall be decided by construing them to be party respondents therein.

5. It is clarified that this Court has not made any observation on the merit of the appeal, so filed by the respondents herein, before the said authority and the same shall be decided by the authority concerned uninfluenced by the observation made by this Court in this order. The appeal shall positively be decided by the Appellate Authority on or before 31.01.2021.

6. At the first instance, the parties through counsel/authorized representative shall appear before the Registrar, Cooperative Societies, on 07.01.2021, who shall either hear the case himself or order the hearing of the case by a senior most Additional Registrar, Cooperative Societies, at Shimla, District Shimla, H.P., as agreed. In any event, the hearing should commence from 11.01.2021 onwards, so that same is completed by 31.01.2021, as ordered.

Till then, parties to maintain status quo. Petition stands disposed of in above terms, so also pending miscellaneous applications, if any.