



CWP-26906-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(241)

CWP-26906-2023 (O&M)
Date of decision:- 05.12.2024

Gurmeet Singh Randhawa and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Harbans Sharma, Advocate
for the petitioners.Ms. Amrita Garg, AAG, Punjab
for respondents No.1 to 4.Mr. Akshay Bhan, Senior Advocate with
Mr. H.P.S.Sandhu, Advocate
for the intervenors.

SUVIR SEHGAL, J. (ORAL)

1. By way of instant petition, petitioners have approached this Court under Articles 226/227 of the Constitution of India *inter-alia* for issuance of a writ in the nature of certiorari for setting aside impugned order dated 14.11.2023, Annexure P-13, passed by respondent No.3.

2. Mr. Harbans Sharma, counsel for the petitioners submits that the petitioners were elected as members of the Punjab Police Primary Consumer Cooperative Society Ltd., Mohali (for short "the Cooperative Society") in an election held on 21.08.2022. He submits that members of the previous Managing Committee had illegally transferred the entire land of the Cooperative Society to a private limited company and embezzled the funds. The newly constituted Managing Committee initiated steps to unearth the

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fraud, but a false complaint was submitted against them, which was marked for inquiry. On the basis of a report submitted by Inspector, Cooperative Societies, a show cause notice dated 10.10.2023, Annexure P-7, was issued, the Managing Committee was placed under suspension under Sub-Section 27 (2) of the Punjab Cooperative Societies Act, 1961 (for short “the 1961 Act”) and an Administrator was appointed for running the business of the Cooperative Society. Petitioners sent a reply to the show cause notice and challenged it by filing an appeal under Section 68 of the 1961 Act before the Deputy Registrar along with an application for the stay of operation of the show cause notice. As the stay application was not being decided, petitioners approached this Court by filing a writ petition and pursuant to order dated 25.10.2023, Annexure P-12, passed by this Court, the application was heard and dismissed vide order dated 14.11.2023, Annexure P-13, which has been impugned herein. Mr. Sharma urges that the Cooperative Society could not be placed under suspension as it does not have any Government shareholding nor has it received any loan or financial assistance from the Government.

3. While issuing notice of motion, this Court passed the following order on 30.11.2023:-

“Learned counsel for the petitioner while referring to the balance-sheet as on 31.03.2020 (Annexure P-3) submits that the Punjab Police Primary Consumer Cooperative Society Ltd., Mohali is not receiving any aid from the Government and in these circumstances, the Managing Committee could not have been suspended by the Assistant Registrar in view of proviso to Section 27(1) of the Punjab Cooperative Societies Act, 1961.

Notice of motion for 14.04.2024.

In the meantime, operation of the impugned order dated 10.10.2023 (Annexure P-7) shall remain stayed.

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4. Petition has been contested by the official respondents No.1 to 4 by filing a response, wherein besides other objections, it has been submitted that the petitioners have an alternative remedy of filing a revision petition under Section 69 of the 1961 Act. A stand has also been taken that the Cooperative Society has availed financial assistance of Rs.20 lacs from the Government.

5. Mr. Akshay Bhan, learned senior counsel for the intervenors, who is assisted with Mr. H.P.S.Sandhu, Advocate, has supported the stand taken by the official respondents. He states that the intervenors had filed an application for being impleaded as respondents No.6 to 10, which was permitted to be withdrawn vide order dated 23.05.2024 and they were allowed to participate in the proceedings as intervenors. He asserts that this order was tested by the petitioners by filing LPA No.1513 of 2024, which was dismissed by a Division Bench of this Court vide order dated 08.07.2024.

6. Mr. Harbans Sharma, counsel for the petitioners insists that the petitioners do not have any alternative remedy and asserts that an amount of Rs.8 lacs was returned from the funds contributed by the members of the Society.

7. I have heard counsel for the parties and considered their respective submissions.

8. A categorical stand has been taken by the official respondents that a loan of Rs.20 lacs was given to the Cooperative Society from the Welfare Fund of the police officials and the Punjab Government has also contributed to the said Fund. It has been submitted that the amount was sanctioned by the DGP, Punjab, vide letter bearing No. 6999/W-1, dated 27.10.2009, and as financial assistance in the shape of loan has been given to the Cooperative



Society, the Government is empowered to place the Managing Committee under suspension. Additionally, it has been averred that there are allegations against the members of the Managing Committee and on receipt of an inquiry report, proceedings have been initiated by serving a show cause notice dated 10.10.2023, Annexure P-7, to which the petitioners have submitted a reply. The matter is under consideration, but no final decision could be taken as by virtue of interim order reproduced above, this Court had stayed the operation of the show cause notice, Annexure P-7.

9. It is, therefore, evident from the above that financial assistance has been extended to the Cooperative Society. Although, Mr. Sharma has tried to explain the financial assistance and has taken a stand that some amount has been returned, it cannot be denied that the amount had passed on to the Cooperative Society. Accordingly, this Court is of the view that the authorities have to power to suspend the Managing Committee and proviso to Section 27 (1) of the 1961 Act will not apply.

10. Finding no merit in the writ petition, it is hereby dismissed with no order as to cost.

11. Pending application, if any, stands disposed of.

(SUVIR SEHGAL)
JUDGE

05.12.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No