

High Court of Punjab and Haryana
Bench: JUSTICE GURVINDER SINGH GILL
Date of Decision: 17.10.2023

CWP-21765-2023 (O&M)

Amandeep Singh and othersPetitioners

Versus

The Deputy Registrar, Cooperative Societies and others ... Respondents

Legislation:

Section 56, 68 of the Punjab Co-operative Societies Act, 1961

Punjab Co-operative Societies (Amendment) Act, 1969

Subject: Validity of the order keeping elections of the society in abeyance, appealability of the impugned order under Section 68(h) of the Punjab Cooperative Societies Act, 1961.

Headnotes:

Cooperative Societies Act – Validity of order keeping elections of the society in abeyance – Impugned order challenged as a non-speaking order – Petitioner claims lack of alternative remedy – Interpretation of Section 68(h) of the Punjab Cooperative Societies Act, 1961 – Whether the impugned order is appealable – Held that the impugned order, although interlocutory, falls within the ambit of a decision under Section 68(1)(h) – Petition disposed of with liberty to avail of the appellate remedy. [Para 1-6]

Referred Cases: None.

Representing Advocates:

Mr. Tahaf Bains, Advocate for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Tahaf Bains, Advocate for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 11.9.2023 (Annexure P-5) passed by respondent No.1 – The Deputy Registrar, Cooperative Societies, Sangrur, District Sangrur, vide which the Deputy Registrar has ordered that elections of the society conducted on 3.10.2022 be kept in abeyance.
2. Learned counsel for the petitioner submitted that the impugned order is an absolutely non-speaking order and that since the petitioner does not have any other remedy for redressal of his grievances so as to assail the impugned order, therefore, the instant petition would be maintainable. It has further been submitted that the provisions of Section 68(h) of the Punjab Cooperative Societies Act, 1961 cannot be stretched so as to include an interlocutory order as well within its ambit.
3. This Court has considered the aforesaid submissions.
4. Section 68 of the Punjab Co-operative Societies Act, 1961 providing for appeals is reproduced hereinunder:

“68. Appeals-

(1) An appeal shall lie under this Section against -

- (a) an order of the Registrar made under sub-section (2) of section 8 refusing to register a society;

- (b) an order of the Registrar made under sub-section (4) of Section 10 refusing to register an amendment of the byelaws of a co-operative society;
- [(b) an order of the Registrar made under section 10A directing amendment of the bye-laws of a co-operative society];
- (c) a decision of a co-operative society, other than a producers' society, refusing to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of the society;
- (d) a decision of a co-operative society expelling any of its members;
- [(e) an order made by the Registrar removing or suspending a committee or a member thereof under Section 27];
- (f) an order made by the Registrar under Section 52 apportioning the cost of an inquiry held under Section 50 or an inspection made under Section 51;
- (g) any order of surcharge under Section 54;
- (h) **any decision or award made under Section 56;**
- (i) an order made by the Registrar under Section 57 directing the winding up of a co-operative society;
- (j) any order made by the liquidator of a co-operative society in exercise of the powers conferred on him by Section 59;
- (k) any order made under Section 65:
- [(l) grant of a certificate under Section (2) of Section 67-A for the recovery of the amount due from a member on account of loan and interest thereon.]
- [(2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of decision or order-
- (a) if the decision or order was made by the Assistant Registrar to the Deputy Registrar;
- (b) if the decision or order was made by the Deputy Registrar to the Registrar or such Additional Registrar or Joint Registrar as may be authorised by the Registrar in this behalf;
- (c) if the decision or order was made by the Joint Registrar or Additional Registrar, to the Registrar;
- (d) if the decision or order was made by the Registrar, to the Government;
- (e) if the decision or order was made by any other person, to the Registrar or such Additional Registrar to Joint Registrar or Deputy Registrar or Assistant Registrar as may be authorised by the Registrar in this behalf.

- (3) No appeal shall lie under this section from any decision or order made by any authority in appeal.
- (4) Any appeal under sub-section (1) pending immediately before the commencement of the Punjab Co-operative Societies (Amendment) Act, 1969 before any authority shall stand transferred to the authority to whom such appeal lies on such commencement.]”

5. Sub-Section (h) of Section 68(1) of Punjab Co-operative Societies Act, 1961 would include a decision or an award made in terms of Section 56 of Punjab Co-operative Societies Act. Undoubtedly, the impugned order is not an award but surely would fall within the ambit of a decision, even though an interlocutory order. As such, this Court is of the opinion that the impugned order is an appealable order. The instant petition, as such, is disposed of with liberty to the petitioner to avail of the appellate remedy as may be available to him.

6. In case, any such appeal is filed, the Appellate Authority shall consider and dispose of the same in accordance with law expeditiously.

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