

Gaganjit Singh Vs State of Punjab and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: June 25, 2013

Acts Referred: Constitution of India, 1950 " Article 226, 227
Punjab Co-operative Societies Act, 1961 " Section 55, 82

Citation: (2013) 171 PLR 486

Hon'ble Judges: Satish Kumar Mittal, J

Bench: Single Bench

Advocate: Vivek Singla, for the Appellant;

Final Decision: Dismissed

Judgement

Satish Kumar Mittal, J.

The petitioner claiming himself to be a registered member of the Golden Tone Cooperative House Building Society

Limited, Mohali, has filed the instant writ petition under Articles 226/227 of the Constitution of India for quashing of two voters lists, i.e., Voter

List Zone No. 1 (Allottee Members) and Voter List Zone No. 2 (Non-Allottee Members), copies of which have been annexed with the petition as

Annexures P-11 and P-12, issued by the Administrator of the Society, on the basis of which the election of the Management of the said Society is

going to be held on 30.06.2013. In nutshell, the case of the petitioner is that those voters lists have been illegally and arbitrarily prepared by the

present Managing Committee of the Society after wrongfully deleting/adding the members of the Society in exercise of its power to induct and

remove any member of the Society as per bye-laws of the Society. In this regard, it has been alleged that the names of 14 persons were illegally

included in the list of members on 7.4.2010 and similarly 4 persons were ordered to be included as members vide letter dated 1.7.2010. It has

been further alleged that in 2013, the Management had changed two members from the list of Non-Allottee Members to Allottee Members list and

42 new members have been added after removing 42 original members. It has been alleged that those 42 members were removed by declaring

them defaulters of the Society. It has been further alleged that 29 members were not defaulters, but they have been wrongly declared as defaulters.

In the entire petition, the disputed questions of facts have been raised, which require evidence, and the same cannot be gone into in the writ

jurisdiction of this Court.

2. After hearing the learned counsel for the petitioner and keeping in view of the fact that many disputed questions of facts have been raised, I am

not inclined to entertain this petition as the petitioner has an effective remedy of challenging the alleged illegal action of the Society by filing the civil

suit or making an application to the Registrar of the Cooperative Society. The contention of the petitioner that the jurisdiction of the Civil Court has

been barred u/s 82 of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as "the Act"), is not tenable as the said provisions bar

the jurisdiction of the Civil Court in respect of the following matters:-

(a) the registration of a co-operative society or its byelaws or of an amendment of a bye-law;

(b) the removal of a committee;

(c) any dispute required u/s 55 to be referred to the Registrar; and

(d) any matter concerning the winding up and the dissolution of a co-operative society.

Sub-section (3) of the said Section further bars the jurisdiction of the Civil Court with regard to any order, decision or award made under the Act.

As far as the wrongful deletion and addition of the members of the Society is concerned, the jurisdiction of the Civil Court is not barred. In the

present writ petition, the petitioner is not challenging any order passed by any authority under the Act. His grouse is with regard to wrongful

deletion and addition of the names of persons in the list of members of the Society. In these facts and circumstances, I am not inclined to entertain

this petition and the same is hereby dismissed with liberty to the petitioner to avail the alternative remedy as per law.