

(2022-3)207 PLR 068

S.K. BANERJEE v. CHANDIGARH ADMINISTRATION

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Harsimran Singh Sethi.

S.K. BANERJEE and others – Petitioners,

Versus

CHANDIGARH ADMINISTRATION and others – Respondents.

CWP Nos. 15735-2011 (O&M) and CWP-26355-2016

Co-operative Societies Act, 1912 (7 of 1912) Section 12 - Keeping in view the various developments, which have occurred after the filing of the present petitions, especially the fact that at present, the Society concerned is being managed by an Administrator and not by the private respondents, the present petitions are disposed of with liberty to the petitioners that in case, they have any grievances with regard to the functioning of the Society or embezzlement of any amount belonging to the Society, they can approach the Administrator of the Society concerned for initiating the proceedings under Section 54 of the Cooperative Societies Act, 1912 - It is made clear that mere approach made by the petitioners will not bind the Administrator of the Society to entertain the said proceedings - The Administrator of the Society will be at liberty to apply his own mind independently as to whether the proceedings under Section 54 of the Act need to be initiated or not.

[Para 7, 8, 9, 10]

Mr. Aalok Jagga, for the petitioners in CWP-15735-2011. *Mr. Gagan Pradeep Singh Bal*, for the petitioner in CWP-26355-2016. *Mr. Kamal K. Sharma*, for respondent No.4 in CWP-15735-2011. *Mr. Ashwani Prashar*, for respondents No.5 to 8, 10 and 11 (in CWP-15735-2011).

Harsimran Singh Sethi J. (Oral) -(25th March, 2022) -

CM-17167-CWP-2017:

For the reasons mentioned in the application, the same is allowed and Annexures R-6/1 and R-6/5 are taken on record.

CWP-15735-2011 & CWP-26355-2016:

This common order will dispose of both the petitions, details of which have been given in the heading, and the facts for consideration are being taken up from CWP-15735-2011.

2. The first petition being, CWP-15735-2011, was filed in the year 2011 and the same is pending before this Court for the last eleven years.

3. Learned counsel appearing on behalf of the respective parties submit that a lot has changed in the Administration of the Society concerned during the last eleven years.

4. Learned counsels for the petitioners argue that the petitioners still have certain grievances which need to be redressed. As per learned counsels for the petitioners, the said grievances could also be redressed by invoking Section 54 of the Co-operative Societies Act, 1912 (hereinafter to be referred as 'the Act').

5. Learned counsel appearing for the private respondents submits that the private respondents have been dragged into the controversy of the present case without there being any fault on their part. Learned counsel further submits that the Society concerned, which is now being administered by an Administrator, has already initiated the proceedings under Section 55 and 56 of the Act, which are akin to Section 54 of the Act, therefore, there is no need to invoke Section 54 of the Act either by the petitioners or by the Society concerned, as the case may be.

6. I have heard learned counsel for the parties.

7. Keeping in view the various developments, which have occurred after the filing of the present petitions, especially the fact that at present, the Society concerned is being managed by an Administrator and not by the private respondents, the present petitions are disposed of with liberty to the petitioners that in case, they have any grievances with regard to the functioning of the Society or embezzlement of any amount belonging to the Society, they can approach the Administrator of the Society concerned for initiating the proceedings under Section 54 of the Cooperative Societies Act, 1912.

8. It is made clear that mere approach made by the petitioners will not bind the Administrator of the Society to entertain the said proceedings.

9. The Administrator of the Society will be at liberty to apply his own mind independently as to whether the proceedings under Section 54 of the Act need to be initiated or not.

10. Further, in case any resolution is passed by the General Body Meeting of the Society and presented before the Administrator of the Society, he will take an appropriate decision, as envisaged under law and bye-law of the society with regard to the said resolution, as passed by the General House of the Society.

11. Further, it is made clear that in case any proceedings are initiated against the private respondents by the administration of the Society or Officer of the Corporation Department, they will be given an appropriate opportunity to defend themselves of the allegations being alleged against them.

12. At this stage, learned counsel for the petitioners submits that the petitioners be also given liberty to approach the Chandigarh Administration for refund of Rs.40,000/- to them, which was paid by them as a fee of Chartered Accountant, since no report has been submitted by the Chartered Accountant so far.

13. In case any such application is submitted on behalf of the petitioners before the Registrar, Department of Co-operative Societies, an appropriate decision on the same betaken in accordance with law as expeditiously as possible.

14. This Court is not opining on the merits of the present case, i.e. allegations being alleged by the petitioners or the defence being given by the respondents, at this stage. The same will be adjudicated by the authorities concerned in accordance with law, as and when raised before them.

Photocopy of this order be placed on the file of connected case.

CM-13352-CWP-2015 & CM-3516-CWP-2016:

The present applications stand disposed of as the main case has already been disposed of.

R.M.S. – Petition disposed of.