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is a national imperative. The impugned provision is a small step. The purpose is laudable. The example is worth emulation. It suffers from no legal infirmity.

(12) In view of the above, we find no merit in these petitions. These are, consequently, dismissed. The provision and the order are held to be legal and valid. Under the circumstances, the parties are left to bear their own costs.

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**R.N.R.**

*Before Mehtab Singh Gill, J*

LAKHWINDER SINGH & OTHERS,—*Petitioners*

*versus*

THE STATE OF PUNJAB & OTHERS,—*Respondent*

*C.W.P. No. 734 of 2000*

20th March, 2001

*Punjab Co-operative Societies Act, 1961—S.27—Assistant Registrar issuing notice to the President for removal of the Managing Committee of the Society—No explanation sought from the members as required under the provisions of the Act—Suspension of the Managing Committee on the basis of a report of the Inspector without an independent opinion—Assistant Registrar giving no reply to the allegations of mala fides—Action of the Assistant Registrar not fair and held liable to pay compensation for harassment to the petitioners personally—Writ allowed while quashing the impugned notice and the order placing the Managing Committee of the Society under suspension.*

*Held*, that a show cause notice had been sent to Shri Ashok Kumar, President and is not addressed to any member of the Managing Committee but in the concluding para, he has been directed to file the reply to the show cause notice within 15 days, otherwise Managing Committee of the Society will be removed. The Inspector, Co-operative Societies, Kakkar has sent his comments on the reply of the President to the show cause notice. The Assistant Registrar, Co-operative Societies, Ajnala placed the entire Managing Committee under suspension,—

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*vide* order dated 6th January, 2000 on the report of Inspector and he has, nowhere, written that he has gone through the relevant record or any proceedings of the society. Thus, it is clear that the Assistant Registrar has formed his opinion only on the basis of report of the Inspector and has not formed any independent opinion of his own.

(Paras 12, 16 & 18)

*Further held*, that the Assistant Registrar while replying to the allegations has scuttled the issue and has not said anything in his reply as to the interest being shown by the brother of the M.L.A. The only conclusion which I can legitimately draw is that he has acted in an unfair and illegal manner. In lieu of the harassment and inconvenience caused to the petitioners, I award a compensation of Rs. 16,000 to be paid personally by the Assistant Registrar to the petitioners.

(Para 20)

I.S. Saggu, Advocate,—*for the Petitioner*

Amarjit Singh, D.A.G., Punjab assisted by

Amar Singh, Advocate,—*for Respondent*. Nos. 1 to 3.

Ranjit Sharma, Advocate,—*for Respondent No. 4*.

M.S. Badi, Advocate,—*for Respondent No. 5*

## JUDGMENT

*MEHTAB S. GILL, J.*

(1) The petitioners have prayed for the issuance of a writ in the nature of certiorari for quashing order dated 6th January, 2000, Annexure P2.

(2) The petitioners have averred that they are members of New Sarangra Co-operative Agricultural Service Society Limited, Tehsil Ajnala, District Amritsar (hereinafter called the Society). The election of Managing Committee of the Society was held on 1st October, 1999

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and the petitioners were elected as its Committee members. The Managing Committee of the Society had been working smoothly and to the satisfaction of its members. It had earned remarkable profit during the tenure of the petitioners. Shri Ashok Kumar was elected as the President of the Society. On 27th April, 1994 two Societies were formed namely the New Sarangra Co-operative Agricultural Service Society and Kakkar Co-operative Agricultural Service Society and Shri Ashok Kumar was nominated as the President of the Society (Respondent No. 4) for six months. Thereafter, elections of the New Sarangra Co-operative Agricultural Service Society took place on 29th October, 1994 and said Ashok Kumar was elected as the President of the Society. The second tenure of the Managing Committee of the Society started from 1st October, 1999 in which again Shri Ashok Kumar was elected as the President and petitioners were elected as Committee members of the Society.

(3) The Assistant Registrar, Co-operative Societies, Ajnala, respondent No. 3, issued Show Cause Notice to the President of the Society,—*vide* letter dated 16th December, 1999, for removing the Managing Committee of the New Sarangra Co-operative Agricultural Service Society Limited (Respondent No. 4) which is attached as Annexure P1. Several allegations in the show cause Notice for removing the Managing Committee of the Society were made and the President was asked to give his reply within 15 days and further in the Show Cause Notice, it was mentioned that if no reply was received during the said period or the reply was found unsatisfactory, then the Managing Committee of the Society shall be removed. Shri Ashok Kumar, President submitted his reply within the stipulated period and respondent No. 3, on finding the reply not satisfactory, placed the entire Managing Committee under suspension *vide* order dated 6th January, 2000 which is attached as Annexure P2.

(4) Counsel for the petitioners has made an oral request that inadvertently, the quashing of Show Cause Notice dated 16th December, 1999, Annexure P1 was left out and he would like to argue on this point also. He has prayed that along with Annexure P2, Annexure P1 may also be quashed.

(5) Notice of motion was issued.

(6) Respondent Nos. 1 to 3, 4 and 5 filed reply.

(7) Respondent No. 4 filed its reply dated 13th October, 2000 through Dilbag Singh, Secretary and, later on, through a resolution

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which is attached with the second reply and is dated 15th February, 2001 respondent No. 4 wanted to withdraw the written statement dated 13th October, 2000 as the Managing Committee in its resolution has stated that they did not authorise the Secretary to file the reply dated 13th October, 2000. Another resolution was passed which is attached as Annexure R-1/4-T.—*vide* which Mr. Ranjit Sharma, Advocate, was authorised to appear and file the reply. Counsel for Managing Committee Mr. Ranjit Sharma has stated that at the time of filing first written statement dated 13th October, 2000, Secretary Dilbag Singh did not take the Committee into confidence and filed the written statement on the instructions of the Assistant Registrar, respondent No. 3. In the second reply dated 15th February, 2001, respondent No. 4 has admitted all the averments made by the petitioners.

(8) Respondent Nos. 1 to 3 in their written statement have averred that as an alternative remedy of filing an appeal under Section 68 of the Punjab Co-operative Societies Act, 1961 existed, this writ petition is not maintainable.

(9) I have heard arguments on behalf of the counsel for the petitioners and the counsel for the respondents.

(10) Mr. Amar Singh Advocate gave a statement that he would like to withdraw from the case on behalf of respondent No. 4 as the Managing committee of the Society,—*vide* its resolution has lost confidence in him. He was permitted to do so. He prayed to appear on behalf of respondent No. 3, the Assistant Registrar. The prayer was declined as there was no authorisation from the State, but he was permitted to assist the State counsel.

(11) Counsel for the petitioners has vehemently argued that the Assistant Registrar, respondent No. 3, did not apply his mind and the order dated 6th January, 2000, Annexure P2 has been passed on the basis of whatever the Inspector had communicated to him verbally or in writing. He has further argued that the Show Cause Notice dated 16th December, 1999, Annexure P1, has been issued only to the President and not to the members of the Managing Committee.

(12) Going through Show cause Notice, Annexure P1, it is clear that the same had been sent to Shri Ashok Kumar, President and is not addressed to any member of the Managing Committee but in the concluding para, he has been directed to file the reply to the Show Cause Notice within 15 days, otherwise Managing Committee of the Society will be removed.

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(13) In *Gora Singh and others Versus The Registrar, Co-operative Societies, Punjab and others (1)* this Court has held as under :—

(a) Punjab Co-operative Societies Act, Section 27 - sub sections (1) and (2) - No order of suspension under sub-section (2) can be passed unless proceedings under sub-section (1) have been initiated only where proceedings under sub-section (1) have been initiated that Registrar can order suspension of committee or member-Statute permits suspension of committee only when proceedings for its removal have been initiated-Unless such action is pending, order of suspension cannot be passed-No proceedings under sub-section (1) for removal of committee or a member initiated-Show cause notice given to President of Society only regarding suspension of committee-Order of suspension could not have been passed-Show cause notice itself was illegal”

(14) It has been further held in *Randhir Singh and others Versus Additional Registrar (Credit) and others (2)*, as under :—

“Punjab Co-operative Societies Act, Section 27(1)—Removal of Managing Committee of Co-operative Society, proceedings for-Notice given to President-Not sufficient-Removal of Managing Committee would adversely affect its members and not only its President/Notice required to be given to members also.”

(15) In this case, Show Cause Notice, Annexure P1, is addressed to the President. The members of the Managing Committee have not been asked to give an explanation as to any of its alleged wrong doings. It has been held in *Gora Singh and Randhir Singh case (supra)* that if the entire Managing committee was to be removed, then all the members should have been given an opportunity to show cause.

(16) Show Cause Notice dated 6th January, 2000, Annexure P2, which is under challenge, though was given to all the members of the Managing Committee but the first line of the same reads “*vide* this office letter No. 7734 dated 16th December, 1999, Shri Ashok Kumar, President of the Society was issued Show Cause Notice”. This office letter pertains to Show Cause Notice, Annexure P1, which was only

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(1) 1994 P.L.J. 375

(2) 1992 P.L.J. 38

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given to the President. Further, in Annexure P2, it is stated that the Inspector, Co-operative Societies, Kakkar has sent his comments on the reply of the President to the Show Cause Notice, Annexure P1. The Assistant Registrar, Co-operative societies, Ajnala, respondent No. 3 has given this Show Cause Notice on the report of Inspector and he has, nowhere, written that he has gone through the relevant record or any proceedings of the Society.

(17) The counsel for the petitioners has cited *The Uksi Cooperative Agricultural Service Society Uksi, and another Versus The Assistant Registrar, Cooperative Societies, Package Programme, Ludhiana and another* (3) in which this Court has held that the Registrar or his nominee should form his own opinion before taking final decision of suspending the members of Managing committee. Similarly, in *Padmalochan Panda and others Versus State of Orissa and others* (4) it has been held "Order passed by Registrar without formation of independent opinion-Quashed."

(18) Similarly, in the case in hand, it is clear that the Assistant Registrar, respondent No. 3 has formed his opinion only on the basis of report of the Inspector and has not formed any independent opinion of his own.

(19) In the case in hand, serious allegations have been levelled against the Assistant Registrar, Co-operative Societies, Ajnala respondent No. 3. In para No. 10 of the petition, it has been averred that Shri Ashok Kumar, is the Congress President of block Chugawan which falls in Raja Sansi constituency. This Society also falls within Raja Sansi constituency. As the brother of the local M.L.A. is contesting elections of Amritsar Central Co-operative Bank, he wants a committee of his own in his area and for this reason he has got the Managing Committee of the Society suspended on frivolous grounds.

(20) The Assistant Registrar, Shri Ajit Singh Khera, respondent No. 3, while replying to the allegations contained in para No. 10 of the petition has scuttled the issue and has not said anything in his reply as to the interest being shown by the brother of the M.L.A. The only conclusion which I can legitimately draw is that Shri Ajit Singh Khera, respondent No. 3 has acted in an unfair and illegal manner. He has purposely and deliberately avoided to give reply to the allegations that the brother of the local M.L.A. was contesting elections of Amritsar

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(3) 1977 P.L.J. 24

(4) AIR 2000 Orissa 149

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Central Co-operative Bank and that he has tried to have a committee of his own choice in place of the present petitioners, and that the suspension of the Committee has not been done on the asking of the local MLA's brother. The Assistant Registrar seems to be dancing to the tune of his political masters. The petitioners have been put to unnecessary harassment. The petitioners must have spent a lot of money from their own pockets and also from the funds of the society in this avoidable and unnecessary litigation. In lieu of this harassment and inconvenience caused to the petitioners, I award a compensation of Rs. 16,000 to be paid personally by Shri Ajit Singh Khara, Assistant Registrar, Co-operative Societies, to the petitioners i.e. the petitioners will be paid a compensation of Rs. 2,000 each.

(21) The argument of counsel for the respondent is that this writ petition is not maintainable on the ground that the petitioners did not avail of the alternative remedy of filing an appeal or revision. There is no force in this argument of the respondents in view of law laid down in *Kali Ram and others versus The State of Haryana and others* (5) in which it has been held as under :—

“(c) Constitution of India, Article 226-Writ jurisdiction-Alternate remedy, non exhausting of remedy under the statute-petition admitted after considering objections raised in written statement- No right to throw away writ petition at the time of final hearing on ground of non-availing of alternative remedy.”

(22) It has been further held in *Nachhattar Singh and others versus State of Punjab etc.* (6) as under :—

“Punjab Gram Panchayat Act, 1952 (IV of 1952) Section 13-B-Challenging the result of the election by way of an election petition-May be available-Yet in the facts and circumstances of a particular case, the High Court could interfere-The mere availability of an alternate remedy is not the solitary test-Such a remedy must in addition be adequate and efficacious-Constitution of India, Article 226.”

(23) With the above observations, Annexures P1 and P2 are quashed.

(24) This writ petition is allowed in the above terms.

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**R.N.R.**

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(5) 1984 P.L.J. 504

(6) 1993 (2) P.L.J. 147