
(12) No other point has been raised before me in this petition.

(13) For the reasons recorded above, I find no merit in this petition. Dismissed.

R.N.R.

Before S.S. Sudhalkar & Mehtab S. Gill, JJ

HARMANDAR SINGH—*Petitioner*

versus

THE COOPERATION MINISTER, PUNJAB & OTHERS—*Respondents*

CWP NO. 9075 OF 2000

15th September, 2000

Constitution of India, 1950—Art. 226—Punjab Cooperative Societies Act, 1961—Ss. 13(8), 13(9), 57(3) & 58—Registrar, Cooperative Societies ordering amalgamation of the CONSTOFED with the MARKFED—Thereafter, Registrar ordering winding up the affairs of CONSTOFED and appointing a Liquidator—Registrar cancelling the order of winding up and allowing CONSTOFED to continue to exist after considering the report of the Liquidator—Whether an officer/authority under his own hand and seal can pass two contradictory orders—Held, no—Writ allowed, impugned orders/notices quashed with liberty to the Registrar to proceed afresh in accordance with the law.

Held, that the Registrar, Cooperative Societies, Punjab, passed an order dated 17th April, 2000, whereby the Liquidator was appointed. The Liquidator submitted his report on 1st June, 2000, whereby he recommended that the order of winding up of CONSTOFED should be reviewed and it should be allowed to function. On his recommendation, the Registrar allowed CONSTOFED to continue to exist. *Vide* order dated 27th April, 2000, notice of amalgamation of CONSTOFED with MAKFED was ordered by the same officer under his hand and the seal of Registrar, Cooperative Societies, Punjab, Chandigarh. Another order was passed dated 30th June, 2000 whereby he amalgamated CONSTOFED with MARKFED. On one hand, he passed the order that CONSTOFED should be allowed to exist on the report of Liquidator, while on the other hand, he passed order dated 30th June, 2000 for the amalgamation of CONSTOFED with MARKFED.

Thus, the two contradictory orders were passed by the same officer in his capacity as Registrar, Cooperative Societies.

(Paras 17 & 18)

Jagdeep Bains, Advocate for the petitioners.

D.V. Sharma, Advocate for Respondent No. 1

Anil Sharma, Deputy Advocate General, Punjab. for respondents Nos. 2 to 6 and 8.

Jasleen Sawhney, Advocate for Respondent No. 9

R.S. Rai, Advocate, for Respondents Nos. 10 & 11.

JUDGMENT

MEHTAB S. GILL, J.

(1) Petitioners have filed a Writ under Article 226 of the Constitution of India for setting aside the notice dated 27th April, 2000 (Annexure P—8) and the order dated 30th June, 2000 (Annexure P—9) passed by respondent No. 3—the Registrar, Cooperative Societies, Punjab,—*vide* which, the Punjab State Federation of Consumer Co-operative Wholesale Stores Ltd. (hereinafter referred to as 'CONSTOFED') has been amalgamated with the Punjab State Co-operative Supply and Marketing Federation Ltd., Chandigarh (hereinafter referred to as 'MARKFED'). It has been averred that petitioner No. 1 is a member of the Raikot Cooperative Agricultural Service Society, Tehsil Raikot, District Ludhiana. Petitioner No. 2 is a member of the Noor Mahal Cooperative Marketing-cum-Processing Society, Tehsil Phillaur, District Jalandhar. Both these Societies are members of respondent No. 11—MARKFED. The petitioners were elected to the Board of Directors of MARKFED on 20th July, 1995 as per the provisions of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as the Act). Their tenure as Directors of the MARKFED had expired on 20th July, 2000. Respondent No. 7—CONSTOFED is a registered Society under the Act.

(2) It has been further averred that on 14th December, 1999, a meeting took place as to the future of Public Sector Undertakings under the Chairmanship of the Chief Secretary, Punjab and was attended by the Financial Commissioner, Development, Principal Secretary, Finance, Principal Secretary, Industries and Commerce, Managing Director, PSIDC, Principal Secretary, Co-operaton, Registrar, Co-operative Societies and the Director, Institutional

Finance and Banking. As per Agneda Item No. 5 of the meeting, it was discussed that the Boards and Corporations where there are financial liabilities, they need to be merged with other organizations, the relevant portion of which is reproduced as under :—

“Item No. 5 : Merger of Corporations/PSUs which have similar kind of activities.

This item was discussed in detail and it was felt that Boards and Corporations need to be merged with each other where there will be a substantial gain by such merger. No merger should take place for the sake of merger or where such a merger will weaken the new entity. It was also felt that before such merger, a detailed analysis may be carried out as to how much of staff will be rendered shall be may be closed down and how many posts will be abolished. The policy regarding redeployment of surplus staff may also be worked out simultaneously along with this analysis. The strategic advantage of such merger in terms of financial and operational benefits may be worked out.”

(3) It has been further averred that on 17th December, 1999, a meeting was called by the Hon'ble Cooperation Minister, Punjab Civil Secretariat, Chandigarh (Respondent No. 1) and a discussion took place regarding merger of MARKFED AND CONSTOFED. In the meeting, a number of objections were raised by the Managing Director of MARKFED, which are annexed with the petition as Annexure P—2. These objections are reproduced as under :—

- (i) “That merger of 2 Co-operatives should only be done if it make sound economic sense, not on emotional grounds ;
- (ii) It appears that the 50 odd employees of Constofed and 500 odd employees of Co-operative Marketing Societies will not have any work in Markfed. So there is no need to take them over, especially since Markfed is already overstaffed ;
- (iii) That Markfed has run into losses and a meager profit of Rs. 17 lakhs in the present has occurred only because *ex gratia* and bonus was not given to officers and was given to employees only with a ceiling. Markfed can not afford to pay salaries of the staff ;

- (iv) The value of property being transferred to Markfed is only notional. It cannot sell at prices indicated because people like to pay for land partly in unaccounted money. The M.D. of Constofed should make efforts to sell the land to Government bodies like banks, Insurance Companies and Hudco etc. ;
- (v) M.D. Constofed may offer a VRS package to the employees and payments may be made from funds generated by (iv) above ;
- (vi) The department may consider closure of such institutions that are unable to pay salaries.
- (vii) The RCS should make a reference to C.S. for waiving off Government dues especially share capital. Similar reference should also be made to NCDL for Constofed."

(4) It has been further averred that CONSTOFED was put under liquidation,—*vide* order, dated 17th April, 2000. Respondent No. 5—the Joint Registrar, Co-operative Societies (M.S.), Chandigarh, was appointed as liquidator. Under Section 50 of the Act, Respondent No. 3—the Registrar, Co-operative Societies, Sector-17, Chandigarh, ordered an enquiry into the affairs of CONSTOFED, which was conducted by Shri R.S. Palne, Joint Registrar, Co-operative Societies (M.S.), Chandigarh, who submitted his report on 1st June, 2000. Copy of the report of the Liquidator, CONSTOFED, dated 1st June, 2000, is annexed with the petition as Annexure P—3.

(5) On 27th April, 2000, Respondent No. 3 - the Registrar Cooperative Societies, Punjab, issued a notice, dated 27th April, 2000 (Annexure P-8), under Section 13(9) of the Act, which reads as under :

Whereas, Registrar, Cooperative Societies, Punjab, is satisfied that it is necessary and in the interest of Cooperative Societies to amalgamate MARKFED and CONSTOFED, i.e, to merge CONSTOFED into MARKFED under Section 13.8 of Punjab Cooperative Societies Act, 1961.

A notice is hereby given to the Creditors of MARKFED and CONSTOFED to raise objections, if any. The objections must reach the office of Registrar, Cooperative Societies, Punjab, Chandigarh either on or before 21st May, 2000, at 5.00 p.m.

(Sd.) . . ., Registrar, Cooperative Societies, Punjab, Chandigarh.”

(6) It has been further averred that the notice was not served on its members nor was the matter placed before the Board of Directors. It did not contain any detail of the properties and the liabilities of the concerned Societies.

(7) Learned counsel for the petitioners has reproduced Section 13 of the Act in the petition. When we went through it, it came out that the reproduction of the aforesaid Section did not pertain to it, but was, in fact, reproduced from the Haryana Cooperative Societies Act, 1984. This fact was pointed out to the learned counsel for the petitioners and we showed our displeasure to her that such a grave error has been made in the reproduction of the Section in the petition and advised her to be more careful in future while drafting petitions.

(8) It has been further averred that no Annual General Body meeting of MARKFED has been called for the last five years, though it was to be held each year. The MARKFED has approximately 3000 Cooperative Agricultural Service Societies and Cooperative Marketing Service Societies as its Members. As per Bye-law 27(xii), the Managing Director has to arrange to convene meetings of the General Body and also to maintain a proper record of such meetings after consultation with the Chairman of Board of Directors. Notice, dated 27th April, 2000, Annexure p-8, was not placed before the Managing Director of MARKFED or before the Board of Directors so that a General Body meeting could be called. Respondent No. 3—the Registrar, Cooperative Societies, Punjab, *vide* order, dated 30th June, 2000 (Annexure p-9), ordered the amalgamation of CONSTOFED with MARKFED under Section 13(8) of the Act, the relevant portion of which is reproduced as under :

“Whereas I, Suresh Kumar, IAS, Registrar, Cooperative Societies, Chandigarh, after considering the proposal and objection raised thereto, am satisfied that it is necessary in the interest of two Cooperative Societies, namely, CONSTOFED and MARKFED, to amalgamate Constofed with Markfed, exercising the powers conferred upon me under Section 13(8) of Punjab Cooperative Societies Act, 1961 do hereby order the amalgamation of CONSTOFED with MARKFED”

(9) Respondent No. 6—Swaranjit Singh, Liquidator, CONSTOFED, Punjab, Chandigarh, who was appointed under Section 58 of the Act, held his own enquiry and subsequently, gave his finding to Respondent No. 3—the Registrar, Cooperative Societies, Punjab, Chandigarh.

(10) Notice of motion was served upon the respondents. The respondents have filed their respective written statements.

(11) We have heard learned counsel for the petitioners and the respondents and gone through the writ petition and the annexures attached therewith.

(12) At the very outset, learned counsel for Respondent No. 11—MARKFED and the State argued that the petitioners have no *locus standi* to file the petition as they are not the members of MARKFED and their terms had expired as Directors of MARKFED on 20th July, 2000. Faced with this contention, learned counsel for the petitioners has pleaded that in the interest of the creditors, share holders and the members of the Cooperative Societies, the writ petition may be treated as Public Interest Litigation. In support of her contention, learned counsel for the petitioners has placed reliance upon the authorities cited in *Daman Singh and others v. State of Punjab and others*, (1) and *Lawyers initiative through Sh. R.S. Bains, Advocate and another v. State of Punjab through its Chief Secretary and others*, (2).

In *Daman Singh's* case (*supra*), their Lordships of the Supreme Court have observed as under :

“... The very philosophy and concept of the co-operative movement is impregnated with the public interest and the amalgamation of Co-operative Societies when such amalgamation is in the interest of the Co-operative Societies is certainly in the public interest or can only be to secure the proper management of the societies . . .”

(13) Keeping in view the law laid down by the Supreme Court in the case cited above, we concur with the argument advanced by the learned counsel for the petitioner. We therefore, hold that such like petitions including the present one, can be treated as Public Interest Litigation.

(1) AIR 1985 SC 973

(2) AIR 1996 Pb & Hy I

(14) The impugned notice, dated 27th April 2000 (Annexure p-8), and the impugned order, dated 30th June, 2000 (Annexure p-9), were passed under the hand and seal of Respondent No. 3—the Registrar Cooperative Societies, Punjab, Chandigarh. The said respondent passed an order of winding up of the affairs of CONSTOFED. The order is, dated 17th April, 2000, which is attached with the written statement of respondents 3 to 5 as Annexure R-4/2. The order, dated 17th April, 2000, is reproduced as under :

“Whereas as an enquiry into the constitution, working and financial position of the Punjab State Federation of Consumers Cooperative Wholesale Stores Ltd., Chandigarh (CONSTOFED) has been conducted by Sh. karam Singh Palne, M.D., Housefed, under Section 50 of the Punjab Cooperative Societies Act, 1961.

Whereas the Enquiry Officer has reported that CONSTOFED has suffered heavy losses and is unable to repay the loan advanced by the State Government, the Punjab State Cooperative Bank and the Central Cooperative Bank Ltd., Ropar, to the aforesaid CONSTOFED.

Interest on these loans is also overdue from constofed : and

Whereas it does not seem possible to improve the affairs of the Constofed, I, Suresh Kumar, I.A.S., Registrar, Cooperative Societies, Punjab, Chandigarh, in exercise of the power under Section 57(1) of the Punjab Cooperative Societies Act, 1961, order the winding up the affairs of the Punjab State Federation of Consumer Cooperative Whole Sale Stores Ltd., Chandigarh, with the immediate effect and further appoint Sh. Sharanjit Singh Bham, Joint Registrar (M/S) in H.O. as Liquidator of the Constofed under Section 58 of the Act *ibid*.

(Sd/-) . . . ,

Suresh Kumar, I.A.S.,

Registrar, Cooperative Societies,
Punjab, Chandigarh.”

(15) The Liquidator appointed by the Registrar, Cooperative Societies, Punjab, Chandigarh (Respondent No. 3), submitted his report on 1st June, 2000 (Annexure P-3) in which he requested that the order of liquidation should be reviewed and CONSTOFED

should be allowed to function. On the recommendation of the Liquidator, the Registrar, Cooperative Societies, Punjab (respondent No. 3) under his own hand and seal passed another order dated 28th June, 2000 Annexure R4/4, which is attached with the written Statement filed by respondents 3 to 5 in which he has said that CONSTOFED should be allowed to continue to exist. The order dated 28th June, 2000 is reproduced as under :—

“Whereas CONSTOFED was brought under winding up *vide* this office letter No. stores/v/145/4436—40, dated 17th April, 2000 and Shri Sharanjit Singh Bham, Joint Registrar (Milk Supply) was appointed as Liquidator.

Whereas the Liquidator or CONSTOFED has passed a resolution dated 1st June, 2000 requesting that the order of Liquidation should be reviewed and CONSTOFED should be allowed to function. Whereas after considering the request of Liquidator of CONSTOFED, I, suresh Kumar, IAS, Registrar, Cooperative Societies, Punjab, Chandigarh, exercising the powers conferred upon me under Section 57(3), am of the opinion that CONSTOFED should be allowed to continue to exist. I do hereby cancel the order of winding up of CONSTOFED issued,—*vide* this office letter No. Stores/V/145/4436—40, dated 17th April, 2000. (Emphasis supplied).

(Sd/-) . . . ,

SURESH KUMAR, I.A.S.,
Cooperative Societies,
Punjab, Chandigarh.”

(16) Respondents 3 to 5 in para 7 of the written statement have also stated that the opinion of winding up has been received from the Liquidator, who gave his opinion for reconsideration of the order of winding up and for acceptance of the proposal for revival of CONSTOFED and consequently, the order dated 28th June, 2000 was passed by the Registrar, Cooperative Societies, Punjab, Chandigarh, under Section 57(3) of the Act, who allowed CONSTOFED to exist and accordingly, the order of winding up of CONSTOFED issued on 17th April, 2000 was cancelled.

(17) A very piquant situation has arisen in this case that the same officer, i.e., Shri Suresh Kumar, I.A.S., who was then the

Registrar, Cooperative Societies, Punjab, passed an order dated 17th April, 2000. Annexure R-4/2, whereby the Liquidator was appointed. The Liquidator submitted his report on 1st June, 2000, whereby he recommended that the order of winding up of CONSTOFED should be reviewed and it should be allowed to function. On his recommendation, the Registrar allowed CONSTOFED To continue to exist (Annexure R4/4).

(18) *Vide* order dated 27th April, 2000 (Annexure P-8) notice of amalgamation of CONSTOFED with MARKFED was ordered by the same officer under his hand and the seal of Registrar, Cooperative Societies, Punjab, Chandigarh. Another order was passed dated 30th June, 2000 (Annexure P-9) whereby he amalgamated CONSTOFED with MARKFED. On one hand, he passed the order that CONSTOFED should be allowed to exist on the report of the Liquidator, while on the other hand, he passed order dated 30th June, 2000 (Annexure P-9) for the amalgamation of CONSTOFED with MARKFED. Thus, the two contradictory orders were passed by the same officer in his capacity as Registrar, Cooperative Societies.

(19) Shri R.S. Rai, learned counsel for MARKFED argued that without getting CONSTOFED into existence, it could not be merged in MARKFED, but nowhere, it has been mentioned either in the annexures or written statements filed by the other respondents that CONSTOFED was being revived so that it could be merged with MARKFED. The orders which have been passed by respondent No. 3 - the Registrar Cooperative Societies, Punjab, after the report of the Liquidator, clearly show that he wanted to put life into CONSTOFED to see whether the organization could turn out to be a viable proposition or not.

(20) Learned counsel for the Respondents has placed reliance upon the judgments cited in *Daman Singh and others v. State of Punjab etc.* (*supra*) and *Mota Singh and others v. The State of Punjab and others* (3) In the cases cited above, there is no difference of opinion as to the propositions of law laid down therein, but in the present case, as already discussed above, an awkward situation has come into being where the same authority under his own hand and seal is passing two contradictory orders.

(21) For the reasons recorded above, we allow the writ petition and quash the notice dated 27th April, 2000 Annexure P-8, order dated 30th June, 2000 Annexure P-9 and also Annexures R4/2 dated 17th April, 2000 and R4/4 dated 28th June, 2000. It is also made clear that this order of ours will not debar respondent No. 3 - the Registrar, Cooperative Societies, Punjab, Chandigarh from starting the process *de-novo* in accordance with the Act.

R.N.R.

Before G.S. Singhvi & Nirmal Singh, JJ

JAGJIT KAUR.,—*Petitioner*

versus

STATE OF PUNJAB & OTHERS., —*Respondents*

C.W.P. NO. 12183 OF 2000

11th September, 2000

Punjab Urban Estate (Development & Regulations) Act, 1964—S.3(1)—Punjab Urban Estate (Sale of Sites) Rules, 1965—RIs. 2(aa), 2(e), 4 & 5-A—Allotment of plot at a provisional price—At the time of allotment no determination of price made or approved by the Government—Nature of demand made in memo not ‘additional price’ but ‘tentative price’—Provisional price, ‘tentative price’ and ‘additional price’ distinction—Simply because the petitioner deposited the ‘additional price’ on account of enhanced compensation, she cannot be absolved from her liability to pay the difference between the ‘provisional price’ and the ‘tentative price’—Tentative price is not synonymous with the provisional price—Petitioner has no right to challenge the demand having agreed to the terms and conditions and is liable to pay the tentative price determined and approved by the Government—Writ dismissed.

A perusal of Rules 2(aa), 2(e), 4 and 5-A of the 1965 Rules shows that the tentative price means the price determined by the State Government from time to time in respect of a sale of site by allotment and while doing so, the Government has to take into consideration various factors including the amount of compensation awarded by the Collector under the Land Acquisition Act, 1894 for the land acquired by it. The phrase