

1995 as a delegatee of the Registrar and as such the revision petition under section 69 against this order could lie only before the State Government and not before the Registrar himself. In this view of the matter, the order of the Registrar, Co-operative Societies passed on 24th July, 1996 (Annexure P.9) entertaining a revision against the order of the Deputy Registrar dated 8th May, 1995 was without jurisdiction. That being so, the order of the Financial Commissioner dated 7th August, 1997 (Annexure P-10) upholding such an illegal order, would also be illegal. We, therefore, quash both the aforesaid orders.

(7) Since the impugned orders have been quashed on the preliminary legal issue only. We do not consider it necessary to go into the other issues raised on behalf of the parties. The writ petition stands allowed. No costs.

R.N.R.

Before N.K. Sodhi & Bakhshish Kaur, JJ

THE KIRANJ COOPERATIVE CREDIT & SERVICE
SOCIETY LTD.,—*Petitioner*

versus

THE STATE OF HARYANA & OTHERS,—*Respondents*

C.W.P. NO. 14272 of 1997

29th March, 2000

Constitution of India, 1950—Art. 226—Haryana Co-operative Societies Act, 1984—Ss. 27 114 & 115—Managing Committee of the society allegedly passing a resolution & appointing the respondent as a Clerk—Deputy Registrar rescinding the resolution after hearing the members of the Managing Committee—Registrar dismissing the appeal of the respondent filed under section 114 of the Act—Writ filed by respondent against the order of the Registrar also dismissed by the High Court—Commissioner-cum-secretary to State Government allowing the appeal of the respondent & remanding the case to the Registrar—Whether the State Government can revise the order of the Registrar which was affirmed by the High Court—Held, no—State Government being a court inferior to the High Court could not revise the order of the Registrar—order passed by the State Government set aside.

Held that the High Court is undoubtedly a superior court to that of the Registrar as well as to that of the State Government exercising revisional powers under the Act and, therefore, when CWP 19113 of 1996 was dismissed against the order dated 19th August, 1996 passed by the Registrar, his order stood merged in that of this Court. Thus, the State Government being a court inferior to the High Court could not revise the order of the Registrar which had merged in that of this court.

(Para 3)

S.S. Dalal, Advocate *for the Petitioner.*

N.K. Joshi, AAG, Haryana *for Respondents 1 to 3*

S.S. Dahiya, Advocate *for respondent No. 4.*

JUDGMENT

N.K. Sodhi, J.

(1) By a resolution allegedly passed on 24th March, 1995 in a meeting of the Managing Committee of the Kiranj Cooperative Credit & Service Society Ltd., Kiranj (for short the society) Siri Chand respondent was appointed a clerk. A complaint was received that no such resolution had been passed and on an inquiry conducted by the concerned Inspector, Cooperative Societies it was found that the action of the Managing Committee was contrary to the Rules and Bye-laws and a recommendation was made for the cancellation of the resolution. The Deputy Registrar, Cooperative Societies exercising the powers of the Registrar issued notices to the members of the Managing Committee and after hearing them rescinded the resolution by his order dated 5th October, 1995 under section 27 of the Haryana Cooperative Societies Act, 1984 (hereinafter called the Act). Feeling aggrieved by this order, Siri Chand filed an appeal under section 114 of the Act which was heard by the Registrar, Cooperative Societies Haryana. The Registrar found that six members of the Managing Committee out of eight had deposed before the Deputy Registrar that they were not aware of any resolution appointing a clerk in the alleged meeting held on 24th March, 1995 and that they never received any agenda for the meeting nor did the meeting take place. He was, therefore, of the view that the resolution had been rightly rescinded and the appeal was consequently dismissed on 19th August, 1996. This order of the Registrar was challenged by Siri Chand respondent in this court in civil writ petition 19113 of

1996 which was dismissed in limine on 13th December, 1996 and the following order was passed :

“No ground for interference under Articles 226/227 of the Constitution of India has been made out in the impugned order in which pure finding of fact has been recorded.

Dismissed.”

(2) After the dismissal of the writ petition Siri Chand respondent filed a revision petition before the State Government under section 115 of the Act which was allowed by the Commissioner-cum-Secretary to Government, Cooperation Department as per order dated 30th April, 1997 and the case was remanded to the Registrar for a fresh decision. It is against this order that the present petition has been filed under Article 226 of the Constitution.

(3) The argument of the learned counsel for the petitioner is that the order dated 19th August, 1996, passed by the Registrar had been affirmed by this Court in civil writ petition 19113 of 1996 and, therefore, the State Government could not revise that order subsequently and remand the case to the Registrar. Shri Dahiya, on the other hand, contended that the earlier writ petition had been dismissed in limine and as such the order of the High Court did not operate as res-judicata and it could not debar the State Government from revising the order of the Registrar in exercise of its powers under section 115 of the Act. We have given our thoughtful consideration to the rival contentions of the parties and are of the view that the writ petition deserves to succeed. The High Court is undoubtedly a superior court to that of the Registrar as well as to that of the State Government exercising revisional powers under the Act and, therefore, when civil writ petition 19113 of 1996 was dismissed against the order dated 19th August, 1996 passed by the Registrar, his order stood merged in that of this court. Thus, the State Government being a court inferior to the High Court could not revise the order of the Registrar which had merged in that of this court. A contrary view would not only be against the public policy but would confer powers on inferior Tribunals to set at naught the decision of superior courts including that of the High Court passed in writ jurisdiction. This could not be the intention of the law. The question whether an order passed by the Financial Commissioner which was affirmed by this court by dismissing a writ petition against that order could subsequently be reviewed by the Financial Commissioner came up for consideration before a Division Bench of this Court in *Amarjit Singh and others vs. Financial Commissioner*,

Taxation, Punjab, Chandigarh and others (1) and the learned Judges answered the same in the negative holding that the order of the Financial Commissioner having merged in the order of the High Court which was a superior court could not thereafter be reviewed by the inferior court. The Division Bench judgment of this court in *Amarjit Singh's* case (supra) was affirmed by a Full Bench of this court in *Smt. Daya Wanti vs. Yadvindra Public School, Patiala and others (2)* and it was held that a decision of the High Court even if in limine could not be set *aside* by an inferior court even though it may be exercising statutory remedy by way of review or revision. In this view of the matter, the learned counsel for the petitioner was right in contending that the order of the Registrar which had been upheld by this Court in civil writ petition 19113 of 1996 could not be revised by the State Government while exercising its powers under section 115 of the Act.

(4) No other point was raised.

(5) In the result the writ petition is allowed and the impugned order dated 30th April, 1997 passed by the Commissioner-cum-Secretary to Government, Haryana Cooperation Department, set aside. There is no order as to costs.

R.N.R.

Before Jawahar Lal Gupta & N.K. Agrawal, J.J.

ASHOK KUMAR GARG,—*Petitioner*

versus

UNION OF INDIA & OTHERS,—*Respondents*

C.W.P. NO. 18725 of 1998

17th April, 1999

Punjab General Sales Tax Act, 1948—Ss. 2(e) & 2(h)—Punjab General Sales Tax (Amendment) Act, No. 7 of 1997—S. 10-C—Petitioner supplying labour to the respondent—Respondent levying & deducting 2% sales tax on supply of labour under section 10-C of the 1997 Act—S. 10-C authorises that there is no liability to make any deduction till there is a transfer of property in the goods—Supply of

(1) A.I.R. 1978 (P&H) 329

(2) 1996 (1) P.L.R. 208