longer suspended he is entitled to get back his post. Additionally, the Market Committee is to be directed to take a decision time-bound to settle the fate of the petitioner.

8. Accordingly, this petition is allowed to the limited extent by ordering that henceforth the petitioner's suspension is set-at-naught and he is to be taken as re-instated in service. Additionally, the Market Committee is directed to decide the case of the petitioner within a period of three months from today. The petitioner will get costs of this petition which are assessed at Rs. 500.

N.K.S.

Before S. S. Sandhawalia, C.J. and J. V. Gupta, J.

KARTAR SINGH and others,—*Petitioners.*

versus

STATE OF PUNJAB and others,—*Respondents.*

Civil Writ Petition No. 4423 *of* 1981.

March 20, 1982.

Punjab Co-operative Societies Act (XXV of 1961)—Section 27(1) & (6)—Members of Managing Committee of a Co-operative Society removed under section 27(1)—Consultation with the financing institution under section 27(6)—Whether necessary—Use of the word 'shall' in section 27(6)—Whether to be construed as being directory.

Held, that it is well-settled that no absolute or doctrinaire rule can be laid down for determining the mandatory or the directory nature of a provision. The answer to the question invariably turns upon the language and the larger purpose of the statute itself; the importance and the significance of the particular provision; the procedural or the substantive nature thereof; whether any penalty or inflexible consequence is provided for its non-compliance as also other considerations which cannot be exhaustively catalogued. Section 27 of the Punjab Co-operative Societies Act, 1961 as its very heading and the detailed provisions of its seven sub-sections indicate, is primarily intended to confer the power of removal and suspension of the Managing Committee of a Society or any member thereof

on the Registrar. This substantive power of removal and suspension is conferred specifically by sub-sections (1) and (2) thereof. Though there is no hermetically sealed division yet by and large the remaining five sub-sections are somewhat procedural in nature. The substantive and the significant provision is sub-section (1) whilst sub-section (6) is merely subsidiary and ancillary thereto. The provision of sub-section (6) would not inflexibly be applicable always. They are attracted only where a Co-operative Society is in fact indebted to a financing bank. In a case in which such a society may not be so indebted at all it is obvious that sub-section (6) would not come into play. Equally one may visualise that apart from a total absence of indebtedness there may be only a marginal one and this fact would not make the financing institution so vitally interested in the issue, or the opinion of the Bank become so vital that the basic exercise of power under section 27(1) should stand vitiated thereby. All that section 27(6) provides is consultation with the financing bank. It is well-settled that consultation does not necessarily mean concurrence. The opinion of the bank would not necessarily be binding on the Registrar. Equally neither sub-section (6) nor any other provision in the Act provides for any penal consequences for non-consultation or non-compliance with the provision. It does not either provide for any inflexible legal result that would flow therefrom. Thus, the provisions of sub-section (6) of section 27 of the Act are directory in nature. However, it does not mean that the Registrar and his delegatees can ignore the same with impunity. The provision has a meaning and content and normally it is both desirable and apt that the Registrar should make resort thereto. All that is held is that no inflexible rule can be laid down that a mere non-compliance of section 27(6) would *ipso facto* vitiate the action under section 27(1) of the Act. Indeed, if any grave prejudice to the parties or a miscarriage of justice arises because of its non-compliance either to the Committee or any of its members, the Court in a particular case would not be precluded from taking notice thereof and providing adequate relief. (Paras 6, 7, 10, 13, 21 and 22).

Ajit Singh and others *v.* State of Punjab and others, 1964 C. L. J. 157.

Jagir Singh etc. *v.* Deputy Registrar Co-operative Societies, Amritsar. 1977 C. L. J. 249. *Over-ruled.*

Petition under Arttcle 226/227 of the Constitution of India praying that :—

(*a*) *That the petition be admitted.*

(*b*) *That the records of the cases be sent for.*

(c) *That after hearing the counsels for the parties this Hon'ble Court may be pleased ti issue writ in the nature of* Certiorari, *order or direction quashing the impugned orders, Annexures P-1 and 3.*

(d) *That the service of advance notices on Respondents be dispensed with.*

(e) *That the filing of certified copies of Annexures P-1 and 3 may kindly be exempted.*

(f) *That any other writ, order or direction as may be deemed fit in the facts and circumstances of the case may also be issued in favour of the petitioners and against the respondents.*

(g) *Costs of the petition may be granted to the petitioners.*

It is further prayed that during the pendency of the petition the operation of the impugned orders Annexures P-1 P. 3 may kindly be stayed, and the petitioners be allowed to manage the affairs of the society.

H. S. Mattewal, Advocate, *for the Petitioner.*

M. J. S. Sethi, Additional A. G., Punjab, *for the State.*

M. S. Bedi, Advocate, for the added, *respondent No.* 4.

JUDGMENT

S. S. Sandhawalia, C.J.

1. Whether the provisions of sub-section (6) of S. 27 of the Punjab Co-operative Societies Act, 1961, are mandatory or directory in nature — is the spinal issue which has necessitated the admission of this writ petition for a hearing by the Division Bench.

2. The facts are not in dispute and lie in a narrow compass. The petitioners were elected members of the Managing Committee of the Thatha Co-operative Agricultural Service Society (hereinafter referred to as the Society) in the year 1979 and by virtue of section 26(1)(b) of the Punjab Co-operative Societies Act (hereinafter called the Act) their term of office was to be for a period of three years. It is averred on behalf of the petitioners that they were functioning satisfactorily when they were shocked to receive a 'show cause notice' issued by respondent No. 3 under section 27 of the Act. Certain

allegations of bias have been made against respondent No. 2, the Assistant Registrar, Co-operative Societies. Tarn Taran, to which detailed reference is not necessary and it suffices to mention that ultimately the matter was transferred to the Assistant Registrar, Co-operative Societies, Amritsar. It is then alleged that the Assistant Registrar without having served a notice on the Managing Committee or its members passed the impugned order of removal under section 27(1),—*vide* annexure P. 1, dated the 27th of April, 1981. Aggrieved by the same the petitioners preferred an appeal before the Deputy Registrar who finally heard and dismissed the same on the 21st August, 1981,—*vide* order annexure P. 3. The petitioners then preferred the present writ petition wherein the particular grievance made is that there had been no consultation by the Registrar with the financing Bank in accordance with section 27(6) and therefore, the action of the authorities under the Act stood vitiated. Ancillary grounds of lack of notice and bias etc. were also raised.

3. In the return filed by respondent No. 2 Shri Ravinder Kumar, Assistant Registrar, it was highlighted that the petitioners were taking contradictory stands themselves with regard to the 'show cause notice' served upon them. It was pointed out that in para 2 of the petition it had been averred that the petitioners were shocked to receive the 'show cause notice' whilst in the later paragraphs it was sought to be alleged that no 'show cause notice' was served on them. It has been repeatedly reiterated with reference to the despatch numbers of the communications addressed to the petitioners that a 'show cause notice' with reminders was duly served on the petitioners but no reply thereto was sent. The allegations of bias were categorically denied as wrong and false and deliberately concocted. With regard to the consultation with the financing Bank, namely, the Amritsar Co-operative Bank Ltd., Amritsar, it is the stand of the respondents that the allegations in the 'show cause notice' were communicated to the said Bank but since no reply at all was sent by the said financing institution it was presumed that the Bank had no objection to the removal of the Managing Committee, and as such due compliance of section 27(6) had also been made.

4. As at the motion stage, so before us, the main contention projected on behalf of the petitioners is the non-compliance with what is alleged to be the mandatory provision of section 27(6).

Particular reliance for this stand is placed on the Single Bench decision of this Court in *Ajit Singh and others* v. *The State of Punjab and others,* (1), which has been later followed in *Jagir Singh etc.* v. *Deputy Registrar, Co-operative Societies, Amritsar,* (2).

5. Inevitably the mode of, or the effect of the non-compliance with the provisions of sub-section (6) of S. 27 would revolve around the language of the provisions and it is, therefore, apt to read section 27 of the Act at the very outset—

"S. 27. (1) If, in the opinion of the Registrar, a committee or any member of a committee persistently makes default or is negligent in the performance of the duties imposed on it or him by this Act or the rules or bye-laws made thereunder, or commits any act which is prejudicial to the interests of the society or its members, or makes default in the implementation of production or development programmes undertaken by the co-operative society, the Registrar may, after giving the committee or the member, as the case may be, a reasonable opportunity to state its or his objections, if any, by order in writing —

(a) remove committee, and appoint a Government servant as an administrator, to manage the affairs of the society for a period not exceeding one year as may be specified in the order ;

(b) remove the member and get the vacancy filled up for the remaining period of the outgoing member, according to the provisions of this Act and rules and bye-laws made thereunder.

(2) Where the Registrar, while proceeding to take action under sub-section (1) is of opinion that suspension of the committee or member during the period of proceedings is necessary in the interest of the co-operative society, he may suspend the Committee or member, as the case may be, and where the committee is suspended, make such arrangements as he thinks proper for the management of the affairs of the Society till the proceedings are completed;

(1) 1964 Cur. L.J. 157.
(2) 1977 Cur. L.J. 249.

Provided that if the committee or member so suspended is not removed, it or he shall be reinstated and the period of suspension shall count towards its or his term.

(3) The administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have powers to perform all or any of the functions of the Committee or of any Officer of the society and take all such action as may be required in the interest of the society.

(4) The Registrar may fix the remuneration payable to the person appointed as administrator and the amount of such remuneration and other costs, if any, incurred in the management of the society shall be payable from its funds.

(5) The administrator shall, before the expiry of his term of office arrange for the constitution of a new committee in accordance with the provisions of this Act and rules and by-laws framed thereunder.

(6) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult the financing bank to which the society is indebted.

(7) A member who is removed under sub-section (1) may be disqualified for being elected to any committee for such peirod not exceeding three years as the Registrar may fix."

6. Before I proceed to a relatively deeper analysis of the aforesaid provision it deserves recalling that by now it is well-settled that no absolute or doctrinaire rule can be laid odwn for determining the mandatory or the directory nature of a provision. The answer to the question invariably turns upon the language and the larger purpose of the statute itself, the importance and the significance of the particular provision, the procedural or the substantive nature thereof, whether any penalty or inflexible consequence is provided for its non-compliance, as also other considerations which cannot be exhaustively catalogued. This was authoritatively epitomised by the Full Bench in *Guru Nanak University* v. *Dr. (Mrs.) Iqbal Kaur Sandhu and others*, (3) as under :—

"* * *. The various rules laid down for determining when a statute might be considered as mandatory or directory are

(3) AIR 1976 Pb. & Hary. 69.

indeed only aids for ascertaining the true intention of the framers thereof which is the crucial determining factor and the same must ultimately depend on its peculiar context."

7. Now proceeding within the parameters of the aforesaid canons of construction it appears to me unnecessay to delve into the larger scheme of the whole Act itself. It suffices to mention that section 27, as its very heading and the detailed provisions of its seven sub-sections indicate, is primarily intended to confer the power of removal and suspension of the Managing Committee of a Society or any member thereof on the Registrar. This substantive power of removal and suspension is conferred specifically by sub-sections (1) and (2) thereof. Though there is no hermetically sealed division yet by and large the remaining five sub-sections are somewhat procedural in nature. These pertained to the consequential appointment and the powers of the Administrator, his remuneration, and his duty to arrange for the constitution of a new committee before the expiry of his term. It is further provided that a member so removed under sub-section (1) may be disqualified for being elected to the committee for a period not exceeding three years as the Registrar may fix. Lastly, the material provision with which we are primarily concerned provides that before taking any action for removal the Registrar shall consult the financing bank to which the Society is indebted.

8. As already been noticed section 27 is a detailed and exhaustive one and it cannot be generally said that every provision therein, whether procedural or substantive, must be held to be mandatory so as to render any and every infraction of its numerous provisions as fatal. What calls for pointed notice is that the substantive power of removal and suspension is contained in sub-sections (1) and (2) and the remaining sub-sections are of lesser significance and of consequential and procedural nature. It can fairly be said that sub-section (6) falls in this latter category.

9. Coming to a closer examination of sub-section (1) of section 27 (to which sub-section (6) is a procedural gloss), it is manifest that the power of removal is vested in the Registrar. However, it is not wholly unguided and his opinion and decision to remove the committee or any member thereof has to be rested on the surer foundation of the under-mentioned criteria:—

(i) Persistent defaults in the performance of the statutory duties under the Act and the Rules ;

(ii) Persistent negligence in such performance ;

(iii) Commission of any act which is prejudicial to the interest of the society or its members, and

(iv) default in the implementation of the production and development programmes.

If in the opinion of the Registrar any of the aforesaid four conditions is satisfied he is entitled to invoke his power to remove the committee or a member but this is to be only done after giving either of them a reasonable opportunity to object thereto. After considering such objections if the Registrar is satisfied he can by an order, in writing, remove the committee or any member thereof. It would thus be plain that the core provision herein is sub-section (1) conferring the power and the manner of its exercise for removing the committee or its members. Even the power of suspension under sub-section (2) is relatively subservient and consequential to the exercise of the power under section (1). It can, therefore, be safely assumed that the substantive and the significant provision is sub-section (1) whilst sub-section (6) is merely subsidiary and ancillary thereto.

10. Now adverting to sub-section (6) it would appear that its provisions would not inflexibly be applicable always. They are attracted only where a Co-operative Society is in fact indebted to a financing bank. In a case in which such a society may not be so indebted at all it is obvious that sub-section (6) would not come into play at all. Equally one may visualise that apart from a total absence of indebtedness there may be only a marginal one. Supposing a Society merely owes a paltry amount to a financing bank, would this fact make the financing institution so vitally interested in the issue, or the opinion of the Bank become so vital that the basic exercise of power under section 27(1) should stand vitiated, thereby. The answer would *prima facie* appear to be in the negative.

11. Again as the earlier analysis of section 27(1) has disclosed, it is the opinion of the Registrar and the fulfilment of any one of the four conditions as also the right of hearing afforded to the committee or its members which are the primary considerations for the exercise of the power of removal. In a particular and indeed in most of these cases the financing bank may not at all come into the picture with regard thereto. For instance, its opinion with regard to the persistent

default in the performance of statutory duty or negligence with regard thereto in many cases may hardly be relevant at all to the committee's transactions with the bank and in other cases may be only marginally so. Indeed an example may be taken of the present case itself. A bare look at the five allegations under consideration in annexure P. 1 would indicate that these have not the least relevance to the indebtedness or to the financial transactions *inter-se* betwixt the Society and its financing bank.

12. As a view it, sub-section (6) seems to be intended more to safeguard the interest of the financing bank rather than to give it any overall control or veto power over the exercise of jurisdiction by the Registrar under sub-section (1). The apparent intention of the statute is that before the managing committee of the indebted society is removed lock, stock and barrel or even one of its members is dismembered the financing institution should be aware of the same to represent its point of view. Indeed in a particular case it would be for the bank to come forward and make some grievance of not being consulted if its interests are adversely affected by the exercise or non-exercise of powers under section 27(1). The Managing Committee or a member thereof cannot be seriously aggrieved by the non-consultation or otherwise of the financing bank whose opinion in many cases may well be adverse to the functioning of the Managing Committee or one of its members.

13. It has then to be noticed that all that section 27(6) provides is consultation with the financing bank. It is well-settled that consultation does not necessarily mean concurrence. The opinion of the bank would not necessarily be binding on the Registrar Equally neither sub-section (6) nor any other provision in the Act provides for any penal consequences for non-consultation or non-compliance with the provision. It does not either provide for any inflexible legal result that would flow therefrom. One of the criterian for judging the question of a mandatory nature of the provision is where the Act itself provides a penalty or inflexible consequences for its infraction. Herein that is plainly lacking. I, therfore, do not see this provision as empowering the bank to sit in judgment over the opinion of the Registrar or to override or veto the same. To repeat it appears to be more directed as a safeguard for the financial interests of the bank in its debtor society than *vice versa.*

14. Ancillary considerations also appear to be a pointer to the view that consultation with the financing bank is not the *sine qua non*

for the action under section 27(1). It does not seem to be in dispute that the power of suspension under sub-section (2) is an equally vital exercise adversely affecting the Committee or its members. Nevertheless it was the common case that neither sub-section (6) nor any other provision enjoins such consultation with the financing bank prior to the exercise of the power of suspension. The Full Bench in *Gurcharan Singh* v. *State of Haryana and others* (4), whilst construing the analogous, if not the identical, provision of section 27 of the Act as applicable in Haryana has ruled that under the larger perspective of an emergent or urgent need for suspension no opportunity for show cause for the exercise of such a power would be necessary. Inevitably the provisions of sub-section (6) would not be attracted at all in this context.

15. Learned counsel for the petitioners did place reliance on the use of the word 'shall' in sub-section (6). On this promises alone it was sought to be contended that the provision be held to be mandatory. This stand need not detain us for long. It is now well-settled that a provision in form mandatory might in substance be directory (See AIR 1955 S.C. 233). Having viewed the matter in the larger perspective above and in its proper context the mere use of the word 'shall' in sub-section (6) is in no way conclusive.

16. Now authority is also not lacking for the view I am inclined to take on principle and the particular provisions of section 27 and its context. Even in a constitutional provision, consultation couched in a mandatory form has in effect been held to be directory. In *State of Uttar Pradesh* v. *Manbodhan Lal* (5), their Lordships whilst construing Article 520(3)(c) held that despite the imperative language, consultation with the Public Service Commission was not the essence of the matter and was merely directory. After elaborately discussing the principles for determining whether a provision would be mandatory or directory in nature and placing particular reliance on *Montreal Street Ely. Co.* v. *Morrandin* (6), and *Biswanath Khemka* v. *The King Emperor* (7), their Lordships concluded as follows:—

> "In view of these considerations, it must be held that the provisions of Article 320(3)(c) are not mandatory and

(4) AIR 1979 Pb. & Hary. 61.
(5) AIR 1957 SC 912.
(6) 1917 AC 170.
(7) 1945 FCR 99.

that non-compliance with those provisions, does not afford a cause of action to the respondent in a Court of law....".

The aforesaid view was then followed and reiterated in *L.I. Hazarmal Kathiala* v. *Income-tax Officer, Special Circle, Ambala Cantt and another* (8), in the context of section 5(5) of the Patiala Income-tax Act, expressly providing for consulation, with the following finding:—

".... The power which the Commissioner, had, was entrusted to him, and there was only a duty to consult the Central Board of Revenue. The failure to conform to the duty did not rob the Commissioner of the power which he exercised, and the exercise of the power cannot, threfore, be questioned by the assessee on the ground of failure to consult the Central Board of Revenue, provision regarding which must be regarded as laying down administrative control and as being directory."

The aforesaid line of reasoning is, therefore, equally and indeed more strongly attracted in the present context of the action of the Registrar which is on a such lower plane than in the afore-quoted cases.

17. In fairness to Mr. H. S. Mattewal, the learned counsel for the petitioner, reference may be made to *Joint Registrar of Co-operative Societies, Madras and others* v. *P. C. Rajagopal Naidu, Govindarajulu and others* (9), on which some reliance was sought to be placed by him. I am, however, unable to see how the said case advances the stand of the petitioner and indeed a closer analysis would show a contrary effect. Therein, the Joint Registrar acting under section 72 of the Madras Co-operative Society. The learned suspended the Committee of a Co-operative Society. The learned Single Judge of the Madras High Court quashed the order of the Registrar primarily for the violation of sections 64, 65 and 66 of the Act. This, in turn, was upheld by a Full Bench of the Madras High Court. Their Lordships of the Supreme Court, however, on an appeal preferred by the Joint Registrar, Co-operative Societies, allowed the same and reversed the judgment of the Full Bench and

(8) AIR 1961 SC 200.

(9) AIR 1970 SC 992.

the learned Single Judge and upheld the suspension of the Committee by the Joint Registrar. It was observed as follows:—

> " .. .... We do not consider that that would be the correct approach in construing section 72 which is meant for superseding the Committee as a whole when its working discloses such irregularities or improprieties as would justify its supersession. Normally it would be expected that only that Committee would be superseded whose functioning has been found to be highly defective. The object of supersession apparently is to appoint a Special Officer or a managing committee in order to set the working of the society right. It is not difficult to envisage a situation where maladministration by a committee has so adversely affected the functioning of the society that it is essential in the interests of the society itself to give temporarily the control of its affairs to a neutral authority .....".

It deserves highlighting that the provisions of section 72(1) of the Madras Co-operative Societies Act and those of section 27 of the Act, which we are called upon to construe, though having some similarity, are not in *pari materia*. An analysis of the judgment in *P. S. Rajagopal Naidu, Govindarajulu and other's case.* (supra) would disclose that the issue whether consultation with the financing bank was mandatory or directory, was not even remotely before their Lordships nor any such finding has even remotely been arrived at The whole question was whether the provisions of sections 64, 65 and 66 of the Act were attracted to the exercise of the power under section 72. There is only a passing reference by their Lordships that before acting under section 72(1) there is no other requirement prescribed by the Legislature except that of consultation with the financing bank under sub-section (6). In this context, one has to recall the celebrated dictum of Lord Balshry in *Quinn* v. *Leathem* (10), that a decision is only an authority for what it actually decides and its ratio, and not every observation found therein nor what logically follows from the various observations made in it. Following the same it was authoritatively observed in *State of Orissa* v. *Sudhansu Sekher Misra and others* (11), that it is not a profitable

(10) 1901 A.C. 495.
(11) AIR 1968 SC 647.

task to extract a sentence here and there from a judgment and to build upon it.

18. Equally, Mr. Mattewal's reliance on *Radheshyam Sharma* v. *Govt. of M.P. through C. K. Jaiswal & others* (12), is of no assistance to him. Therein, what fell for construction was section 53 of the Madhya Pradesh Co-operative Societies Act. A reading of the said section makes it plain that far from being in *pari materia* with section 27, its language and content are significantly different. I have alreary adverted to the various sub-sections of section 27 for arriving at a conclusion that sub-section (6) thereof is not mandatory. Identical considerations indeed may well not apply to section 53 of the Madhya Pradesh Co-operative Societies Act. What, however, calls for notice is that the analogous provision therein has been made only with regard to Co-operative Banks and not with regard to ordinary Co-operative Societies. The language thereof is clearly more emphatic and meaningfully different from what we are called upon to construe and is in the following terms:—

> "Provided that in case of a Co-operative Bank, the order of supersession shall not be passed without previous consultation with the Reserve Bank."

In view of the above and added reasons disclosed by the analysis of the judgment in *Radheshyam Sharma's case* (supra), the same appears to be wholly distinguishable.

19. Inevitably, one must now turn to the Single Bench judgments of this Court in *Shri Ajit Singh and others* v. *The State of Punjab and others* (supra), and, *Jagir Singh etc.* v. *The State of trar, Co-operative Societies, Amritsar* (supra). A close perusal of the judgment in *Ajit Singh and others case* (supra) discloses that the primary point projected therein was as to the nature and the pre-requisites of consultation. Whether the same was mandatory or directory seems neither to have been canvassed nor adjudicated upon. The learned Single Judge, therefore, had wholly directed his attention to the nature of 'consultation' envisaged by the statute and not with regard to the necessity or the mandatory nature thereof. Nevertheless, in this context, certain observations

(12) 1970 Co-operative Tribunal, Decisions 190.

have been made which are open to the construction that it was obligatory for the Registrar to consult the financing institution to which the Society is indebted and in the absence of such consultation the action under Section 27(1) would be vitiated *per se*. With the greatest respect, I am unable to subscribe to this view for the exhaustive reasons recorded above. This judgment must, therefore, be over-ruled on this specific point.

20. *Jagir Singh's case* (supra) seems to have merely followed the reasoning in the afore-mentioned case of *Ajit Singh's case* (supra). However, a casual observation has been made therein that consultation with the financing institution is mandatory before any action against it can be taken. No independent reasoning has been made nor does the issue seem to have been at all debated before the learned Single Judge. For the reasons recorded earlier and as a necessary consequence of overruling *Ajit Singh's case* (supra), on this point, it is inevitable that *Jagir Singh's case* (supra) has also to be and is hereby overruled.

21. The answer to the question posed at the out-set therefore is that Sec. 27(6) is directory in nature.

22. However, having held as above, one must, sound a strong note of caution in this context. Merely because I am inclined to the view that the provisions of Section 27(6) are directory, it does not mean that the Registrar and his delegatees can ignore the same with impunity. The provision has a meaning and content and normally it is both desirable and apt that the Registrar should make resort thereto. All that I am inclined to hold is that no inflexible rule can be laid down that a mere non-compliance of Section 27(6) would *ipso facto* vitiate the action under Section 27(1) of the Act. Indeed, if any grave prejudice to the parties or a miscarriage of justice arises because of its non-compliance either to the Committee or any of its members, the Court in a particular case would not be precluded from taking notice thereof and providing adequate relief.

23. Repelled on his main assault learned counsel for the petitioners had then attempted some flanking attacks. It was sought to be argued that no notice had been given to the Committee as provided under Section 27(1) of the Act. This has only to be noticed and rejected. What gives the lie direct to such a stand is, first, the averments in para-two of the petition itself stating that the Managing Committee was shocked to receive the show-cause notice issued

by the Deputy Registrar Co-operative Societies, Amritsar, under Section 27 of the Act. Further, in paras 2, 4 and 6 (ii) of the return filed on behalf of the respondents, it has been categorically averrtd that not only a notice was issued but was also duly served. Reference has been made to the Number and date of the communication whereby the notice had been dispatched and indeed this finds specific mention in the impugned order annexure P/1 itself. On the present pleadings, it has, therefore, to be held that not only the petitioners were duly served with a notice and were aware of the same, but they further chose to ignore it and did not care to file the reply within time. The authorities thus had little option but to proceed as they did.

24. As an argument of despair, learned counsel for the petitioners even attempted to press the sketchy allegations of *mala fide*. Herein what calls for notice is that Shri Verinder Kumar, Assistant Registrar, was not personally impleaded as a respondent to the petition. Apart from this infirmity, the allegations were nevertheless in terms denied on affidavit by Shri Verinder Kumar in para 6 subpara (iv) of the return. No replication even has been filed to this specific denial. The allegations of *mala fides* therefore, has to be rejected.

25. Lastly, as a matter of abundant caution, it may be noticed that there has been no deliberate infraction of Section 27(6) of the Act in the present case. Learned counsel for the respondent, on the basis of the record had taken the firm stand that a copy of the show-lause notice was duly sent to the financing bank, namely. The Amritsar Central Co-operative Bank Ltd. and it was requested to send its reply within 15 days. It was the case of the respondents that no such reply was sent and it was, therefore, presumed that the bank had no objection to the proposed action. Even the impugned order, annexure P/1 shows that a copy of the order passed was again forwarded to the Amritsar Central Co-operative Bank Ltd. tor necessary action.

26. In the light of the aforesaid reasons, the writ petition is without merit and is hereby dismissed. In view of some conflict of precedent, the parties are left to bear their own costs.

J. V. Gupta, J.,—I agree.

N. K. S.