

**Before the Court of Registrar, Cooperative Societies, Punjab,
Chandigarh.**

Petition No. 300 of 2008

Sandeep Singh Ranghawa, Director, The Batala Cooperative Sugar Mills Ltd., Batala resident of village and Post office Talwandi Lal, Tehsil Batala, District Gurdaspur.

..... Petitioner

Versus

1. Gurbachan Singh Bajwa S/o Sh. Acchea Singh, R/o village & Poat office Panjgranian, Tehsil Batala, District Gurdaspur.
2. The Punjab State Federation of Cooperative Sugar Mills Ltd., (SUGARFED) S.C.O No. 125-127, Sector 17-B, Chandigarh through its Managing Director.

..... Respondents

Petition under Rule 26(f) of the Punjab Cooperative Societies Rules, 1963 read with Section 26-B(I)(b) of The Punjab Cooperative Societies Act, 1961 for Cessation of Respondent No.1 as Director of Respondent.2 Federation i.e. The Punjab State Federation of Cooperative Sugar Mills Ltd. Chd.

Present :

1. Sh. R.K Sharma, Advocate counsel for the Petitioner.
2. Sh. Harsh Bungar, Advocate counsel for Respondent No.1.
3. Sh. Vijay Singh Kanwar, Commercial Officer, Sugarfed on behalf of Respondent No. 2.

ORDER

This petition has been filed by the Petitioner Sh. Sandeep Singh Randhawa, Director, The Batala Cooperative Sugar Mills Ltd., Batala through his counsel Sh. R.K. Sharma for cessation of Respondent No.1 Sh. Gurbachan Singh Bajwa being the Director of 2 Apex Federations in violation of Section 26 (B) of Punjab Cooperative Societies Act, 1961.

The brief facts of the case are as under :-

Sh. Gurbachan Singh Bajwa S/o Sh. Achhra Singh, R/o Village and Post office Panjgranian, tehsil Batala, District Gurdaspur contested the election of Punjab State Cooperative Bank Ltd., being nominee of the Batala Cooperative Sugar Mills Ltd. the said Mill is the member of Punjab State Cooperative Bank Ltd., Sh. Bajwa got elected as Director of Punjab State Cooperative Bank Ltd. Sh. Bajwa again contested the election of the Punjab State Cooperative Sugar Mills Federation Ltd., (hereinafter referred to be as Sugarfed) from Zone No.--- as nominee of Batala Cooperative Sugar Mills Ltd.

COPI
CHANDIGARH
CHANDIGARH

Mills Ltd. He was again elected as Director of Board of Directors of Sugarfed. The term of the Managing Committee of Batala Cooperative Sugar Mills Ltd., expired on 6-6-2006 and new Board of Directors got elected on 7-2-2008. Petitioner- Sh. Sandeep Singh Randhawa got elected as one of the Directors of the Managing Committee of Batala Cooperative Sugar Mills Ltd. The petitioner is aggrieved against the election of Respondent No.1 on the ground that he continues to represent Batala Cooperative Sugar Mills Ltd. on the Board of whereas he was not eligible to be elected for the said directorship Sugarfed under Section 26 (b) of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to be as Act) as he was already elected Director of another Apex Federation i.e Punjab State Cooperative Bank Ltd., Section 26 (b) of the said Act provides as under:-

" 26.B Restrictions on membership etc:- (1) No individual shall, at any time, be a member of committee of-

- (a) more than two primary societies; and
- (b) more than one central and one apex society;

Provided that nothing in this sub-section shall apply to member nominated under sub-section (2) of Section 26 or to a member of the committee of an apex or central nominated to serve on the committee of another apex or central society, as the case may be, in accordance with the provisions of their bye-laws.

(2) No person shall be eligible for being elected to the committee of any cooperative society after he has served on the committee of that Cooperative society for two continuous terms, unless a period of not less than one term has expired since he last so served."

The contention of the petitioner is that Respondent No.1 got elected unopposed as there was nobody-else to oppose his election being single nominee from that Zone. Respondent No.1 submitted a wrong information in the declaration form that he was not member of any other Apex Federation which he was supposed to file at the time of election of the Board of Directors of Sugarfed. Had he filed the correct information at that time, he would have not been elected as Director of Sugarfed being Director of another Apex Federation.

Notice was given to the other party i.e respondents. Sh. Harsh Bangar, Advocate appeared for Respondent No. 1 whereas Respondent No. 2 was represented by Sh. Vijay Singh Kanwar, Commercial Officer, Sugarfed Punjab. A written reply was also filed on behalf of Respondent No.1.

Arguments were heard. Sh. Sharma, Counsel for the petitioner submitted that Respondent No.2 can not continue as Director of two Apex Federation simultaneously as Section 26 (B) Act prohibits any individual to occupy the position of Directors of two Federations. Simultaneously Sh. Sharma submitted documentary evidence in support of his contention. He presented a copy of notice of meeting of the Board of Directors wherein Sh. Gurbachan Singh Bajwa, Respondent No.1 figure as Sr.No. 16 of the list of Directors of the Punjab State Cooperative Bank Ltd. He also submitted a copy of notice for meeting of Board of Directors of Sugarfed Punjab wherein

Handwritten mark resembling a stylized 'S' or '2'.

COPI
STAMP
Superintendent
Punjab State Cooperative Societies
Punjab, Chandigarh

Respondent No.1 figures at Sr. No. 1 as Vice-Chairman of the Federation. In view of this documentary evidence and undisputed provision of the Act, Sh. Gurbachan Singh Bajwa needs to be ceased as Director of one of the Apex Federation to comply with the provisions of Section 26 (B) of The Punjab Cooperative Societies Act, 1961. Sh. Sharma further argues that the Respondent No. 1 has also not denied these facts in the written statement. In the end he prayed that Respondent No.1 be ordered to be ceased as Director of Sugarfed Punjab as he was not eligible to contest the election of directorship of Sugarfed Punjab U/S 26 (B) of the Act being Director of another Apex Federation i.e. Punjab State Cooperative Bank Ltd., at that time.

Sh. Bungar, Advocate on behalf of Respondent No.1 raised a preliminary objection that the petitioner has no locus-standi to file this petition as he was not even a Director of Batala Cooperative Sugar Mills Ltd. when the election of the boards of Directors of Sugarfed Punjab was held and the petitioner was elected as Director of Sugarfed. So when he was not a party to that election in any form, so his petition at this State can not be considered. Sh. Bangar further argued that Rule 26 of the Punjab Cooperative Societies Rules, 1963 provides for cessation of member of the society as under:-

"Rule 26 Cessation of membership of Committee. A member of the committee shall cease to hold his office as such, if he:-

- f) becomes subject to any disqualification which would have prevented him from seeking election, had he incurred that disqualification before election."

He argued that the above said provision clearly shows that a committee member could be ceased only when he incurs any disqualification after his election whereas in the instant case the petitioner has not indicated or proved any disqualification on the part of respondent No. 1 after his election as Director of Sugarfed. He further argued that the petition had earlier filed a Revision Petition before the Registrar, Cooperative Societies, Punjab and the same has been dismissed vide RCS Order dated 27.5.2008. Concluding his arguments he prayed that the petition be dismissed, being not maintainable.

I have heard arguments of both the parties and perused the record available on file. The respondents have not denied the documentary evidence regarding continuance of directorship of respondent No1 Shri Gurbachan Singh Bajwa on two Apex Federations i.e. Sugarfed, Punjab and Punjab State Cooperative Bank Ltd. simultaneously. In view of this I have no reason to differ with the contention of othe petitioner that respondent No. 1 got himself elected as Director of Sugarfed in violation of Section 26(B) of the Act. In the given circumstances and documentary evidence available on the file, the contention of respondent No. 1 regarding maintainability also loses its relevance Section 26(B) of the Act debars the candidates for holding membership/directorship of two Apex Federations simultaneously . Once it is established that respondent No. 1 was not eligible to contest and to be elected director of Sugarfed when he was already an elected director of another Apex

30/11/2008
REGISTERED
Registrar Cooperative Societies
Punjab Chandigarh

Federation i.e. Punjab State Cooperative Bank, his continuation as director of Sugarfed Punjab shall be violation of Section 26(B) of the Act and against the principles of Co-operative.

Now when this position has been brought to the notice of this Court so I feel no hesitation to order cessation of Shri Gurbachan Singh Bajwa, respondent No. 1 from the directorship of Sugarfed to comply with Section 26(B) of the Act.

Accordingly, I accept this petition and order the cessation of Sh. Gurbachan Singh Bajwa, respondent No. 1 from the directorship of Board of Directors of Sugarfed,

Announced in the open Court. File be consigned to the record room.

Dated: 21-7-09


Registrar,
Cooperative Societies, Punjab,
Chandigarh.

NAME OF APPLICANT
1. **Date of Decision**
2. **Nature of Application**
3. **No. of Words of Decision**
4. **Amount of Copying fee**
5. **Date of Preparation of Copy**
6. **Date of attestation of Copy**
7. **Copy Prepared by**

ATTENDED

Superintendent
The Registrar Cooperative Societies
Punjab Chandigarh