

**The High Court of Madhya Pradesh**  
**WP 11949/2019**  
**Devendra Singh Yadav vs. State of M.P.**

**Gwalior, dtd. 28/06/2019**

Shri Harshad Bahirani, learned counsel for the petitioner.

Shri P.S.Raghuwanshi, learned Government Advocate for respondents No. 1 to 4/State.

Shri D.P. Singh, learned counsel for respondent No.6 on advance notice.

This petition under Article 226/227 of the Constitution of India has been filed against the order dated 14/05/2019 passed by M.P. State Cooperative Tribunal, Bhopal in SA No. 189/2018 thereby affirming the order dated 20/04/2018 passed by Joint Registrar (Judicial) Cooperative Societies, Gwalior in Case No. 78-08/2017 by which the order dated 15/03/2017 passed by Dy. Registrar Cooperative Society, Shivpuri in Case No. 10/03/16 was set aside.

The necessary facts for the disposal of the present petition in short are that the petitioner was working on the post of sales-man in Primary Krishi Sakh Sanstha Maryadit, Dinara, District Shivpuri whereas, the respondent No.6 was working as clerk. The Board of Directors by resolution dated 10/03/2016, promoted the respondent No.6 to the post of Assistant Society Manager and the said resolution was challenged by the petitioner by filing a dispute under Section 64 of the M.P.Cooperative Societies Act. The said dispute was allowed by Dy. Registrar Cooperative Societies, District Shivpuri vide order

dated 15/03/2017. The respondent No.6 challenged the said order by filing an appeal before the Court of Joint Registrar (Judicial Cooperative Societies, Gwalior) which was registered as 78-08/2017 appeal.

The Joint Registrar (Judicial) vide order dated 20/04/2018 allowed the said appeal by holding that dispute raised by the petitioner was covered by Section 55(2) of M.P. Cooperative Societies Act and for raising the said dispute a limitation of 30 days is provided, whereas the petitioner had raised the dispute under Section 64 of the M.P. Cooperative, which was beyond the period of limitation and was not maintainable.

Being aggrieved by the order of the Joint Registrar (Judicial) the petitioner unsuccessfully filed an appeal before the M.P. Cooperative Tribunal, Bhopal and the appeal filed by the petitioner as where dismissed vide order dated 14/05/2019 passed in S.A. No. 189/2018. Challenging the orders passed by courts below, it is submitted by learned counsel for the petitioner that Section 64 of M.P.Cooperative Societies Act is a general provision and, therefore, the dispute with regard to the promotion of the respondent No.6 is also covered by the said provision and thus, the order of the Joint Registrar (Judicial) as well as the order of the M.P. Cooperative Tribunal, Bhopal is erroneous and even if the authority/tribunal was of the view that the dispute is covered by Section 55(2) of M.P.

Cooperative Societies Act then they should have condoned the delay in raising the dispute.

Per contra, it is submitted by counsel for the respondents No. 1 to 3 as well as respondent No. 6 that the petitioner has disputed the promotion of the respondent No.6 to the post of Assistant Society Manager, which is covered by Section 55 of the M.P. Cooperative Societies Act and when there is a specific provision under the Act then the said dispute cannot be raised under section 64 of the M.P. Cooperative Societies Act. In absence of any application for condonation of delay the authority/tribunal had rightly held that the dispute raised by the petitioner was barred by time.

Heard learned counsel for the parties.

Section 55 of M.P.Cooperative Societies Act reads as under :-

**“55. Registrar's power to determine conditions of employment in societies.-** (1) The Registrar may, from time to time, frame rules governing the terms and conditions of employment in a society or class of societies and the society or class of societies to which such terms and conditions of employment are applicable shall comply with the order that may be issued by the Registrar in this behalf.

Provided that in the case of co-operative credit structure, the Registrar may frame rules governing the terms and conditions of employment on the basis of the guidelines specified by the National Bank.

(2) Where a dispute, including a dispute regarding terms of employment working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and

its employees:

Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of order sought to be impugned:

Provided further that in computing the period of limitation under the foregoing proviso, the time requisite for obtaining copy of the order shall be excluded.

Provide also that the Registrar or the officer referred to above may admit dispute after the expiry of 30 days, if applicant satisfy the Registrar or officer referred to above that he had sufficient cause for not referring the dispute within the stipulated time.”

From the plain reading of this section, it is clear that any dispute regarding the terms and conditions of employment in a society can be raised under this Section.

Section 64 of M.P.Cooperative Societies Act reads as under :-

**64.Disputes:** - (1) Notwithstanding anything contained in any other law for the time being in force, [any dispute touching the constitution, management or business, [x x x] or the liquidation of a society shall be referred to the Registrar] by any of the parties to the dispute if the parties there to are among the following:-

(a) a society, its Board of Directors, any past Board of Directors, any past or present officer, any past or present agent, any past or present servant or a nominee, heirs or legal representatives of any deceased agent or deceased servant of the society, or the liquidator of the society ;

(b) a member, past member or a person claiming through a member, past member or deceased member of a society or of a society which is a member of the society ;

(c) a person other than a member of the society who has been granted a loan by the society or with whom the society has or had business transactions and any person claiming through such a person.

(d) a surety of a member, past member or deceased member or a person other than a member who has been granted a loan by the society, whether such a surety is or is

not a member of the society.

(e) any other society or the liquidator of such a society; and

(f) a creditor of a society.

(2) For the purposes of sub-section (1), a dispute shall include -

(i) a claim by a society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not;

(ii) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand be admitted or not;

(iii) a claim by a society for any loss caused to it by a member, past member or deceased member, any officer, past officer or deceased officer, any agent, past agent or deceased agent, or any servant, past servant or deceased servant or its Board of Directors, past or present, whether such loss be admitted or not ;

(iv) a question regarding rights, etc., including tenancy rights between a housing society and its tenants or members; and

[(v) any dispute arising in connection with the election of any officer of the society or of composite society;

Provided that the Registrar shall not entertain any dispute under this clause during the period commencing from the announcement of the election programme till the declaration of the results].

(3) If any question arising whether a dispute referred to the Registrar is a dispute, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

From the plain reading of Section 66 of the M.P.Cooperative Societies Act, 1960., it is clear that a dispute regarding constitution, management, business or the liquidation of a society can be referred to the Registrar under this section.

When a specific provision has been made under section 55 of the M.P.Cooperative Societies Act to raise the dispute concerning the

terms and conditions of the employment in a society then the same has to be raised as per the provisions of Section 55 of the M.P.Cooperative Societies Act only.

First proviso to sub section 2 of section 55 of the M.P.Cooperative Societies Act specifically provides that the dispute under section 55(2) of the M.P.Cooperative Societies Act has to be raised within a period of 30 days from the date of order sought to be impugned. However, third proviso to sub section 2 of section 55 of the M.P.Cooperative Societies Act gives jurisdiction to the authorities to condone the delay if the petitioner had sufficient cause for not referring the dispute within the stipulated period.

In the present case, admittedly the petitioner did not file any application under third proviso to sub section 2 of section 55 of the M.P.Cooperative Societies Act for condonation of delay. Once the petitioner has chosen not to file an application for condonation of delay then the authorities were not under obligation to condone the delay on their own because the delay cannot be condoned without their being any sufficient cause for not raising the dispute within the period of limitation and the sufficient cause can be disclosed by the applicant/petitioner only.

It is submitted by learned counsel for the petitioner that when the petitioner has raised a bonafide dispute then the Court should not take a very technical view and should consider the provisions

liberally. In support of his contentions, the counsel for the petitioner the has relied upon the order dated 08/04/2019 passed by Principal Bench of this Court in the case of Zila Sahkari Kendriya Bank Maryadit Vs. Arvind Kumar Dwivedi in WP No. 9389/2009.

Considered the submissions made by the counsel for the petitioner. In the said case, the petitioner therein had filed an application for condonation of delay and thus it was held that a liberal view should be taken while considering the application for condonation of delay. In the present case infact no application was filed by the petitioner at all. No cause much less sufficient cause was disclosed by the petitioner and under these circumstances, neither the Joint Registrar (Judicial) nor the M.P. State Cooperative Tribunal were under obligation to substitute their own reasoning for condonation of delay.

Under these circumstances, this Court is of the considered opinion that neither the Joint Registrar (Judicial) nor the M.P. State Cooperative Tribunal committed any mistake by passing order dated 20/04/2018 and 14/05/2019 respectively. Accordingly, they are affirmed.

The petition fails and is hereby **dismissed**.



Pj'S/-

PRINCEE BARAIYA  
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**(G.S.Ahluwalia)**  
**Judge**