

counsel for the respondent, has not been able to meet the point as raised by the learned counsel for the petitioner and the view which logically follows. Thus, the petitioner has to be and obviously must be held a 'workman' within the meaning of the Act and the preliminary issue decided by the Tribunal in that regard to have been decided on a jurisdictional error.

(4) On the petitioner's being held a workman, the final curtain cannot be drawn by this Court and the matter has to be remitted back to determine as to whether the termination of the services of the petitioner was contrary to law and invalid and further whether he is entitled to any relief. For this purpose, the matter need be remitted back to the Tribunal. Accordingly, this petition is allowed, the award of the Tribunal (Annexure P-6) is set aside and the matter is remitted back to it to proceed further in accordance with law. In the circumstances of the case, however, there shall be no order as to costs.

H. S. B.

Before M. M. Punchhi, J.

SURJIT SINGH AND ANOTHER,—*Petitioners.*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ Petition No. 1765 of 1977.

October 30, 1984.

Punjab Co-operative Societies Act (XXV of 1961)—Sections 13 and 14(4)—Industrial Disputes Act (XIV of 1947)—Section 25-FF—Registered Co-operative Society having various branch offices—Such society splitting into separate Co-operative Societies—Reference made to Labour Court raising a dispute under Section 25-FF of the Industrial Disputes Act after splitting up of Society but relating to a period before such split—Such reference—Whether maintainable against the transferee Society.

Held, that Sections 13 and 14(4) of the Punjab Cooperative Societies Act, 1961 provide a comprehensive scheme for the division of Cooperative Societies as also the transfer of assets and liabilities thereof. In particular, Section 13(7) provides that where a resolution

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passed by a Cooperative Society involves the transfer of any assets and liabilities, the resolution shall notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance. A Cooperative Society registered under the Cooperative Societies Act is a body corporate and its branch office is part and parcel of that body corporate. After the legal splitting up and coming into the field of registered Society a new corporate body came into being saddled with the assets and liabilities of the parent corporate body. Thus, reference made to the Labour Court in respect of the dispute under Section 25-FF of the Industrial Disputes Act, 1947 would be maintainable, against the transferee society.

(Paras 5 & 6).

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

- (a) a writ of certiorari quashing the impugned Award Annexure P-4 and a Writ of mandamus directing the Learned respondent No. 2 to decide the case on merits or any other appropriate, Writ order or direction which this Hon'ble court may deem fit in the circumstances of the case, be issued.
- (b) requirement of filing certified copies of Annexures 1 to 4 to be dispensed with.
- (c) the record of the case be summoned, for the perusal of Hon'ble Judges.
- (d) any other relief which this Hon'ble Court may deem fit in the circumstances of the case, may kindly be granted.
- (e) the case being very old, directions to respondent No. 2 may kindly be issued to decide the case immediately as the petitioners are suffering a lot.
- (f) This Writ Petition be allowed with costs.

M. S. Bedi, Advocate, for the Petitioner.

N. K. Sodhi, Advocate, for the Respondent.

JUDGMENT

M. M. Punchhi, J. (Oral).

(1) This writ petition raises rather an interesting question. It is with regard to the status of splinter societies on the splitting up of a Co-operative Society in the context of its obligations towards its workmen under the Industrial Disputes Act, 1947. It arises in this manner,

(2) The two petitioners herein, Surjit Singh and Waryam Singh; the latter dead and now represented by his legal representatives, were working as Drivers at Amritsar with Messrs Rohtak District Transport Cooperative Society Limited, Amritsar, a society registered under the Punjab Cooperative Societies Act, 1961, at Rohtak, having its Head Office at Delhi. The office of the Society at Amritsar was in the nature of a Branch Office. The petitioners statedly came in service in the year 1954. All of a sudden on 14th February, 1964 the petitioners were ordered to be transferred to the Head Office at Delhi. They neither joined their duties at Delhi nor worked at Amritsar as they were prepared only to serve the Society at Amritsar. An industrial dispute brewed. A reference was sought from the Government on 29th November, 1967 and the matter was referred by the Government to consider whether the Management was required to rescind the transfer orders of the petitioners and provide them duty at Amritsar, and if so, with what details. The Labour Court, Jalandhar, who was seisin of the matter,—*vide* its impugned order dated 20th October, 1976 (Annexure P-4) held the reference to be misdirected and not competent against the respondent-Society. The address of the respondent-Society was mentioned as one of Amritsar.

(3) As said before, the Society was one and had business at three places i.e. at Delhi, Rohtak and Amritsar. Concededly, these units started functioning separately in the year 1967. The Amritsar Unit even got itself registered as a separate Cooperative Society on 1st July, 1970. From that factor it was taken that the Amritsar Society was born asserting its own individual identity with effect from 1st July, 1970. Logically it was taken by the Labour Court that prior to that date, there was no society bearing that independent name at Amritsar. Thus, it was held that when the reference was made in the year 1967, directing it against the Management of Messrs Rohtak District Transport Cooperative Society Limited, Amritsar, it was misdirected. It was held that the society registered at Amritsar was the successor society to the society registered at Rohtak and the provisions of section 25-FF of the Industrial Disputes Act, 1947, came into play. On that basis the liability, if any, to face the reference was taken as that of the Rohtak Society and none other. Obviously no decision on merits was entered upon by the Labour Court. The aggrieved drivers have challenged the view of the Labour Court in this writ petition.

(4) The learned counsel for the petitioner has contended that the Labour Court committed a jurisdictional error in treating the

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division of the parent Cooperative Society to be creating a new Cooperative Society at Amritsar not responsible for the liability of the parent Cooperative Society. He has referred to section 14(4) of the Punjab Cooperative Societies Act, 1961, which is in the following terms:—

“(4) The amalgamation and splitting of co-operative societies shall not in any manner whatsoever affect any right or obligation of the resulting co-operative society or societies, or render defective any legal proceedings by or against the co-operative society or societies, and any legal proceedings that might have been continued or commenced by or against that co-operative society or societies, as the case may be, before the amalgamation or splitting, may be continued or commenced by or against the resulting co-operative society or societies.”

(5) It was also urged that section 13 of the said Act provides a comprehensive scheme for the division of Cooperative Societies as also the transfer of assets and liabilities thereof. In particulars, it was pointed out that section 13(7) provides that where a resolution passed by a Cooperative Society under this section, involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance. On the strength of the aforesaid two provisions, it is urged that when the society as registered at Rohtak split up and one of the splinter societies came into being at Amritsar when registered on 1st July, 1970, the Amritsar Society was vested with the assets and liabilities of the transferor by operation of law as also the proceedings instituted against the parent Society had to continue under the law against the resulting splinter Cooperative Society. Thus, it was urged that keeping apart the provisions of section 25FF of the Industrial Disputes Act, 1947, the reference had to continue against the Society which was got registered at Amritsar and the view of the Labour Court holding it to be misdirected was patently illegal. The learned counsel for the Management-respondent, however, on the other hand maintained that the claim of the workmen could only be against the transferor society, which he means is the society as registered at Rohtak, and at best retrenchment compensation under section 25-FF of the Industrial Disputes Act, 1947. According

to him, the question will have to be settled on the anvil of as to whether the management at Amritsar remained the transferor or was a transferee.

(6) As is plain, the narrow question mooted here is about the competency of the reference against the respondent-Society i.e. the management of Messrs Rohtak District Transport Cooperative Society Limited, Amritsar, undisputedly when the reference was made the said Society had not been registered at Amritsar and had only its Branch Office. A Cooperative Society registered under the Punjab Cooperative Societies Act, 1961, is a body corporate. Its Branch Office is part and parcel of that body corporate. Misdescription of the said society to be at Amritsar, for all intents and purposes, did not recognise a new being, or a different corporate body, so as to be distinctly existing at Rohtak and Amritsar. The reference was directed against one and the same body. Misdescription thereof in any manner would not render the reference to be misdirected. And after 1st July, 1970 by its legal splitting up and coming into the field of the new registered society at Amritsar, a new corporate body came into being saddled with the assets and liabilities of the parent corporate body. Thus, in my view neither was a reference in this case misdirected nor was it incompetent against respondent No. 3. The view of the Labour Court, Jalandhar, in sheding out its jurisdiction was erroneous and thus need be corrected by the issuance of a writ in the nature of *certiorari*. Thus, this petition is allowed and the impugned award dated 20th October, 1976 (Annexure P-4) is quashed, remitting the reference back to the Labour Court for decision in accordance with law. No costs.

H.S.B.

Before S. P. Goyal & I. S. Tiwana, JJ.

RACHHPAL SINGH,—*Petitioner.*

versus

SHRI GURDARSHAN SINGH,—*Respondent.*

Civil Revision No. 2331 of 1983.

November 6, 1984.

Code of Civil Procedure (V of 1908)—Order 39 Rules 1, 2 & 2-A(1)—Party to a suit violating order of ad-interim injunction