

**Patiala Aviation Club v. The Presiding Officer, Labour Court
and others (Mahajan, J.)**

asked for the cancellation of the order of the Collector nor for any injunction, two of the reliefs which they were entitled to ask in the case in addition to the declaration. Such a suit would be hit by section 42 of the Specific Relief Act and we would be quite in a position to deny them the declaration without these specific reliefs. Indeed they had only to ask for the setting aside of the order."

This case is clearly distinguishable from the present one. Therein a valid order by which the plaintiffs were bound had come into existence before they brought their suit. As remarked by Hidayatullah, C.J., a prayer for the setting aside of the order was a must for them. If the order was allowed to stand, the grant of the declaration prayed for would be an illusory and, in fact, a meaningless relief which would be ineffective unless the order was set aside. The relief of cancellation of the order was, therefore, a 'further relief' within the meaning of the proviso to section 42 of the 1877 Act. In this view of the matter it would appear that *Jugraj Singh's case* (8) lays down nothing contrary to the dicta in *Lt. Col. G. S. Dutta's case* (7) and *The State of Delhi v. The Union of India* (6) and is, therefore, no assistance to the case of the petitioner.

10. For the reasons stated, the petition fails and is dismissed but with no order as to costs.

K. S. K.

APPELLATE CIVIL

Before D. K. Mahajan and P. S. Pattar, JJ.

PATIALA AVIATION CLUB,—Appellant.

versus

THE PRESIDING OFFICER, LABOUR COURT AND OTHERS,—

Respondents.

L.P.A. 612 of 1973.

March 28, 1974.

*Societies Registration Act (XXI of 1860)—Section 6—Appeal
filed by the Manager of a registered society challenging a judgment*

passed against the society—No resolution passed by the governing body of the society authorising the Manager to file the appeal—Such appeal—Whether competent.

Held, that under Section 6 of Societies Registration Act, 1860, either the rules and regulations of a registered society provide for taking care of the litigation at all its stages, or for every stage in litigation, a resolution has to be passed by the governing body of the society for taking the further step in the litigation. Where a Manager of a registered society files an appeal challenging the judgment passed against the society without any resolution of the governing body authorising him to do so or any provision in the rules of the society to this effect, such an appeal is not competent.

Letters Patent Appeal under Clause X of the Letters Patent against the Judgment of Hon'ble Mr. Justice M. R. Sharma, passed in C.W. No. 3888 of 1970, dated 25th July, 1973.

R. L. Aggarwal and Amar Datt, Advocates, for the appellant.

D. N. Rampal, Assistant Advocate-General, Punjab, for respondents 1 to 3.

Narinder Singh and Kuldip Singh Kapur, Advocates, for respondents No. 4.

JUDGMENT.

MAHAJAN, J.—This is an appeal under clause X of the Letters Patent and is directed against the decision of a learned Single Judge of this Court rejecting the petition filed by the appellant under Articles 226 and 227 of the Constitution of India for the issuance of a writ of *certiorari* against the order of the Presiding Officer, Labour Court, Ludhiana, dated August 10, 1970.

(2) The appellant, through its manager, Shri Swaran Singh, filed the petition referred to above, against the Presiding Officer, Labour Court, Ludhiana, the Labour Commissioner, Punjab, the State of Punjab, and Shri Hari Parkash, an Ex-Employee of the Club. This petition was heard by Mr. Justice M. R. Sharma, and the learned Judge rejected the same. Against the order of the learned Single Judge, the present appeal has been preferred.

(3) A preliminary objection has been raised by Mr. Narinder Singh, learned counsel, for respondent No. 4, that the appeal has

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been preferred without proper authority and, therefore, is not competent. The learned counsel places reliance on *Murti Shri Raghunath Ji v. Joginder Singh* (1), a Division Bench decision of this Court wherein it was held as follows :—

“After the suit had been partly decreed, the Committee had to again decide whether to go up in appeal against that order or not. If the rules and regulations had authorised the Secretary or the President or both to take a decision in that respect, then they could individually or jointly take such a decision. But if the said rules and regulations did not give that power to the office bearers concerned, then the Committee had to, by means of a resolution take a decision of filing an appeal and also authorise somebody to take steps in that direction. That is necessary because some expense has to be incurred in filing the appeal and for that purpose the Committee has to apply its mind whether it is worthwhile doing so or not.”

In the present case, there is no dispute that the Aviation Club, Patiala, is registered under the Societies Registration Act, 1860. Therefore, in view of the provisions of section 6 of that Act which are in the following terms :

“Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the Society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion :

Provided that it shall be competent for any person having a claim or demand against the Society to sue the president or chairman, or principal-secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant;”

either the rules and regulations would provide for taking care of the litigation at all its stages or for every stage in litigation, a resolution will have to be passed by the governing body of the Society, In

(1) 1971 Curr. L.J. 47.

the present case, the rules and regulations are silent on this matter. There is no resolution by the governing body of the Society. In fact, it is stated that the Club is a defunct body and a Manager has been appointed under rule 20(b) of the Rules and Regulations of the Society. Rule 20 deals with special powers of the State Government. The State Government has passed the following order, dated July 3, 1973, the relevant part of which is reproduced below :—

“He will exercise all the executive, financial and administrative powers conferred upon the Managing Committee for the management of the Club subject, however, to the limitations of the Rules and Regulations and the directives of the Director-General of Civil Aviation, Government of India, New Delhi. The Manager shall draw and disburse any amount required for the purpose of the Club and do all such acts deemed fit for the furtherance of the cause of the Club. He will also approve the annual accounts of the Club, but for appointment of Auditors and all other matters not specifically indicated in the Rules and Regulations, etc., he will seek prior approval of the State Government.”

It will appear from this order that the power to sue or prefer an appeal has not been specifically conferred by this order. It merely confers power of day to day running of the Club on the Manager and for that purpose, he can disburse any amount which is required. However, there is a provision that if there is no provision for any matter in the rules and regulations, the Manager can take directions from the State Government. In the instant case, no direction was sought from the State Government as to whether an appeal should or should not be filed against the decision of the learned Single Judge. In this situation, the decision in *Murti Shri Raghunath Ji's case* (supra) governs the case. There is, therefore, merit in the preliminary objection and it must prevail.

(4) For the reasons recorded above, this appeal fails and is dismissed as having been filed by an incompetent person. There will be no order as to costs.

PATTAR, J.—I agree.

K. S. K.