



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 11224 of 2025

Decided on: 27.08.2025

Raj Kumar and another ... Petitioners

Versus

State of Himachal Pradesh and others ... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹ Yes

For the petitioners : Mr. Sudhir Thakur, Senior Advocate
with Mr. Somesh Sharma, Advocate.

For the respondents : Mr. Pushpender Jaswal, Additional
Advocate General.

: Mr. Gaurav Chauhan, Joint Registrar
and Surender Singh Mania, DI/DAO,
from the HP Cooperative Societies are
present in person.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioners have assailed order dated 15.05.2025 (Annexure P-10), in terms whereof, the appeal filed by the petitioners under Section 93 of the H.P. Cooperative Societies Act, 1968, has been dismissed by the Authority by assigning the following reasons:-

“After carefully examining the petition, documentary evidence, and oral submissions made by both parties, arrive at the following findings:

1. On Issue No. 1:

¹ Whether reporters of the local papers may be allowed to see the judgment?

The petitioners have failed to establish that the election process was initiated 90 days the expiry of the term of the previous Managing Committee, as mandated under Rule 38(3) of the H.P. Cooperative Societies Rules, 1971.

2. On Issue No. 2:

The material on record confirms that the elections held on 22.11.2023 were not conducted in conformity with the procedure laid down in Appendix-A of the said Rules. Accordingly, the election of the committee stands vitiated by procedural irregularity.

In light of the above findings and upon due consideration of the pleadings and the law applicable thereto. I am of the considered opinion that the order passed by the Assistant Registrar, Cooperative Societies, Sirmaur, dated 26.11.2024, does not suffer from any legal infirmity and is hereby affirmed. The appeal stands dismissed. There shall be no order as to costs. Orders kept reserved on 08-05-2025 are released today. Let the records be consigned to record room."

2. Brief facts necessary for the adjudication of this petition are that a dispute arose with regard to the elections held for the constitution of the Managing Committee of Sai Cooperative Non-Agricultural Thrift and Credit Society Limited. Petitioner No. 1 before

this Court claims to be the founder member of the said society. He claims to be the elected president of the Society in terms of the General House meeting convened on 22.1.12023.

3. To cut the controversy short, the entire dispute was that the elections of the Managing Committee as per the Authorities held on 22.11.2023 were null and void for the reason that no election process was initiated by the Managing Committee of the Society 90 days prior to the expiry of the term of the previous Managing Committee of the Society. In these circumstances, the elections were held to be bad by the Authority and an administrator was appointed.

4. Feeling aggrieved, the petitioners earlier filed CWP No.2993 of 2025 before this Court, which was disposed of by this Court in terms of order dated 07.04.2025, by setting aside the earlier order passed by Deputy RCS (Audit), Himachal Pradesh and by remanding the matter to the said authority to decide the appeal afresh.

5. Now in terms of the impugned order, the Authority has dismissed the appeal again.

6. Learned Senior Counsel for the petitioners has vehemently argued that the impugned order is not sustainable in the eyes of law for the reason that the Authority below has erred in not appreciating that the process was put into motion by the earlier Managing Committee well in time, which is also evident from the

resolution of the house dated 30.08.2023, appended with the petition as Annexure P-2 at page 27 of the paper book. Learned Senior Counsel further submitted that this was thereafter followed by another General House resolution dated 15.09.2023 and therefore, as the election process was initiated by the earlier Managing Committee 90 days prior to the expiry of the terms of the said committee, the order to the contrary passed by the Appellate Authority is not sustainable in the eyes of law. Learned Senior Counsel also submitted that otherwise also, the provisions of Rule 38 of the H.P. Cooperative Societies Rules 1971 cannot be construed so myopically to set aside a duly elected Managing Committee, as has been done by the Appellate Authority. He further submitted that the provisions thereof generally and ordinarily are not being followed by many of the Cooperative Societies in the State and the previous election was also conducted in the same manner. Accordingly, he prayed that as the impugned order is *per se* bad, the same be set aside.

7. Yesterday during the hearing of this case, this Court passed the following order:-

“Heard for some time. Learned Additional Advocate General to ensure that some competent Officer from the Office of the Registrar, Co-operative Societies is present in the Court to assist the Court in the matter as to what is the meaning of

initiation of election process 90 days prior to the completion of tenure of the Managing Committee in terms of Rule 38 of the Co-operative Societies Rules, 1968. As prayed for, list on 27.08.2025.”

8. Today, Mr. Gaurav Chauhan, Joint Registrar and Mr. Surender Singh Mania, DI/DAO, are present in person in the Court and they have referred to the provisions of Rules 37 and 38 as well as Appendix-A, as it finds mention in Rule 37 of Rules *ibid* and informed the Court that the election process is stated to be initiated before 90 days of the completion of tenure of the outgoing Managing Committee, if the outgoing Managing Committee before 90 days prior to the completion of its tenure, initiates election process strictly in terms of Appendix-A, as is mentioned in Section 37 of the Rules. They also apprised the Court that in the present case, mere passing of the resolution, which is appended with the petition as Annexure P-2 cannot be said to be the compliance of Rule 37 of the Rules *ibid*.

9. I have heard learned Senior Counsel for the applicant and learned Additional Advocate General and have also carefully gone through the impugned order as well as other documents appended with the petition.

10. In terms of the affidavit filed by petitioner No.1, dated 25.08.2025, which was filed in the Court and which is ordered to be taken on record, the term of the earlier Managing Committee, was to

expire on 03.12.2018. Therefore, in terms of the provisions of Rule 38 of the 1971 Rules, the outgoing Managing Committee was mandatorily bound to initiate election process in terms of Appendix-A to Rule 37 of said Rules. It is an admitted case that the same was not done in the present case by the petitioner-Society. All that was done before 90 days was that a resolution was passed on 30.08.2023 (Annexure P-2), in terms whereof, it was decided that as the election of the committee were to be held during the said year itself, therefore said issue should be discussed in the house, which was agreed upon. As observed hereinabove, passing of this resolution 90 days before expiry of terms of the outgoing Managing Committee, by no stretch of imagination, can be said to be initiation of election process.

11. Now incidentally, if one peruses the impugned order, perusal thereof demonstrates that for the purpose of the decision of the appeal, two Issues were framed by the Authority. These Issues read as under:-

- “i. Whether the Society initiated the election process at least 90 days prior to the expiry of the term of the outgoing Managing Committee, in compliance with Rule 38(3) of the Himachal Pradesh Cooperative Societies Rules, 1971?*
- ii. Whether the elections to the Managing Committee were conducted in accordance with the procedure prescribed*

under Appendix-A to the said Rules, as mandated by Rule 37?”

12. While returning its findings on Issue No. 1, the Authority held that the petitioners have failed to establish that the election process was initiated 90 days prior to the expiry of the term of the previous Managing Committee, as mandated under Rule 38(3) of the H.P. Cooperative Societies Rule, 1971. While deciding Issue No. 2, the Authority held that the material on record confirmed that the elections held on 22.11.2023 were not conducted in conformity with the procedure laid down in Appendix-A of the said Rules, i.e. Rule 37.

13. Now if one further peruses the impugned order, one finds that the stand that was taken by the present petitioners before the Appellate Authority was that compliance qua Appendix-A, as it finds mention in Rule 37, was not mandatory and numerous Cooperative Societies across the State were not strictly adhering to the said Appendix, yet, no punitive action was initiated against them by the Registrar. Further contention raised before the Appellate Authority was that as the present Managing Committee had witnessed substantial growth and progress, therefore, its removal would not serve any public interest. It was further the stand of the petitioners that the election process and its results were duly communicated to ARCS in accordance with applicable legal

provisions.

14. This Court is of the considered view that in light of the fact that there is an admission on the part of the petitioners before the Appellate Authority that there was no compliance qua Appendix-A of Rule 37 of the 1971 Act, which thus means that the election process was not initiated by the outgoing Managing Committee 90 days before the expiry of its term, the findings returned by the Appellate authority that the petitioners failed to establish that the election process was initiated 90 days prior to expiry of term of the previous Managing Committee, are correct findings. Simply because some other Cooperative Societies were not adhering to the mandate of Rules 37 and 38 of 1971 Rules, this does not mean that non-compliance or breach thereof by the petitioners was liable to be condoned by the Authority. In fact, a perusal of the language of said Rules demonstrates that they are mandatory in nature and as there admittedly was a breach on the part of the outgoing Managing Committee of the said Rules as it failed to initiate the election process 90 days before the expiry of the term of the previous Managing Committee, obviously, the elections which were held on 22.11.2023, on the basis of an illegal election process initiated thereafter, was liable to be set aside, as has been rightly done by the Appellate Authority.

Therefore, in light of above observations, as this Court

does not find any perversity with the impugned order and any merit in this petition, the same is dismissed. Pending miscellaneous applications, if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

August 27, 2025
(narender)