

ORDER SHEET

Case No: W.P.No.3340/2023

Versus

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of Parties or counsel, where necessary.
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2. Learned counsel for the Petitioner has iterated the submissions already made by him in the writ petition, however, his main contention is that both the forums below have not considered the provisions of Section 43 of the Cooperative

Societies Act, 1925 (the “Act”) in true perspective while passing the impugned orders.

3. Learned Law Officer has objected to the maintainability of this petition.

4. Arguments heard and record perused.

5. First of all, it would be advantageous to go through the provisions contained in Section 43 of the Act, which is reproduced hereunder for ready reference:-

“43. Inquiry by Registrar.---(1) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(2) The Registrar shall hold such an inquiry as is contemplated in sub section (1) of this section---

(a) on the requisition of society, duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society,

(b) on the application of a majority of the Committee of the society,

(c) on the application of 1/3rd of the members of the society.

(3) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.”

From the above-quoted provision of law, it is elucidated that the Respondent No.2 on his own motion by himself is empowered, under the

law/Act, to hold an inquiry into the constitution, working and financial condition of a society. In this regard, reliance can be placed on the judgment reported as Shahbaz Qalandar Cooperative Housing Society Limited through Chairman versus Province of Sindh through Secretary Cooperative Department and 2 others (2011 CLC 783) holding that “*the main object and purpose of holding inquiry is to check whether mandatory requirements and the working affairs of the society are being conducted according to law and in the larger interest of the members of the society.*” In another identical case cited as Saddar Cooperative Market Ltd. through Honorary Secretary versus Province of Sindh, Department of Cooperation and 3 others (2009 CLC 143) it has been held that Section 43(1) gives the power to the Registrar to hold an inquiry at his own motion for which no procedure has been provided. The impugned order dated 22.09.2023 does not reflect that the Respondent No.2 has exceeded from his powers while dealing with the application of the Respondents No.3 to 5 on the issue of certain irregularities into the affairs of the Society by its Managing Committee. There is nothing wrong with the impugned order passed by the Respondent No.2 who has issued certain directions to the Inquiry Committee in consonance with the object of the Act, which has been promulgated with the only intent to facilitate formation and working of Co-operative Societies for the promotion of thrift, self-help and mutual

aid among agriculturists and other persons with common economic needs so as to bring about better living specifically, better business. Interference in such like matters has also been declined by the Supreme Court of Pakistan in the case of Pir Illahi Bukhsh Co-Operative Housing Society Ltd., Karachi versus Registrar Co-Operative Societies, Karachi And Others (1968 SCMR 423) by discussing the scope of Section 43 of the Act regarding powers of the Registrar, Cooperative Societies, Punjab.

6. As regard the other impugned order dated 03.10.2023, the same has also validly been passed by the Secretary, Cooperatives Department, Government of the Punjab/Respondent No.1 in terms of Section 64-A of the Act, which reads as under:-

“64A. Power of Provincial Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.---The Provision Government and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any decision or order or proceedings so-called for should be modified, annulled or reversed the Provincial Government or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.”

It is observed that the order dated 03.10.2023 has been passed by the Respondent No.1, being head of the Department, strictly as per the power vested

on him under the provisions of Section 64-A of the Act by rightly declaring that the (aforesaid) impugned order of the Respondent No.2 is based on sound reasoning and has been passed in accordance with law. In his order, Respondent No.1 has also observed that proceedings of a fresh inquiry into the affairs of the Society cannot be stopped because the facts and ground realities had been changed with the afflux of time. In addition to the powers conferred upon the Respondent No.1 in terms of Section 64-A of the Act, he is also empowered to take cognizance of the matter under Rule 3(3) of the Punjab Government Rules of Business, 2011 (the “Rules”), which clearly states that business of the Government has been distributed amongst several Departments in the manner indicated in the Second Schedule and functions of the Secretary are described under Rule 10 of the Rules, which is reproduced hereunder for ease of the matter:-

“10. Functions of the Secretary.— (1) A Secretary shall:

- (a) be the official head of the Department and be responsible for its efficient administration and discipline, for the conduct of business assigned to the Department and for the observance of laws and rules, including these rules, in the Department;*
- (b) be responsible to the Minister for the business of the Department and keep him informed about the working of the Department, and of important cases disposed of*

- without reference to the Minister;*
- (c) assist the Minister in the formulation of policy and bring to the notice of the Minister cases required to be submitted to the Chief Minister under the rules;*
 - (d) execute the sanctioned policy;*
 - (e) submit, with the approval of the Minister, proposals for legislation to the Cabinet;*
 - (f) keep the Chief Secretary informed of important cases disposed of in the Department;*
 - (g) issue, subject to any general or special orders of the Government:*
 - i) standing orders specifying the cases or class of cases which may be disposed of by an officer subordinate to the Secretary; and*
 - ii) specific orders and instructions to its officers for the conduct of the business assigned to a local government.*
- (2) While submitting a case for the orders of the Minister, the Secretary shall suggest a definite line of action.*
- (3) Where the Minister's orders appear to contravene any law, rules, regulations or Government policy, the Secretary shall resubmit the case to the Minister inviting his attention to the relevant law, rules, regulations or Government policy, and if the Minister disagrees with the Secretary, the Minister may refer the case to the Chief Minister for orders."*

From the above-quoted provision of the Rules, it is clear that Secretary, Cooperatives Department,

being official head of the Department, has dealt with the matter as per the functions assigned to him under Section 64A of the Act read with Clause 1(a) and Clause 7(i) to Second Schedule of the Rules in which he/she also administers the provisions of the Cooperative Societies Act, 1925 alongwith Rule 10 of the Rules, because he/she is responsible for efficient and smooth working of the affairs of the Society.

7. In view of the above, there is no occasion for this Court to interfere with the impugned orders dated 22.09.2023 and 03.10.2023 which have rightly been passed by the concerned authorities. This writ petition fails and is **dismissed** in limine under the Doctrine of Limine Control already developed by this Court in the case of *Asif Saleem versus Chairman BOG University of Lahore and others* (PLD 2019 Lahore 407).

(JAWAD HASSAN)
JUDGE

*Majid

Approved for Reporting

JUDGE