

Smt

No.-10-Misc./Legal-II-
Directorate of Co-operation,
Himachal Pradesh.

To

(Credit)

1. All the Additional/Joint/Deputy Registrar
Co-operative Societies, H.P.
2. All the Assistant Registrar,
Co-operative Societies in H.P.

5th October
Dated: Shimla-9, the 28th September, 2013.

Subject:-

General directions given by the Hon'ble Supreme Court of India in Civil Appeal No. 4691 of 2013 regarding supersession of elected Committees.

Memo:

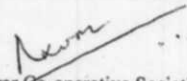
The Hon'ble Supreme Court of India in Civil Appeal No. 4691 of 2013 (Arising out of SLP (C) No. 6860 of 2012) titled State of M.P. and Others Versus Sanjay Nagayach and others was pleased to give the following general directions in view of the mushrooming of cases in various Courts challenging orders of supersession of elected Committees of Co-operative Societies:

- (1) Supersession of an elected managing Committee/Board is an exception and be resorted to only in exceptional circumstances and normally elected body be allowed to complete the term for which it is elected.
- (2) Elected Committee in office be not penalized for the shortcomings or illegalities committed by the previous Committee, unless there is any deliberate inaction in rectifying the illegalities committed by the previous committees.
- (3) Elected Committee in Office be given sufficient time, say at least six months, to rectify the defects, if any, pointed out in the audit report with regard to incidents which originated when the previous committee was in office.
- (4) Registrar/Joint Registrar are legally obliged to comply with all the statutory formalities, including consultation with the financing banks/Controlling Banks etc. Only after getting their view, an opinion be formed as to whether an elected Committee be ousted or not.
- (5) Registrar/Joint Registrar should always bear in mind the consequences of an order of supersession which has the effect of not only ousting the Board out

of office, but also disqualify them for standing for election in the succeeding elections. Registrar/Joint Registrar therefore is duty bound to exercise his powers bona fide and not on the dictation or direction of those who are in power.

- (6) Registrar/Joint Registrar shall not act under political pressure or influence and, if they do, be subjected to disciplinary proceedings and be also held personally liable for the cost of the legal proceedings.
- (7) Public money not to be spent by the State Government or the Registrar for unnecessary litigation involving disputes between various factions in a co-operative society. Tax payers money is not expected to be spent for settling those disputes. If found necessary, the same be spent from the funds available with the concerned Bank.

In view of the above, you are directed to adhere to the above instructions given by the Hon'ble Supreme Court of India strictly while invoking the provisions of section 37 of the H.P. Co-operative Societies Act, 1968 or while deciding an appeal challenging orders of supersession of elected Committee of a Co-operative society.


Registrar, Co-operative Societies,
Himachal Pradesh.