



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(s). \_\_\_\_\_ OF 2026  
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 23061 of 2025)**

**GAURAV MEHLA & ORS.**

**...APPELLANTS (S)**

**VERSUS**

**STATE OF HARYANA & ORS.**

**...RESPONDENT(S)**

**J U D G M E N T**

**NONGMEIKAPAM KOTISWAR SINGH, J.**

Leave granted.

**2.** The present appeal presents an important question concerning the delicate balance between strict adherence to statutory recruitment norms and the constitutional obligation

of courts to ensure fairness where employees, appointed through a duly initiated public selection process and having rendered long years of unblemished service, face the prospect of displacement on account of procedural defects allegedly attributable not to them but to the authorities conducting the recruitment. At its core, the controversy compels this Court to examine whether every infraction of a recruitment procedure necessarily renders an appointment void in law.

**3.** The present proceedings arise out of the judgment and final order dated 29.07.2025 passed by the Division Bench of the High Court of Punjab and Haryana at Chandigarh in LPA No.1259 of 2024 (O&M), whereby the Division Bench of the High Court has affirmed the judgment dated 22.04.2024 rendered by the learned Single Judge in CWP No.23148 of 2017 and consequently, declined to interfere with the administrative and quasi-judicial orders passed by the authorities under the Haryana Cooperative Societies Act, 1984. By virtue of the aforesaid judgments and orders, the appointments of the present Appellants, who were appointed in the year 2014 to the posts of Clerk-cum-Salesman and

Peon-cum-Chowkidar in the Thanesar Cooperative Marketing-cum-Processing Society Ltd., Kurukshetra (for short “**cooperative society**”) pursuant to a recruitment process initiated after issuance of public advertisement and grant of approval by the Registrar, Cooperative Societies, Haryana came to be annulled on the ground that the appointment was allegedly made in violation of amended Rule 3 of the Primary Cooperative Marketing-cum-Processing Societies Limited Staff Service Rules, 2003 (for short “**Service Rules, 2003**”). The High Court, while affirming the orders dated 06.06.2017 passed by the Additional Registrar Cooperative Societies (Stores), Haryana, and 29.09.2017 passed by the Additional Chief Secretary to Government Haryana, Cooperation Department, held that the appointments had not been made in conformity with the mandatory statutory requirement concerning the presence and concurrence of specified departmental authorities i.e. Assistant Registrar Cooperative Societies, the Inspector (Cooperative Societies) and District Manager, Haryana State Cooperative Supply and Marketing Federation Limited (HAFED), at the time of taking the decision

to appoint, and therefore could not be sustained in law. Nevertheless, taking note of the fact that the Appellants had remained in continuous service since the year 2014 and had crossed the prescribed upper age limit during the pendency of litigation, the Division Bench granted liberty to the Appellants to participate in any future recruitment process and further directed that they be accorded appropriate age relaxation whenever fresh recruitment is undertaken by the Respondent Society.

**4.** The Appellants contend that the recruitment pursuant to which they came to be appointed was undertaken after due issuance of public advertisement, participation of eligible candidates and conduct of a regular selection process, and there was no any allegation with respect to the conduct or lack of eligibility attributable to them. According to the Appellants, they entered service through a process initiated with the approval of the competent authorities and, having rendered more than a decade of continuous and unblemished service, they could not have been deprived of their livelihood on account of an alleged procedural defect pertaining to the

internal functioning and composition of the appointing authority, a matter over which they neither exercised control nor played any role whatsoever.

**5.** The Respondents, per contra, contend that the recruitment process stood vitiated at its very inception owing to non-compliance with amended Rule 3 of the Service Rules, 2003, which, according to them, mandatorily required the presence and concurrence of the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED at the stage of appointment decision-making. It is their submission that once the recruitment process is shown to have been conducted contrary to a mandatory statutory prescription governing public appointments, the resultant appointments become *void ab initio* and incapable of being sustained on considerations of equity, sympathy or long continuation in service. Apart from the aforesaid alleged infraction of Rule 3, the Respondents have also raised several other objections touching upon the legality and propriety of the recruitment process, including

allegations relating to reservation compliance, constitution of the selection body, sanctioned strength of posts and procedural irregularities in the conduct of recruitment proceedings.

6. Before examining the rival submissions advanced on behalf of the parties and the correctness of the impugned judgments rendered by the Division Bench and the learned Single Judge of the High Court, as well as the legality of the orders passed by the statutory authorities under the Haryana Cooperative Societies Act, 1984, it would be necessary to recapitulate, in some detail, the factual background out of which the present proceedings have arisen.

### **FACTUAL BACKGROUND**

7. Respondent Nos.4 and 5, namely the Cooperative Society and its Managing Committee, being a cooperative society governed under the provisions of the Haryana Cooperative Societies Act, 1984 (for short "**1984 Act**") and the Service Rules, 2003, sought permission from the Registrar,

Cooperative Societies, Haryana for filling 03 posts of Clerk-cum-Salesman and 04 posts of Peon-cum-Chowkidar in the establishment of the Society. The same was granted and the permission further stipulated that the recruitment process was required to be undertaken by issuing public advertisements in Hindi as well as English newspapers so as to ensure adequate publicity and participation of eligible candidates. Pursuant thereto, an advertisement dated 11.07.2014 came to be issued inviting applications from eligible candidates.

**8.** Subsequently, on 30.07.2014, a corrigendum/public notice was issued requiring candidates to furnish applications in the prescribed proforma. The Board of Directors of the Society convened meetings in connection with the proposed recruitment exercise and constituted a Sub-Committee comprising the President of the Society, two Directors and the Inspector Cooperative Societies for processing and supervising the recruitment.

**9.** Thereafter, interviews were conducted on 11.08.2014 and the process of selection culminated in the meeting dated 13.08.2014 wherein the Managing Committee/Board of

Directors approved the appointments of the present Appellants against the posts of Clerk-cum-Salesman and Peon-cum-Chowkidar on regular basis. Pursuant thereto, the Appellants joined service and continuously discharged their duties from the year 2014 onwards. Throughout the course of proceedings there has been no allegation that the Appellants lacked the requisite eligibility or qualifications for the posts in question, nor has any allegation of fraud, impersonation, malpractice or manipulation been levelled against them personally.

**10.** The appointments of the Appellants, however, came to be challenged by Respondent Nos.6 and 7, namely Randhir Singh and Dharam Pal, who were members of the Cooperative Society, by filing Petition/Coop. No.05 of 2015 under Section 27 of 1984 Act, before the Registrar, Cooperative Societies, Haryana. The complainants asserted their *locus standi* on the ground that, as members of the Society, they had a legitimate interest in ensuring compliance with the governing statutory framework. The following allegations were raised: (i) violation of Rules 7, 8 and 15 of the Service Rules, 2003, the process allegedly being tailored to appoint favoured candidates already

working on contractual basis; (ii) breach of sanctioned strength prescribed under Rule 6 read with Annexure 'A', it being alleged that the Society (being a Category 'A' entity with turnover exceeding Rs.15 crores) already had employees beyond the permissible strength; (iii) the advertisement dated 11.07.2014 being vague, deficient and misleading, in that it failed to specify the number of vacancies, last date for applications, office address, timings and application format, thereby allegedly facilitating favouritism and violating Articles 14 and 16 of the Constitution; (iv) the corrigendum dated 30.07.2014 being manipulated inasmuch as although fresh applications were invited, the last date was not extended, and interview letters were allegedly issued only to pre-selected candidates; (v) non-compliance with reservation requirements for Scheduled Castes, Ex-servicemen and physically handicapped persons under Rule 7(d); and (vi) the appointments having been hurriedly finalized in anticipation of judicial intervention, as CWP No.16172 of 2014 had already been filed by the Respondent No.6 before the High Court and a stay order dated 14.08.2014 was passed thereafter, yet

appointment letters and medical formalities were completed on 13.08.2014 itself.

**11.** The principal challenge, however, centred around alleged violation of amended Rule 3 of the Service Rules, 2003. The complainants asserted that after amendment of Rule 3 on 28.01.2011, appointments could lawfully be made only in a meeting attended by the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED, whose presence and concurrence at the stage of appointment decision-making had been rendered mandatory under the Rules. Reliance was placed upon a reply dated 18.09.2014 submitted by the Assistant Registrar Cooperative Societies, Kurukshetra, wherein it was stated that the said officer had remained on medical leave as well as station leave from 09.08.2014 to 18.08.2014 and had neither attended the meeting of the Board of Directors held on 13.08.2014 nor participated in the process of selection and appointment. On that basis, Respondent Nos.6 and 7 contended that the appointments were *void ab initio*. It was additionally alleged that violation of Rule 14(a) occurred

inasmuch as the selected candidates were permitted to furnish medical fitness certificates from private MBBS doctors instead of the Civil Surgeon of the area as mandated. On the aforesaid grounds, setting aside of the resolution dated 13.08.2014 and declaration of the entire recruitment as illegal and void was prayed for.

**12.** The complaint filed by the Respondent Nos. 6 & 7 came to be adjudicated by Respondent No.8, namely the Additional Registrar Cooperative Societies (Stores), Haryana, Panchkula, who passed a detailed order dated 06.06.2017 holding that the recruitment process undertaken by the Respondent-Society was contrary to Rule 3 and Rule 14(a) of the Service Rules, 2003. It was found that the amended Rule 3 had been adopted by the Society through Resolution No.4 dated 01.04.2011, rendering its compliance mandatory; that the officials i.e., Assistant Registrar, Inspector and District Manager, HAFED were admittedly absent from the meeting dated 13.08.2014; that the advertisement omitted to mention last date for applying; that the appointment letters impermissibly permitted MBBS qualified private doctors to issue medical certificates in

lieu of the Civil Surgeon; and that the extraordinary haste in issuing appointment letters, accepting joining reports and completing medical formalities on the very day of selection reflected an unexplained urgency. The Additional Registrar consequently set aside the resolution dated 13.08.2014 and the appointments made pursuant thereto.

**13.** Aggrieved by the above order dated 06.06.2017 passed by the Additional Registrar Cooperative Societies (Stores), Haryana, the present Appellants preferred Appeal No.28 of 2017 and the Respondent-Society preferred Appeal No.30 of 2017 before the Additional Chief Secretary to Government Haryana, Cooperation Department, Chandigarh. It was contended that the Inspector Cooperative Societies had participated in the interview proceedings on 11.08.2014, that notices had been issued to all mandatory authorities for the meeting of 13.08.2014 though they chose not to attend, and that medical examination from MBBS doctors was conducted on the directions of the Society.

**14.** The Additional Chief Secretary, however, vide order dated 29.09.2017 dismissed both the appeals and affirmed the

findings recorded by the Additional Registrar. It was held that *locus standi* of the complainant-members was not barred under Section 27 of the 1984 Act; that the Sub-Committee proceedings of 11.08.2014 comprising three Directors and one Inspector Cooperative Societies could not be equated with the Board of Directors meeting contemplated under Rule 3; that none of the three mandatory officials were present in the meeting dated 13.08.2014; that neither the Administrative Committee proceedings nor the BOD resolution made any reference to sanctioned strength; and that permitting medical examination by private MBBS doctors constituted violation of Rule 14(a) of the Service Rules, 2003.

**15.** Aggrieved by the aforementioned orders, the present Appellants approached the High Court of Punjab and Haryana by filing CWP No.23148 of 2017 seeking quashing of the aforesaid orders. The Appellants principally contended that grave prejudice would be caused if the appointments were invalidated after several years of continuous service; that the quorum for the meeting dated 13.08.2014 stood satisfied in terms of Rule 35 of the Service Rules, 2003 which prescribes

three members as quorum for Managing Committee meetings; that the absence of the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED from the meeting dated 13.08.2014 constituted at best a curable irregularity. Reliance in this regard was placed upon Section 36 of the 1984 Act, which provides that acts of a Cooperative Society or its committee shall not be invalidated merely on account of defects in procedure, constitution of the committee or vacancy in membership or office; that the alleged violation of Rule 14(a) by contending that the selected candidates had obtained medical fitness certificates from MBBS-qualified doctors pursuant to directions issued by the Society and had additionally undertaken to undergo medical examination from the Civil Surgeon or competent medical authority whenever required; and lastly, the District Manager, HAFED had in practice never attended BOD meetings, even after the 2011 amendment.

**16.** The Respondent-Society filed a written statement supporting the appointments. The State authorities and

Respondent Nos.6 and 7 opposed the writ petition, maintaining that Rule 3 was mandatory and *void ab initio*, and additionally pointing out that the advertisement had been published in the Delhi edition of *The Indian Express* instead of the Haryana edition, further evidencing *mala fides*.

**17.** The Single Judge vide judgment dated 22.04.2024 dismissed CWP No.23148 of 2017, holding that the appointments had been made in violation of the mandatory provisions of the Service Rules, 2003. Examining Rules 3, 4, 7 and 14(a), the learned Single Judge held that Rule 3 specifically mandated that the decision regarding appointments “*shall*” be taken in the presence and concurrence of the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED, all of whom were admittedly absent from the meeting dated 13.08.2014 and that this constituted the primary and fatal defect rendering the recruitment process unsustainable in law, while the alleged violation of Rule 14(a) relating to medical fitness certificates could at best be treated as a curable procedural irregularity. The contention based on Rule 35 was also rejected on the

ground that it was a general provision governing meetings of the Managing Committee, which could not override Rules 3 and 4, being specific provisions dealing exclusively with appointments; the settled principle that a specific provision prevails over a general provision was applied. The plea of equity was equally rejected, by holding that where appointments are contrary to mandatory statutory provisions at their inception, mere efflux of time or continuation in service, especially under interim protection granted by the High Court cannot validate such appointments. Nevertheless, the learned Single Judge granted liberty to the Appellants to participate in any future recruitment process, taking note of the fact that they had crossed the upper age limit during the pendency of the litigation.

**18.** The present Appellants preferred LPA No.1259 of 2024 before the Division Bench of the High Court of Punjab and Haryana. Before the Division Bench, the Appellants reiterated the submissions made before the Single Judge Bench.

**19.** The Division Bench by the impugned judgment dated 29.07.2025 dismissed LPA No.1259 of 2024 and affirmed the findings recorded by the learned Single Judge noting that since the applicability of the Service Rules, 2003 to the Respondent-Society was undisputed, there existed no justification to interfere with the judgment of the Single Judge inasmuch as the appointments offered to the Appellants had not been made by the competent statutory body. The Division Bench further held that mere recommendation by the Sub-Committee or subsequent affirmation thereof by the Board of Directors could not cure the defect in the recruitment process since, in the hierarchy of norms governing appointments, the statutory Rules were to prevail over internal resolutions. While affirming the invalidation, the Division Bench directed that the Appellants be permitted to participate in future recruitment and be granted appropriate age relaxation.

**20.** Aggrieved by the aforesaid judgments rendered by the learned Single Judge and the Division Bench of the High Court, as well as the administrative orders passed by the statutory authorities rescinding the appointments after more than ten

years of continuous service, the Appellants have approached this Court by way of the present proceedings.

### **SUBMISSIONS ON BEHALF OF THE APPELLANTS**

**21.** Learned senior counsel on behalf of the Appellants made the following submissions:

- i. The Appellants were selected through an advertised, merit-based process initiated by the Managing Committee and ratified by the Board of Directors. Therefore, no arbitrariness or favouritism was involved.
- ii. The Appellants had no role in the composition of the quorum or administrative procedures of the Society. Penalising them for institutional lapses violates settled jurisprudence (***State of U.P. v. Johri Mai, (2004) 4 SCC***).
- iii. Amended Rule 3, though mandatory, ought not to be interpreted so rigidly as to vitiate the entire process *ex post facto*, especially when appointments were made in good faith and acted upon for over 10 years.

- iv. Rule 35 of the Service Rules, 2003 permits the Managing Committee to constitute a quorum of three members. Therefore, failure to consider this provision renders the High Court's judgment *per incuriam*.
- v. The High Court failed to apply the doctrine of curability of procedural irregularities (***Rajasthan Public Service Commission v. Kaila Devi, (2018) 12 SCC 101***), under which technical lapses not attributable to the candidates are held non-fatal.
- vi. The Appellants' vested rights, accrued through long years of honest and uninterrupted service, cannot be extinguished by retrospective invalidation of the selection process.
- vii. No affected or unsuccessful candidate challenged the process. The complaint was instituted by members having no competing interest in the posts.
- viii. The Appellants have crossed the maximum age limit for re-application and would suffer irreparable injury, violating the principle of proportionality.

ix. The Appellants were protected by interim orders throughout the pendency of the litigation, with uninterrupted service, indicating implied recognition by the State.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT NOS. 6**

**AND 7 (Original Complainants / Members of the Cooperative Society)**

**22.** Learned counsel appearing on behalf of Respondent Nos.6 and 7 made the following submissions:

i. It was contended that the appointments in question were *void ab initio* having been made in clear violation of mandatory Rules 3 and 14(a) of the Service Rules, 2003. Learned counsel submitted that amended Rule 3 expressly mandated the presence and concurrence of the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED while taking decisions relating to appointments and it was an admitted position that

none of the said officers were present in the meeting dated 13.08.2014.

ii. It was further submitted that Rule 14(a) specifically required furnishing of a medical fitness certificate issued by the Civil Surgeon of the area, whereas in the present case the selected candidates were permitted to obtain medical certificates from private MBBS doctors in clear violation of the statutory requirement.

iii. The appointments had been made beyond the sanctioned strength prescribed under the Rules and without adhering to reservation requirements applicable for Scheduled Castes, Ex-servicemen and physically handicapped categories under Rule 7(d).

iv. The advertisement had deliberately been published in the Delhi Edition of "The Indian Express" instead of the Haryana Edition, thereby restricting participation of eligible local candidates.

v. It was further contended that the appointments were hurriedly finalized despite pendency of challenge

proceedings before the High Court in CWP No.16172 of 2014.

vi. Refuting the reliance placed by the Appellants upon Rule 35 of the Service Rules, it was argued that Rule 35 was merely a general provision relating to meetings of the Managing Committee and could not override the mandatory requirements specifically prescribed under Rule 3 governing appointments.

vii. The Appellants could not claim equity or protection merely because they had continued in service for a long period or under cover of interim orders passed during pendency of the litigation. Reliance was placed on the decision of this Court in ***Ramjit Singh Kardam v. Sanjeev Kumar, (2020) 20 SCC 209*** laying down that there can be no equity in favour of appointments made in violation of statutory recruitment rules.

viii. The Respondent-authorities had already issued relieving orders to the Appellants, and they had accordingly been relieved from service.

#### **SUBMISSIONS ON BEHALF OF RESPONDENT NO. 4**

**23.** The learned counsel submitted that the Respondent-Society had not violated any statutory rules or norms while conducting the recruitment process and that the selection process undertaken in the year 2014 was conducted in a transparent manner after issuance of public advertisement. It was further submitted that the candidates, including the present Appellants, were selected on merit in accordance with the procedure adopted by the Society.

#### **SUBMISSIONS ON BEHALF OF RESPONDENT NOS. 1, 2, 3**

**AND 8 (State of Haryana through Additional Chief Secretary, Cooperation Department; Deputy Registrar Cooperative Societies; Assistant Registrar Cooperative Societies; and Additional Registrar Cooperative Societies)**

**24.** Learned counsel appearing on behalf of Respondent Nos.1, 2, 3 and 8 supported the impugned judgments rendered by the High Court as well as the orders passed by the statutory authorities and submitted that the present Special Leave

Petition was devoid of merit and did not raise any substantial question of law warranting interference by this Court.

### **ISSUES FOR CONSIDERATION**

**25.** In light of the factual background noticed hereinabove, the rival submissions advanced on behalf of the parties, the statutory framework governing the recruitment process and the findings concurrently recorded by the authorities below and the High Court, the following questions arise for consideration before this Court:

- i. Whether amended Rule 3 of the Primary Cooperative Marketing-cum-Processing Societies Ltd. Staff Service Rules, 2003, which mandates the presence and concurrence of the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED while taking decisions relating to appointments, is mandatory in nature or merely directory?
- ii. Whether the recruitment and appointments made pursuant to the resolution dated 13.08.2014

were in contravention of the mandatory requirements prescribed under Rule 3 and other provisions of the Service Rules, 2003?

iii. Whether the alleged defects and irregularities pointed out in the recruitment process constitute substantive illegality going to the root of the appointments so as to render the same void ab initio, or whether such defects are merely procedural and curable in nature?

iv. Whether Rule 35 of the Service Rules, 2003 and Section 36 of the Haryana Cooperative Societies Act, 1984 could be invoked to sustain the appointments notwithstanding the alleged non-compliance with Rule 3?

v. Whether the Appellants, having rendered more than a decade of continuous service without any allegation regarding their eligibility, conduct or integrity, are entitled to equitable protection on the principles of proportionality, fairness and legitimate expectation?

vi. Whether the judgments rendered by the learned Single Judge and the Division Bench of the High Court, affirming the orders passed by the statutory authorities rescinding the appointments of the Appellants, warrant interference by this Court in exercise of jurisdiction under Article 136 of the Constitution of India?

### **STATUTORY FRAMEWORK**

**26.** Before examining the examining the issues, it becomes necessary to examine the statutory framework governing the recruitment in question. The appointments under consideration are regulated by the provisions of the Haryana Cooperative Societies Act, 1984, the Haryana Cooperative Societies Rules, 1989, and the Primary Cooperative Marketing-cum-Processing Societies Ltd. Staff Service Rules, 2003 framed thereunder. The controversy in the present proceedings principally revolves around the interpretation and effect of amended Rule 3 of the Service

Rules, 2003, as also the interplay between the said provision and Rules 7, 14(a), 35 and Section 27 of the Act of 1984.

**27.** The record reveals that the Service Rules for Primary Cooperative Marketing-cum-Processing Societies were circulated vide communication dated 20.08.2003 addressed to all Presidents of Cooperative Marketing Societies in the State of Haryana and were framed in accordance with Rule 29 of the Haryana Cooperative Societies Rules, 1989.

**28.** It further emerges from the record that the amendments communicated vide instructions dated 31.01.2011 were duly adopted by the Respondent-Society through Resolution No.4 passed in the meeting of the Board of Directors held on 01.04.2011, thereby rendering the amended provisions binding upon the Society while making appointments.

**29.** Rule 3 of the Service Rules, 2003, as amended pursuant to the instructions dated 31.01.2011, reads as under:

***“Rule 3** — Powers to make appointment shall vest with the B.O.D./B.O.A. of the society. Further provided that decision for appointment to various categories of service shall be taken in the meeting in*

*which the presence and concurrence of concerned Assistant Registrar, Inspector Coop. Societies & Distt. Manager, Hafed, shall be compulsory. Any addition, alteration or amendment in the service rules will be subject to prior approval of Registrar Coop. Societies Haryana.”*

**30.** Rule 4 of the Primary Cooperative Marketing-cum-Processing Societies Ltd. Staff Service Rules, 2003 delineates the administrative and supervisory powers of the Board of Directors/Board of Administrators and reads as under:

*“Rule 4 — These rules vest in the B.O.D./B.O.A. which is also empowered to issue such instructions as may be necessary to give effect to and carry out the purposes of the provisions of these rules or otherwise to secure the effective control of the staff of the Marketing Society.”*

**31.** Rule 7 of the Service Rules, 2003, which governs the procedure relating to recruitment and appointments, assumes considerable significance in the present controversy. The said Rule reads thus:

*“Rule 7 — Recruitment:*  
*(a) All appointments shall be made by the B.O.D./B.O.A.*  
*(b) Prior permission under Rule 7(a) of the Rules shall be obtained for stop-gap arrangement from the Registrar, Cooperative Societies, Haryana.*  
*(c) The recruitment shall be made in accordance with the procedure laid down in these rules.*  
*(d) Reservation in direct recruitment for S.C./S.T., Ex-servicemen and physically handicapped persons shall be according to the instructions of the State Government issued from time to time.”*

**32.** Rule 14(a) of the Service Rules, 2003, concerning medical fitness prior to joining, reads as under:

*“Rule 14(a) — Every person selected for appointment by BOD/BOA shall, before joining duty, be required to furnish a medical certificate of fitness from Civil Surgeon of the area provided that such certificate shall not be necessary for a person who is on deputation or who is selected by promotion and has already given a medical certificate of fitness in his former appointment.”*

The authorities below recorded a finding that instead of obtaining medical fitness certificates from the Civil Surgeon as contemplated under Rule 14(a), the selected candidates were permitted to furnish certificates from MBBS-qualified private doctors, which according to the authorities constituted an additional procedural irregularity in the recruitment process.

**33.** Rule 15 of the Service Rules, 2003, concerning manner of appointment, reads as under:

**“Rule 15 — Manner of appointment: -**

*(i) All appointments to the service shall be made by the BOD/BOA by keeping the complete record of the applications received and as per the qualifications, and experience laid down in these rules, age, status of the applicant etc.*

(ii) *The BOD/BOA shall ensure that a transparent and systematic record of the application is kept and the persons who are to be called for interview are shortlisted on the basis of guidelines laid down by the BOD/BOA.*

(iii) *As far as possible, the BOD/BOA shall be guided by the academic record, professional experience including technical experience in the respective field, and the general merit of the candidate.*

(iv) *The BOD/BOA shall give full justification about the selection made and the documents shall be signed by the members of the BOD/BOA and the record shall remain in custody of the Manager who shall keep the same in safe custody.*

(v) *The BOD/BOA may fill up the vacancies from the open market by advertising the same in the leading Newspapers. "*

**34.** Rule 35 of the Service Rules, 2003, strongly relied upon by the Appellants to contend that the quorum requirement stood substantially satisfied, pertains to meetings of the Managing Committee and reads as under:

**“Rule 35 — Meeting of the managing Committee shall be held when necessary. At least 7 days notice of the meeting shall be given to Committee members before a meeting is held. Three members shall form a quorum, the President or in his absence a member elected by those present in a meeting shall preside. Unless so otherwise provided in these bylaws, all questions shall be decided by a majority of votes. Each member shall have one vote. In case of equality of votes, the Chairman shall have a casting vote.”**

The Appellants have placed considerable emphasis upon Rule 35 to contend that once three members constituted valid quorum for meetings of the Managing Committee, the meeting dated 13.08.2014 could not have been invalidated merely on account of absence of the Assistant Registrar Cooperative Societies, Inspector Cooperative Societies and District Manager, HAFED.

The contesting Respondents, however, have argued that Rule 35 is a general provision governing meetings of the Managing Committee, whereas Rule 3 is a special provision specifically governing appointments and therefore the latter must prevail over the former.

**35.** Section 27 of the Haryana Cooperative Societies Act, 1984, under which the original proceedings were instituted by Respondent Nos.6 and 7, empowers the Registrar to examine the legality and propriety of actions of cooperative societies. The provision substantially confers supervisory jurisdiction upon the Registrar to ensure that the affairs of cooperative societies are conducted in accordance with law.

**36.** Section 36 of the Haryana Cooperative Societies Act, 1984, heavily relied upon by the Appellants, assumes significance in the context of the present controversy and reads as under:

**“Section 36 —**

*Acts of co-operative societies not to be invalidated by certain defects:*

*No act of a co-operative society or any committee or any officer shall be deemed to be invalid by reason only of the existence of any defect in procedure or in the constitution of the society or of the committee or any vacancy in the membership or office thereof or in the appointment or election of an officer or on the ground that such officer was disqualified for appointment or election.”*

According to the Appellants, Section 36 statutorily recognizes the principle that mere procedural defects or defects in constitution of committees do not automatically invalidate actions of cooperative societies.

The Respondents, on the other hand, contend that Section 36 cannot be invoked to validate actions taken in direct contravention of mandatory statutory recruitment rules.

**37.** It is in the backdrop of the aforesaid statutory framework that the rival submissions and the legality of the impugned recruitment process are required to be examined.

### **ANALYSIS**

**38.** The Cooperative Society is certainly not a private entity and its functioning is governed by the 1984 Act and the appointment to the society is governed by Service Rules 2003. The aforesaid Cooperative Society partakes the colour of a public entity and the appointment to the posts in the society are governed by the Service Rules, 2003 as referred to above, which provides the manner for recruitment for appointment to various posts by following the proper norms of recruitment i.e., advertising the posts which are sought to be filled up, following a selection process and specifying the Appointing Authority.

**39.** There are certain norms which are mandatorily applicable for appointment to public employment. These are, issuance of proper advertisement, conducting a fair and transparent selection process, and appointment by the competent authority.

**40.** These are in consonance with the mandate of Articles 14 and 15 of the Constitution of India. Thus, there must be equal opportunity provided to all eligible candidates to apply for the post by way of advertisement/public notification which appears to have been complied with as far as the Respondent society is concerned. The advertisements for the said posts were published in two newspapers, one in Indian Express and other in Aaj Samaj on 11<sup>th</sup> July, 2014. Thus, there cannot be any doubt that there was a public invitation from the eligible candidates for the said posts and hence one of the most important elements of public employment, is fulfilled which is to give due notice by advertisement/public notice to enable the aspiring eligible candidates to apply for the posts. Though there appears to have been some challenge as regards the advertisement allegedly on the ground that no last date was fixed for receiving applications was mentioned, we are of the view the said plea does not hold water in as much as the advertisement clearly mentioned that the applications are to be submitted within 21 days of the advertisement. The last date for submission of application form thus would be on the

21<sup>st</sup> day from the date of issuance of advertisement. Therefore, even if no specific date was mentioned as the last date for receiving the applications, the said advertisement clearly stipulated the period during which the applications are to be submitted, that is, the 21<sup>st</sup> day from the date of advertisement will be treated as the last day. Hence there is no ambiguity with respect to the same. In any event, there was no finding by any of the fora below including High Court about any defect in the said advertisement. Further, the contention that the advertisement was issued in the Delhi Edition of the Indian Express newspaper also does not warrant any consideration as there is no allegation that it was not circulated in Haryana and hence, it resulted in eligible candidates not getting the requisite information of the advertisement of the posts. Therefore, no fault could be found with the recruitment process as far as the most fundamental initial stage of public advertisement is concerned.

**41.** The next most important component of any recruitment process is the manner in which recruitment is carried out. It is now well settled that if the appointment is

made by way of promotion under the relevant service rules, the eligible candidates who fall within the zone of consideration in the feeder grade are to be considered by the competent Departmental Promotion Committee. In the present case, the issue is not about promotion but by way of direct recruitment. As far as direct recruitment is concerned, normally the recruitment process may involve written test along with interview or either of these of all the eligible candidates who apply for the advertised posts which would depend upon the relevant service rules governing the method of recruitment.

**42.** In the present case, it appears that the said posts of Salesmen-cum-clerk, Peon-cum-Chowkidar are to be filled up by way of direct recruitment and on the basis of performance in the interview as revealed in the Service Rules. There is no indication that the recruitment is to be conducted by way of written examination, but by holding interview only as provided under Rule 15.

**43.** In the present case there is no allegation about any violation in any of the procedures at any of these two stages of the recruitment contemplated under Rule 15. There is no

allegation that any unqualified candidate who does not fulfil the eligibility criteria, qualifications, age etc. had been recommended and appointed. There was also no allegation about any kind of fraud or manipulations, or any such irregularity being practiced in the process of interview.

There is no allegation that the selection had been made by not considering the academic record, professional experience including the technical experience in the respective field, or the general merits of the candidates as contemplated under Rule 15.

There was no allegation that no justification has been made for the selection by the Board of Director.

**44.** As mentioned above, as regards the requirement of filling of the posts from open market, the same had been done as the posts were duly advertised through two widely circulated newspapers, one in English and other in Hindi and the eligible candidates were invited as advertised in the newspapers. There was no complaint from any eligible candidate about the lack of proper advertisement of the posts and also irregularities in the interview conducted.

**45.** The only allegation made by the Respondent Nos. 6 and 7, who were the applicants before the Registrar Cooperative Societies Haryana who had filed the initial complaint against the said appointment of the present Appellants is that the same had been done in violation of Rule 3 and Rule 14(a).

**46.** As far as Rule 3 is concerned, the said Rule provides that any decision made for appointment to various posts to services in the society, shall be made by the Board of Directors/BOA of the society and in such meeting the presence and concurrence of the concerned Assistant Registrar of the society, Inspector of Cooperative Societies, and District Manager (HAFED) shall be compulsory. In fact, this is the most important plea taken by the Respondent Nos. 6 and 7 which has the potential of rendering the appointment of the Appellants invalid.

In other words, this is a mandatory provision violation which could render their appointment made by BOD/BOA invalid. The plea taken by the Respondent nos. 6 and 7 before the Registrar Cooperative Societies, as well as before the High

Court was that this being a mandatory statutory provision, violation of such provision would render any appointment made illegal. The said plea was accepted by the Additional Registrar, Cooperative Societies, the Additional Chief Secretary to Government, Haryana, Cooperation Department as well as both the Single Bench and Division Bench of the High Court, thus, declaring the appointment of the Appellants illegal.

**47.** The other point raised is the violation of Rule 14(a) which provides that every person selected for appointment, before joining must furnish the required medical certificate from civil surgeon of the area. It has been submitted by the Respondent Nos. 6 and 7 that the Appellants did not get the certificates from the civil surgeons of the area, and they obtained the certificates from other doctors which is not in conformity with Rule 14(a). Hence, on the ground also, the appointment of the Appellants is liable to be declared null and void.

**48.** Thus, Respondent nos. 6 and 7 has consistently pleaded that because of non-conformity with the provisions of Rule 3 and Rule 14(a), the appointment of the Appellants are

illegal and cannot be sustained. The same found approval from the Additional Registrar of Cooperative Societies, the Additional Chief Secretary to Government, Haryana, Cooperation Department as well as the High Court, and the same pleas are reiterated before us stating that even though the Appellant might have continued in service for a long, they do not deserve any sympathy as their appointments were made contrary to the Service Rules, 2003 which are statutory in nature and cannot be relaxed and, hence there was nothing illegal in the order passed by the High Court declaring the appointment of the Appellants as illegal.

**49.** The plea of the Appellants throughout has been that defects in the meeting of the BOD/BOA in which certain official members were not present, cannot be attributed to the candidates and the Appellants had no role in it and as such, the successful candidates who had already been appointed cannot be made suffer for no fault on their part and because of the mistake on the part of the authorities. Further, Rule 35 of the Service Rules, 2003 provides that in the meeting of the Managing Committee, three members shall form the quorum

and unless otherwise provided in the bye laws, all questions shall be decided by a majority of votes. It has been contended that in the said meeting of the BOD held on 13.08.2014 where the decision was taken to appoint the Appellants, the quorum was fulfilled. The President cum Chairman of the BOD/BOA and four Directors were present and as such, the quorum was fulfilled.

**50.** Further, it was submitted that as per Section 36 of the 1984 Act, no act of a cooperative society or any committee or any official shall be deemed to be invalidated only by reason of any defect in procedure or in the constitution of the society or of the committee or any vacancy in the membership or office thereof or in the appointment or election of an officer or on the ground that such officer was disqualified for appointment or election. Thus, it has been submitted on behalf of the Appellants that reading of the aforesaid Rules along with Section 36 of the 1984 Act, the defect or deficiency in the quorum of the BOD which took the decision to appoint the Appellants cannot be said to be illegal and it was merely an irregularity which cannot be said to be fatal, and necessary

rectification can be made by the BOD. Even though the Rules are statutory in the nature, and the word is used is “compulsory” in Rule 3, if the Rules and provisions of the Act are read as a whole, even if it is mandatory, it is a curable defect, more so, when the Appellants had no role to play in such an irregularity nor any fault could be attributed to the Appellants.

**51.** It has been further submitted that since the Appellants have been working for more than a decade, it will be highly inequitable to dismiss their service merely because of an irregularity, which does not amount to be a fundamental defect. Accordingly, it has been submitted that the impugned judgment of the High Court is required to be overturned, and the impugned termination orders be set aside.

**52.** Having considered the rival contentions and materials on record, what this Court has noted is that in the entire recruitment process, beginning with advertisement/public notice, till the conduct of the interview, there was no fundamental defect which could go to the root of the recruitment process. The only defect pointed out was at the

stage of taking the formal decision to make appointment by the BOD in their meeting held on 13.08.2014.

**53.** There can be no doubt that if the posts were not properly advertised, it would have prevented or denied eligible candidates from applying for the posts, in which event, it can be deemed to be a fundamental flaw in a public recruitment process being violative of Article 14 and 15 of the Constitution and such defect would certainly lead to invalidation of the recruitment process.

Similarly, if the mode of recruitment, which in the present case is interview, had been marked by fraud or manipulation or any such vitiating act on the part of the candidates and recruiting authority, or if the recruiting authority had considered ineligible candidates, the same can lead to invalidation of the recruitment process as such a defect also goes to the root of the recruitment.

The recruitment process itself must be transparent, fair and non-arbitrary. It must not suffer from any vice of mala fide, fraud or manipulation. However, no such allegation has been made as regards the said recruitment process consisting

of interview, by any of the unsuccessful candidates. As a result of the said interview, the Appellants had been recommended and appointed as Salesmen-cum-Clerk and the Peons-cum-Chowkidar.

**54.** However, when it came to the final stage of appointment after the recruitment process had undergone the two most crucial stages of the recruitment process, when the BOD had to take the decision to make the appointment, there appeared to be certain loopholes as highlighted by the Respondent nos. 6 and 7. That the official members of the Board whose presence and concurrence was compulsory, were not present. The core question, therefore, is whether such a loophole of absence of the official members of the BOD as pointed out by the Respondent Nos. 6 and 7 is of such a nature that it would vitiate the recruitment process and render the appointment of the Appellants illegal.

**55.** In our opinion, the said deficiency i.e., absence of the Inspector of Cooperative Societies Assistant Registrar of Cooperative Societies and the Deputed Manager of HAFED

whose presence is stated to compulsory as per Rule 3 would not invalidate the entire recruitment process.

**56.** If we consider the recruitment process as a whole, the entire recruitment process in the present case can be split up into the three stages. The first stage consists of notification of the vacancies by way of advertisement and inviting eligible candidates for applying for the advertised posts. The second stage consists of the manner of recruitment that is by way of interview, and third stage is where the final appointment is made by the Competent Appointing Authority.

**57.** As discussed above, as far as the two stages of recruitment process are concerned i.e., advertisement and the method of recruitment process, these do not suffer from any fundamental defect which would render the appointments illegal. It is only at the third stage when after the said two stages are completed, the appointments are to be made by way of taking appropriate resolution by the Appointing Authority, as the final stage.

**58.** As we have seen, Rule 3 mandates the presence and concurrence of the Assistant Registrar of Co-operative Society,

Inspector of Co-operative Society and the Director Manager of HAFED in the meeting where the decision is to be taken for appointment. In our view, the said provision under Rule 3 is salutary in nature, in as much as the final authority to give appointment to various categories of service in the society lies with the BOD. However, BOD also consists of members who are elected i.e., President or other Directors, all of whom may not be proficient in the service matters and other technical matters required to be considered in the process of recruitment.

Reading of Rule 15 clearly stipulates the various parameters to adjudge the suitability of the candidates which the non-elected official members of the society namely, the Assistant Registrar of Cooperative Society, Inspector of Cooperative Society, District Manager, HAFED may be in a better position to assess as to whether the candidates who are recommended for appointment do fulfil the requirements as per the bye laws and relevant Rules, and to ensure that no rules or any of the bye laws had been violated. Thus, in our opinion, the presence of the non-elected official members of the

BOD is to ensure that the recruitment rules have been strictly adhered to in making the appointment, i.e., the necessary advertisement had been issued, the interview was conducted properly as per rules and only the eligible candidates who do not suffer from any disqualification have been recommended for appointment, which exercise can be better undertaken by these non-elected official members. Hence, in our opinion, even if the presence of these official members has been made compulsory in the meeting of BOD for finalising the appointments to the services in the cooperative society, their absence will not render the appointments illegal as their role is essentially supervisory in nature.

**59.** We, thus find force in the submission made on behalf of Appellants that for the irregularity committed by the officials, the Appellants ought not be made to suffer, as no allegations had been made as regards the validity of advertisement or the manner in which interview was conducted or that any ineligible candidates were recommended/appointed. Therefore, even if there be any deficiency in the meeting of the BOD because of the absence of

the official members, nothing prevents the society to convene a fresh meeting where these official members would be present so that decision taken to appoint to the services various categories in the societies is in consonance with Rule 3.

We are of the view that though the requirement of Rule 3 in making the presence of the official and their concurrence compulsory, it is for the salutary reason that these official members of the BOD would be the best persons to make the necessary scrutiny and verification of the recruitment process to ensure that the recruitment had taken place by conforming to all the relevant requirements under the Rules. Infraction of Rule 3 in our opinion thus, cannot render the entire recruitment process illegal which does not otherwise suffer from any fundamental error or defect. As discussed above, the said provision is to ensure and the cross check the process to ensure that the recruitment process was conducted properly by following the norms and that no fundamental error had been committed.

**60.** We are of the view that the third stage of the recruitment process is severable and can be separated from

the early two phases without affecting the validity of the earlier two stages. Even if there was any defect in the third phase, it will not necessarily vitiate the earlier two phases of the recruitment. The rectification of the third phase does not involve the candidates and can be done without affecting the earlier two phases and hence, if there be any defect in the third phase, the concerned BOD can review the same, as in our opinion such a defect is a curable one.

**61.** We have also noted that the Appellants had continued in service for more than 10 years though on the strength of the interim order of the High Court.

**62.** Under the circumstances, we are of the view that interest of justice will be served if the decision taken by BOD on 13.08.2014 is revisited as the defect is curable and not fatal. The defect in the third stage will not have any bearing on the first two phases of the recruitment process and thus invalidate the entire process of recruitment in view of the fact that no fundamental defect has been pointed out qua the first two phases of the recruitment process.

**63.** Accordingly, we direct that the Respondent co-operative society to reconvene a meeting of the BOD to reconsider the recommendation made by the selection committee for appointment of the Appellants to the posts of Salesmen-cum-Clerk, Peon-cum-Chowkidar in which meeting, the non-elected official members namely, Assistant Registrar of Cooperative Society, Inspector of Cooperative Society and District Manager, HAFED, shall be present to examine appointments to the advertised posts.

**64.** However, we make it clear that the reconvened BOD shall not be entitled to re-examine the first two phases of the recruitment process. Thus, it cannot examine as to whether there was adequate publicity by way of advertisement or not, as the same cannot be re-opened at this stage. In fact, there was no adverse finding by any of the authorities as regards any deficiency in the advertisement.

Similarly, as to whether any illegality of any mala fide, fraud, or manipulation was committed in the interview conducted, relating to the second phase of the recruitment process also cannot be reopened, as no candidate nor the

Respondent Nos. 6 and 7 had raised any objection in that regard. There was also no observation by any of the authorities/Court that the interview was not properly held or that it was marked with fraud, manipulation etc.

The BOD shall, accordingly, take a fresh decision regarding the third stage of the recruitment process by which the Appellants were appointed, thus, it shall examine whether the Appellants fulfilled the essential qualifications and did not suffer from any disqualification and whether they were the candidates who were indeed recommended for appointment on the basis of the interview held and whether any eligible and more meritorious candidates were ignored at the time of making the appointments.

**65.** Accordingly, we allow this appeal by setting aside impugned order dated 29.07.2025 with the direction to the Respondent co-operative society to reconvene a meeting of the BOD to take a fresh decision in terms of the directions given above.

The said exercise shall undertake within one month from today.

**66.** The Appellants are stated to have been removed from service by the Respondent authorities on 19.08.2025. However, if the Appellants, on the basis of fresh reconsideration by the BOD, are found to be eligible and not found to be disqualified, the Appellants shall be re-appointed to the respective posts and their past service shall be counted for all purposes, but, they shall not be entitled to any arrears of pay or allowance for the period they were out of service.

**67.** With the above directions, the appeal is allowed. The impugned judgment dated 29.07.2025 passed by the High Court of Punjab and Haryana in LPA No. 1259 of 2024 (O&M) is set aside.

Parties to bear their own cost.

Application(s), if any, pending shall stand disposed in terms of the above directions and order.

.....**J.**  
**(SANJAY KAROL)**

.....**J.**  
**(NONGMEIKAPAM KOTISWAR SINGH)**

**NEW DELHI;**  
**JUNE 11, 2026.**