

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Aqeel Ahmed Abbasi
Mr. Justice Mahmood A. Khan

Const. Petition No.D-2242 of 2017

Tashkeel Ahmed.....Petitioner

Versus

Province of Sindh & others.....Respondents

Petitioner : Through Mr. Salam Kazmi, Advocate.

Respondent No.4 : Through Mr. Akhtiar Hussain Soomro, Advocate.

Respondent No.1 : Mr. Miran Muhammad Shah, Addl. A. G. Sindh.

Date of Hearing : 04.05.2023

Date of Order : 04.05.2023

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ORDER

During the course of hearing instant petition, which was filed against an order dated 23.12.2015 passed by the Minister for Cooperation Department, Government of Sindh, Karachi, in Appeal No.SO(T)(15) of 2003, whereas, vide order dated 20.01.2022 instant petition was disposed of and the matter was remanded to the Minister for Cooperation Department, Government of Sindh, Karachi, to decide the appeal afresh after providing opportunity of being heard to the parties, however, on the pointation of the learned counsel for petitioner and the learned Addl. A. G. Sindh that in view of promulgation of The Sindh Co-operative Societies Act, 2020 and The Sindh Co-operative Societies Rule, 2020, the appeal is required to be filed in terms of Section 105 of the Act read with Rule 53 before the Co-operative Court, therefore, learned counsel for the petitioner

as well as learned Addl. A. G. Sindh is required to assist the Court in this regard, who have candidly submitted that since the impugned order was set-aside and the matter was remanded to the concerned Minister to decide the appeal afresh, however, in view of the fact that previous Societies Act has been repelled, whereas, different forum has been provided to entertain such appeal, therefore, the petitioner may be allowed to prefer an appeal against the order of the Registrar Cooperative Societies before the Cooperative Court within a period of fifteen (15) days, which shall be treated as within time and the time consumed before this Court or before the concerned Minister may be excluded for the purposes of calculating limitation.

3. Heard the learned counsel for petitioner as well as learned Addl. A. G. Sindh, perused the record with their assistance and also examine the provision of Section 105 of The Sindh Co-operative Societies Act, 2020 read with Rule 53 of The Sindh Co-operative Societies Rules, 2020, which read as follows:

“105. Appeals.—An appeal against an order or decision of or sanctioned by the Registrar under section 10,17, 62, 68, 69 may be made by any party aggrieved or affected by the order of decision to Government within two months of the date of the communication or the order.

53. Disputes:-- (1) If any dispute touching the business of a society other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society arises.

- (a) between Members or past members of the society or persons claiming through a member or past member; or
- (b) between members or past members or persons so claiming and any past or present officer, agent or servant of the society; or
- (c) between the society or its committee and past or present member of the society; or
- (d) between the society or its committee and any past or present officer, agent or servant of the society, or a

surety of such officer, agent or servant, whether such surety is or is a member of the society or surety of such officer, agent or servant, whether such surety is or is not a member of the society;

- (e) between a society authorized under sub-section (1) of section 45 and a person who is not a member of a society,

it shall be referred to Cooperative Court established under Section 117 established by Government with the concurrence of the Chief Justice of the Sindh high Court, by notification.

- (2) Any party aggrieved by any decision, order or judgment of the Special Court for Cooperatives may within 30 days of the date of such decision, order or judgment, appeal to the High Court of Sindh.”

4. From perusal of hereinabove provisions of the Act 2020 and the Rules 2020, the contention of the learned counsel for petitioner as well as learned Addl. A. G. Sindh appears to be correct. Since the matter was finally disposed of vide order dated 20.01.2022, however, in view of promulgation of The Sindh Co-operative Societies Act, 2020 and The Sindh Co-operative Societies Rule, 2020, the appeal is required to be filed in terms of Section 105 of the Act read with Rule 53 before the Co-operative Court. Accordingly, the petitioner is directed to prefer an appeal before the Registrar in terms of Section 105 of the Act and Rule 52 of the Rules 2020 within a period of fifteen (15) days, who shall decide the same after notice to all concerned in accordance with law and appeal so filed shall be treated within time.

JUDGE

JUDGE