

Office of the Appellate Authority and Additional Secretary to the  
Govt. of India, Department of Agriculture, Cooperation &  
Farmers Welfare, Ministry of Agriculture & Farmers Welfare

{Appeal filed under Section 99 of the Multi-State Cooperative  
Societies Act, 2002}

In the matter of

Union of India

(Through Department of Fertilizers)

... Appellant

V/s

Central Registrar of Cooperative Societies

... Respondent

Date : 28.06.2018

Present

- 1) Shri K.S. Rana, Under Secretary and Shri Raghvendra Yadav, Section Officer in the Department of Fertilizers, New Delhi along with Shri Jasmeet Singh, Central Government Standing Counsel and Shri Srivats Kaushal, Advocate on behalf of the Appellant
- 2) Smt. Kamna R. Sharma, Deputy Commissioner (Cooperation) in the Department of Agriculture, Cooperation & Farmers Welfare on behalf of the Respondent

ORDER

- [ a) An appeal dated 04.08.2017 has been filed by the Appellant before this Authority under Section 99 of the Multi-State Cooperative Societies Act, 2002, against the

*R. S. 28/6/18*  
सरजीत कौर/SARABJIT KAUR  
अनुपम अधिकारी/Section Officer  
भारत सरकार/Government of India  
कृषि एवं किसान कल्याण विभाग/Min. of Agriculture & Farmers Welfare  
आर. ए. आर. बंगला इलाहाबाद, जे. पी. ए. किसान कल्याण  
& नई दिल्ली/Ministry of Agriculture, New Delhi-110001

*Kamna Srivastava*

amendments to the bye-laws of IFFCO registered by Central Registrar of Cooperative Societies (CRCS) vide certificate of registration dated 26.12.2002. Prayers of the Appellant to this Authority are (i) to pass an order to nullify the amendments registered on 26.12.2002 and to revert to the situation as it existed prior to the above referred amendments; and (ii) to pass an order to revert back repatriated Government equity and restore the status as it existed prior to 31.03.2002.

b) The appeal has been filed after 14 years and 129 days from the date of order passed by the Central Registrar. ]

2. [This Authority heard the appeal on 02.11.2017 which was attended by representatives/Ld. Counsel of both the Appellant and the Respondent, and, after hearing oral arguments, both the parties were given an opportunity to submit additional written arguments/submissions, case laws, etc., if any. Now, this order is being passed after examining the appeal documents, additional affidavit, written arguments/submissions, information/records called for by this Authority under sub-rule (7) of Rule 32 of the MSCS Rules, 2002, and after hearing oral arguments of both the parties. ]

3. Since, the appeal has been filed under Section 99 of the MSCS Act, 2002, therefore, for better understanding of the issue, it is considered necessary to reproduce the section before proceeding further:

**"99. Appeals.** – (1) *Subject to the provisions of section 100, an appeal shall lie under this section against-*

(a) *an order made by the Central Registrar under sub-section (3) of section 7 refusing to register a multi-State cooperative society;*

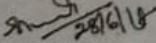
(b) *an order made by the Central Registrar under sub-section (9) of section 11 refusing to register an amendment of the bye-laws of a multi-State cooperative society;*

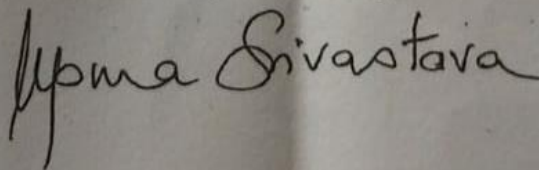
(c) *a decision of a multi-State cooperative society refusing or deemed to be refusing under sub-section (4) of section 25 to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of the society;*

(d) *an order made by the Central Registrar under section 81 apportioning the costs of an inquiry held under section 78 or an inspection made under section 80;*

(e) *an order made by the Central Registrar under sub-section (2) of section 83;*

(f) *an order made by the Central Registrar under section 86 directing the winding up of a multi-State cooperative society;*

  
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 कृषि, उपभोक्ता एवं किसान कल्याण विभाग/Min. Agril., Cops. & Farmers Welfare  
 कृषि भवन, नई दिल्ली/Kishi Bhawan, New Delhi-110001

  
 Upma Sivastava

(g) an order made by the liquidator of a multi-State cooperative society under section 90.

(2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of such decision or order to the prescribed appellate authority.

(3) The appellate authority may, if satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period of sixty days, admit the appeal within such further period as that authority may deem fit.

(4) In disposing of an appeal under this section, the appellate authority may, after giving the parties a reasonable opportunity of making their representation, pass such order thereon as that authority may deem fit.

(5) The decision or order of the appellate authority on appeal shall be final."

4. As per the requirements of sub-rule (2) of Rule 32 of the MSCS Rules, 2002, the appeal shall be accompanied by the original or certified copy of the order appealed against. However, the Appellant has not complied with this provision. [It is also observed that all the reliefs prayed for in the appeal are against IFFCO, but IFFCO has not been impleaded as a party. Therefore, this Authority gave an opportunity to the Appellant vide letter dated 29.09.2017 to furnish their comments as to whether IFFCO should not be impleaded as an intervening party to the appeal. The Appellant, however, left it to the discretion of this Authority to decide whether any other party, including IFFCO, needs to be impleaded in the matter.]


5. After examination of all the documents and hearing both the parties, it is found that the appeal is liable to be dismissed on technical grounds. The grounds are as brought out in subsequent paragraphs.]

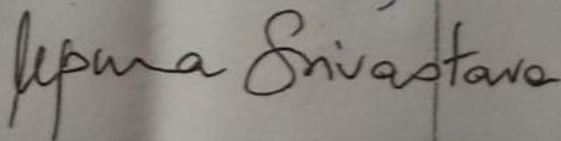
6. **Admissibility of appeal:** [The Appellant has filed the appeal under Section 99 of the MSCS Act, 2002.] An appeal can be filed under sub-section (1) of Section 99 of the MSCS Act, 2002, as reproduced in paragraph 3 above, and it is observed that sub-section (1) has seven clauses (from (a) to (g)). [The Appellant has not mentioned the clause under which they have filed the appeal. Since, the Appellant has prayed to nullify the amendments registered in the year 2002-03 by the then CRCS, it is presumed that the Appellant has filed the appeal under clause (b) of sub-section (1) of Section 99 of the MSCS Act, 2002, which is the clause under which appeals relating to amendment can be filed. However, the appeal does not fit the requirements of clause (b), because an appeal shall lie under this clause against "an order made by the Central Registrar under sub-section (9) of Section 11 refusing to register an amendment of the

Upma Sivastava

bye-laws of a multi-State cooperative society." In the present case, the Appellant has not mentioned any order of the Central Registrar through which he had refused the amendments. Rather, the Central Registrar had registered the amendments which have been sought to be nullified by the Appellant. [There is no provision for filing of an appeal in the MSCS Act, 2002, or rules made there under, in instances where the proposal for amendment of bye laws of a multi-State cooperative society has been accepted by the CRCS.] However, in the interest of justice and to be fair to the Appellant, other provisions of the MSCS Act, 2002 have also been visited by this Authority to find whether Appellate Authority has powers to examine matters other than those specified in Section 99. [There is not even a single section in the MSCS Act, 2002, or any rule under the MSCS Rules, 2002, under which the Appellate Authority is authorized to quash or nullify the amendments to the bye-laws of a cooperative society, already registered by the CRCS, as is prayed for by the Appellant. It is held by the Hon'ble Supreme Court of India in Shiv Shakti Cooperative Housing society, Nagpur Vs. Swaraj Developers and Ors (2003) 6 SCC 659 that the right of appeal is only by statute and not by any other means. Thus, the appeal is not maintainable under clause (b) of sub-section (1) of Section 99 of the MSCS Act, 2002. Hence, no appeal under this clause can be filed for nullifying the already registered amendments.]

7. **Locus standi of appellant:** Under sub-rule (5)(a) of Rule 32 of the MSCS Rules, 2002, the Appellate Authority shall, on receipt of an appeal, examine and ensure that the person presenting the appeal has the *locus standi* to do so. In the present case, the appeal has been filed by the Department of Fertilizers. For proper examination of the *locus standi* in filing of the appeal by the Department of Fertilizers, it is necessary to examine the relevant provisions of the sections of the MSCS Act, 2002, under which the appeals can be filed. A careful reading of the wordings of clause(1)(b), as reproduced above, would reveal the spirit of the law-makers behind framing such a clause. It is evident that the law-makers, in the interest of justice, thought it fit to mitigate the grievances of cooperative societies by giving them a chance to approach the authority higher to the CRCS, i.e., Appellate Authority under the above referred clause (b) in case they felt that the refusal of amendment of their bye-laws by the Central Registrar was not justifiable. Hence, the law-makers have inserted the words "refusing" and "multi-State cooperative society" in clause (b) making it clear that to be eligible for filing of an appeal under the above referred clause, two conditions are necessary to be met. [Firstly, the cause of grievance should arise by refusal to register an amendment and secondly, the multi-State cooperative society, being aggrieved with the action of the Central Registrar, should file the appeal. However, in the present case, neither of the above mentioned two conditions have been met because there has not]

  
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 जी०, कृषि विभाग, भारत सरकार, अजमेर, राजस्थान  
 ३०५००२, अजमेर, राजस्थान, भारत/Ministry of Agriculture & Farmers Welfare,  
 Government of India, Jaipur, Rajasthan, India-305002



Central Registrar and the appeal has also not been filed by the concerned multi-State cooperative society. In view of the above stated position, this Authority is of the opinion that Department of Fertilizers has no locus standi in filing instant appeal.

8. The discussion above makes [it clear that on technical grounds, the appeal is completely deficient as it fails to meet the requirements of any of the sub-section of Section 99 of the MSCS Act, 2002 and requirement of sub rule (2) and any of three clauses (a, b and c) of sub-rule (5) of Rule 32 of the MSCS Rules, 2002..

Thus, under the provisions of the MSCS Act, 2002 and MSCS Rules, 2002, the appeal is found to be inadmissible and non-maintainable and deserves to be dismissed at the outset.

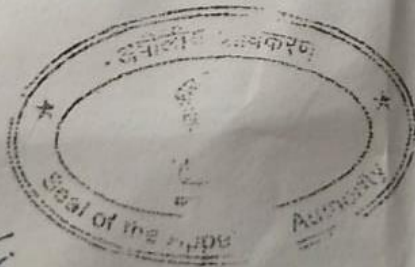
In view of this conclusion, there is no need to go into the merits of the case.

9. The appellant is at liberty to approach any other court of law or authority ]

10. Given under my hand and seal on this day 28<sup>th</sup> June, 2018

11. A copy of this order to be served to the parties.

*Upma Srivastava*  
(Upma Srivastava) 28/6/18  
Appellate Authority &  
Additional Secretary to the Government of India



*Sr. Secy.*  
*28/6/18*  
समीत कौर / SARABJIT KAUR  
अनुमंडल अधिकारी / Section Officer  
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