

**GUIDELINES FOR DISPOSAL
OF
ARBITRATION CASES UNDER
THE PUNJAB COOPERATIVE
SOCIETIES ACT, 1961**

**DEPARTMENT OF PUNJAB
GOVERNMENT OF PUNJAB
CHANDIGARH**

GUIDELINES FOR DISPOSAL OF ARBITRATION CASES UNDER THE PUNJAB COOPERATIVE SOCIETIES ACT, 1961

Arbitration is a settlement of dispute by the decision of a person or persons chosen and accepted as Judges or Umpires. The need for arbitration arises due to failure of adherence to procedures and rules laid down under the Punjab Cooperative Societies Act, 1961. The recourse to arbitration indicates a failure to attain the Cooperative ideal of strict supervision and mutual control. Careful selection of members, regular insistence on security and active pressure on sureties and other members or defaulters should reduce the need for such legal measures to a minimum. Slackness in any of these conditions involves the trouble of attendance in Courts and the burden of contest.

- 2.0 The objective of Cooperative Societies is to improve the economic condition of the members by inculcating among them the habits of thrift, self and mutual help. This object would be defeated if the members for the settlement of their disputes regarding the constitution, management or the business of the society were to involve themselves in the demoralising expenses and delay involved in the ordinary process of litigation and in the resultant feuds and ill feeling usually caused by it. The Punjab Cooperative Societies Act 1961 (Section 55) and the The Punjab Cooperative Societies Rules, 1963 (Rule 51) made thereunder provide that all such disputes shall be referred to the Registrar who may decide them himself or transfer it for disposal to any person who has been invested by the Government with powers in that behalf or refer it for disposal to one arbitrator. This method is intended to ensure prompt decisions on grounds of equity, justice and good conscience, without going into the technicalities. For effective and proper use of this method, following guidelines are elaborated:

Disputes to be referred for Arbitration (Section 55)

- 3.0 Any dispute touching the constitution, management or the business of a cooperative society between/amongst the parties mentioned in section 55 (1) of the Punjab Cooperative Societies Act, 1961 should be referred to the Registrar for decision and no court (Civil or Revenue) shall have jurisdiction to entertain any suit or other proceedings in respect of such a dispute. Furthermore section 82 (3) of the Punjab Cooperative Societies Act 1961 provides as under :- "Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever."
- 4.0 According to Section 55 (2) of the Act ibid, following be deemed to be disputes touching the constitution, management or the business of a cooperative society namely :-
- (a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;
- c) any dispute arising in connection with the election of any officer of the society
- 5.0 If any question arises whether a dispute referred to the Registrar under this section is or not a dispute touching the constitution, management or the business of a cooperative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

Reference of Dispute (Rule 51)

- 5.0 When a party to the dispute referred to in sub-section (1) of Section 55, desires to have that dispute determined in accordance with the provisions of the said section, the party shall apply to the Registrar in the form given in Appendix 'F' (Annex-2).
- The following guidelines should be kept in view in this regard:-
- i) Every reference of arbitration should be prepared in the application form (Annex-1), alongwith relevant information of the dispute in Appendix 'F' (Annex-2) Number of copies of the Appendix-F should be one more than the number of respondents in the dispute. The copies of Appendix 'F' so prepared should be served upon respondents by the arbitrator.
- ii) The applicant should fill in the column (i), (ii), (iii) and (iv) of Appendix 'F' (Annex-2) and also make it sure that all the columns are clear and distinct and sign the verification after filling the particulars required in the verification.
- iii) Every reference for arbitration should include all contesting parties as respondents.
- iv) Every reference of arbitration against a defaulter should include his sureties also. The surety should be the member of the society because among the parties, under sub-section 1 of section 55 of the Punjab Cooperative Societies Act 1961, the surety is not included as a party. He becomes a party as a member only. It is not legal to ask for arbitration subsequently against a surety, who was not included in the original reference, nor it is prudent on any occasion or for any reason to omit a surety on any ground whatsoever.
- v) Arbitration reference should state clearly the amount of principal claimed, amount of interest up to a special / specific date, the

- rate at which future interest is claimed and arbitration expenses. However the interest rate should not be more than the agreed rate.
- vi) If the dispute relates to a sum lent on the security of immovable property, the society should, while making a reference for arbitration for redress against the hypothecated property in terms of the contract, in addition to the particulars of the debtor and his sureties, attach an authenticated statement showing the particulars of property in question.
 - vii) The applicant must certify that no reference on the same subject matter and between the same parties, has been adjudicated in the past.
 - viii) **The applicant should also certify that the dispute is covered under Section 55 of the Punjab Cooperative Societies Act, 1961.**
 - ix) Every reference for arbitration, in case the applicant is a cooperative society, must include the attested resolution of that society, vide which the representative of the society has been authorised to refer the dispute for arbitration. In case bye-laws of society allow an officer thereof, to raise the reference of dispute, he should so state explicitly in the reference.
 - x) In support of the claim, the applicant should enclose relevant documents as required under para (iv) of Appendix 'F' (Annex-2).
 - xi) List of the property pledged in favour of the applicant or intended to be got attached before award to make good the sums, should also be attached with the reference. If need be, the applicant should move a separate application for attachment of property before award under Section 65 of the Punjab Cooperative Societies Act, 1961.

- xii) The applicant should undertake to pay arbitration fee as may be specified by the Registrar under Rule 52 of the Punjab Cooperative Societies Rules, 1963 given below in para 6.0. The fee so specified by RCS should be deposited in advance.
 - xiii) Every society should open a separate account of arbitration expenses. The arbitration expenses should be shown separately alongwith legal expenses and not in miscellaneous expenses.
 - xiv) The applicant should certify that the record relating to the dispute is in his/her safe custody.
 - xv) The applicant should give latest postal address of all respondents to facilitate their summoning by the arbitrator.
- 6.0 Arbitration Fee-(Rule 52) (1) The Registrar shall have power to require the person referring a dispute under sub-section (1) of section 55 to deposit in advance the fee, if any, to be specified by the Registrar keeping in view the nature of the case for deciding the dispute.
- (2) The Registrar may, in such cases as he thinks fit, order the payment of fee to the arbitrator.
 - (3) No fee shall be payable to an arbitrator till the dispute referred to him is decided finally.
 - (4) The Registrar, may in his discretion, remit the whole or any part of the fee collected under sub-rule (1).
- The Registrar shall issue a receipt on account of arbitration fee to the claimant party. The receipt shall be in the proforma given as Annexure-3.
- The Registrar shall maintain a register showing account of arbitration fee in the proforma given in Annexure-4.

Who can make a Reference of Dispute?

- 7.0 (i) Any party to a dispute may make a reference of dispute to the Registrar.
- (ii) In cases where it is difficult to persuade a Managing Committee to ask for action against one of its members, any one member may make a reference when a sum disputed is due from a member of committee;
- (iii) A single member of a society may make a reference for arbitration against the committee as representing his society, if he considers that the society has suffered injustice.

Who can be an Arbitrator ?

- 8.0 **The object of arbitration procedure is to attain simplicity and equity rather than technical law. The most valuable arbitrator is an upright man, who would often settle the question on the spot to the satisfaction of the contesting parties.**

9.0 Reference of disputes to arbitration (Section 56)

SECTION - 56

- (1) The Registrar may, on receipt of the reference of dispute under section 55, :-
- (a) decide the dispute himself; or
- (b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or
- (c) refer it for disposal to one arbitrator.
- (2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself or refer the same to another arbitrator for decision.

- (3) The Registrar or any other person to whom a dispute is referred for decision under this Section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of Justice.

10.0 The Registrar to whom the arbitration case is referred must ensure that the arbitration file is complete and Appendix 'F' is duly attached alongwith the required number of copies of Appendix 'F' and related documents before receiving the arbitration case for adjudication.

11.0 The Registrar to whom the arbitration case is referred should in no case appoint the Administrator, liquidator or an employee of the cooperative society as an arbitrator in the case.

12.0 With a view to expedite disposal of arbitration proceedings, lest they are unnecessarily prolonged over several years defeating the very object of arbitration, it is necessary that whenever the Registrar receives an arbitration reference, he must either decide the case himself within three months of the receipt of the reference or within a period of 14 days from the receipt of the reference, he must appoint an arbitrator who must give his award within three months.

13.0 Norms for appointment of an Arbitrator

The Registrar to whom arbitration case is referred should appoint the arbitrator according to the norms fixed by RCS vide his office letter No. RCS/EAR/Court Case/398-A dated 29.12.1999 (Annexure -5). However, before appointment of an arbitrator, Registrar should satisfy himself and pass a specific order that the dispute is covered under section 55 of the Act Ibid.

14.0 Powers of Civil Court (Section-83) :

- (1) # exercising the functions conferred on it by or under this Act, the Registrar, the arbitrator or any other person

