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**CASE ANALYSIS- Daman vs State of Punjab<sup>1</sup>**Rashi Shrivastava<sup>2</sup>**FACTS**

Various legislatures of the state pursuant to the policy decision which was taken place at an All India Conference, introduced enactments at almost on the same lines pertaining to amalgamation of the cooperative societies. The powers of the provisions which are contained in the section 13 and also in sub-sections 8 to 11 of the section 13 of the Punjab Cooperative Societies Act of 1961, provides for necessary amalgamation of the cooperative societies merely if it is essential in the benefit of cooperative societies. This was challenged in the present case by way of various appeals and special leave petitions.

**ISSUES**

1. Whether the law which provides for amalgamation of the cooperative societies can be struck down?
2. Whether the expression “corporations” be given a wide interpretation or not?
3. Whether the scheme as provided in “List I Entries 43 and 44 of the Seventh Schedule and List II Entry 32” of the Indian constitution create some difference?

**ANALYSIS**

Keeping in view of the constitutional bars which are contained in Article 31 A (1) (c) the law which provides for the amalgamation of the cooperative societies cannot be outlawed on the basis of being in contravention of Article 19(1)(c) of the Indian Constitution, as the right of the citizen to structure a society or to become a member of a definite cooperative society is not being obstructed with if the very society of which he has turn out to be a member is amalgamated with new society which consists of members with whom he is reluctant to associate. In the present case, from the very beginning the cooperative societies are being governed by statutes. Hence, there can be no doubt to statutory intervention with their opus on the ground of infringement of the individual right of free will of association<sup>3</sup>.

In the Article 31 A (1) (c), the expression of “corporations” cannot be provided narrow or limited interpretations and thus cooperative societies cannot be comprehended with its area.

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<sup>1</sup> AIR 1985 SC 973.

<sup>2</sup> The author is a student at Symbiosis Law School, Noida.

<sup>3</sup> Damyanti Naranga v. Union of India, [1971] 3 S.C.R.840.

Whereas it is needed that the expression of corporation mentioned in the Article 31 (1) (c) requires a much broader meaning since more interests than just public interest. The Section 30 of the Punjab Cooperative Societies Act of 1961 lays that every cooperative society which is registered has the status of a corporate body having a common seal and everlasting succession, defend and institute suits, authority to hold property, enter in to contacts and also other lawful proceedings and to do all other work for which it is constituted. Hence, as commonly understood a “cooperative society is a corporation”<sup>4</sup>.

As enjoined in the constitutional scheme, “Entries 43 and 44 of List I and Entry 32 of the List II” of the seventh schedule does not provide any difference. The cooperative societies as mentioned in the “Entry 43 of List I and Entry 32 of List II” in company with corporation provides, with a sign that makers of the constitution were of the view that both cooperative societies and corporations are of the similar species and thus all were corporations. Actually, the expression “exclusion of cooperative societies” from “Entry 43 of the List I” is pinpointing of the view that such exclusion would comprehend that cooperative societies comes within the expression of “corporations”.

The reasons and objective mentioned in the 4<sup>th</sup> Amendment Act and in the Joint Committee Report initially proposed for giving protection to legislation pertaining to only amalgamation of companies but later on it is given wide interpretation by extending it to provide the protection to corporations of statutory nature also and term of corporations was substituted in the Act instead of the expression companies which was mentioned before in the bill. The generic term “corporation” is used by the Parliament so that all statutory corporations, companies and alike be brought in the expression corporation to give a broader meaning not with the view to limit legislative protection related to amalgamation to any category of corporations but to guard legislation pertaining to amalgamation of all categories of corporations. The concept and philosophy of the cooperative movement is evolved with public interest and merger of cooperative societies when such merger or amalgamation is in public interest of the cooperative societies or can be for the societies’ proper administration. Thus, it will be invalid to say that protection was not available to Section 13(8) of the Punjab Cooperative Societies Act under Article 31A (1) (c).

Providing notice to individual members of a cooperative society is divergent to the very standing of a cooperative society and also pointless. As soon as the person becomes a member of a cooperative society his individuality is lost and he has no right except which were provided

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<sup>4</sup> Board of Trustees, Ayurvedic, and Unani Tibia College, Delhi v. The State of Delhi, [1962] Suppl. 1 SCR 156.

to him by the bye laws and statute of the society. The individual can speak for his rights and duties only through the society whereas a society can speak for its duties and rights through its very status of society. Thus, when the concerned authority sends notice to the cooperative society for its amalgamation then the principal of natural justice is satisfied fully. Any notice to a society is equal to the notice provided to all its members. Therefore, section 13(9) (a) provided for notice to the society and not to its members. But section 13 (9) (b) provides the member an opportunity to be heard if they desire. Further, by section 13(11) the person who is against the proposed amalgamation can walk out within prescribed time limit by withdrawing his shares, loans or deposits.

### **CONCLUSION**

It will be highly inappropriate to say the dignity of a human being is even tenuously pretentious by the amalgamation of a cooperative society of which an individual is a member with a new cooperative society. Therefore, the argument posed that both Section 13(8) of the Punjab Cooperative Societies Act and Article 31 A (1) (c) of the Indian constitution, offended the basic structure of the constitution and therefore, were annulled is omitted.