

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

CRR No.1691 of 2014 (O&M)

Arya Partinidhi Sabha Haryana

...Petitioner

VERSUS

State of Haryana and others

...Respondents

(2)

CRM No.M-15683 of 2014 (O&M)

Arya Partinidhi Sabha Haryana

...Petitioner

VERSUS

State of Haryana and others

...Respondents

Date of Decision: January 08, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.D.Sharma, Senior Advocate with
Ms.Bindu Goel, Advocate
for the petitioners.

Mr.Deepak Grewal, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Ashwani Bakshi, Advocate
for respondents No.3 and 4.

INDERJIT SINGH, J.

This order will dispose of above-mentioned two connected
cases.

Petitioner has filed these petitions against State of

Haryana, Sub-Divisional Magistrate, Rohtak, Acharya Vijay Pal and Sh.Satyavir Shastri respondents challenging the impugned order dated 12.05.2014 passed by learned Sub Divisional Magistrate, Rohtak under Section 145 Cr.P.C. vide which Receiver has been appointed.

It is mainly stated in the petition that present petition is being filed by Arya Partinidhi Sabha Haryana through Dr.Sunita Arya duly elected Vice President. Arya Partinidhi Sabha Haryana is a State Body under the Subordination of its Apex Body i.e. Sarvdeshik Arya Partinidhi Sabha. Presently, there are three groups of Sarvdeshik Arya Partinidhi Sabha headed by Sh.Mithai Lal Singh, Sh.Anand Kumar Aryana and Swami Agnivesh, who are claiming themselves as President of the said Apex Body. It is further stated that the Apex Body headed by Mithai Lal Singh dissolved executive committee of Arya Partinidhi Sabha Haryana vide its order dated 01.07.2013 and constituted an Adhoc committee under the Presidentship of Arya Mahabir Dahiya and this Adhoc committee was further directed to hold the election within six months. Thereafter, the election of State Body known as Arya Partinidhi Sabha Haryana was held on 12.12.2013 strictly in accordance with the procedure and provisions of the bye-laws and Smt.Anil Arya was elected as its President with six office bearers and fifteen executive members. The information regarding the election process of Arya Partinidhi Sabha Haryana for three years and its newly elected executive members, has been sent to the District Registrar Firms and Societies Rohtak. It is also stated in the petition

that above election which was held on 12.12.2013 was recognized by Mithai Lal Singh and Anand Kumar Arya i.e. above two groups of Apex Body vide recognition letters dated 15.12.2013 and 17.12.2013, which are attached. On 20.12.2013, first meeting of newly elected executive committee of Arya Partinidhi Sabha Haryana headed by Smt.Anil Arya was held in its office at Pt. Jagdev Singh Sidhanti Bhawan, Dayanand Math, Rohtak. The charge of the record and physical possession of the office of Arya Partinidhi Sabha Haryana was also taken by the newly elected executive committee on 20.12.2013. In the above first executive committee meeting, it was unanimously resolved to hold an Arya Partinidhi Maha Adhiveshan of Arya Partinidhi Sabha Haryana on 24.12.2013. It was on that very date, Smt.Anil Arya apprehended disturbance by few bad elements. An application was filed with Incharge, Police Post, Sabzi Mandi, Rohtak seeking police protection. It is further stated that on 24.12.2013, again a meeting of executive committee of Arya Partinidhi Sabha Haryana was held and Arya Partinidhi Maha Adhiveshan of Arya Partinidhi Sabha Haryana was duly held peacefully without any disturbance and breach of peace. Suddenly, in the evening of 24.12.2013, police officials at the spot started pressurizing Smt.Anil Arya and other executive committee members for vacation of office premises without any reason, notice and cause of action. It is also stated in the petition that on 24.12.2013, typed copy of order dated 24.12.2013 was handed over to Smt.Anil Arya and in compliance of said order dated 24.12.2013, Smt.Anil Arya handed over the locked possession of the office

premises to General Manager District Industry Centre Rohtak, who was appointed as Receiver and the Receiver put his own lock over the locks of the petitioner on the doors of the office premises and sealed his lock deliberately without recording proceedings of attachment and inventory at the spot.

Notice of motion was issued in these cases and learned State counsel as well as learned counsel for respondents No.3 and 4 appeared, filed replies and contested the petitions.

At the time of arguments, learned counsel for the petitioner argued that impugned order dated 12.05.2014 passed by Sub Divisional Magistrate, Rohtak is illegal and not as per law. No opportunity to produce the evidence has been given. Therefore, he argued that the impugned order should be set aside and the matter be remanded back and the possession be got delivered to the present petitioner.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the impugned order dated 12.05.2014 shows that Calendra dated 24.12.2013 was presented by SHO City Rohtak after receiving information that two groups of Arya Partinidhi Sabha out of which one is headed by Smt.Anil Arya Partinidhi Sabha Haryana and Acharyan Wachaspati Arya Partinidhi Sabha Haryana and second group headed by Acharya Vijaypal and Satyaveer Shashtri Arya Partinidhi Sabha Haryana have been found present at Daya Nand Math Gohana Road, Rohtak and there has been an acute

tension between two groups, who are claiming their right over each other, on which the matter was informed to the higher officers. Then SHO along with staff with Govt. vehicle came to the spot. Therefore, it was recommended to take into possession the Sidhanti Bhawan Dayanand Math, Rohtak under Section 145 Cr.P.C. and a Receiver may be appointed. Earlier the order was passed under Section 146 (1) Cr.P.C. and the General Manager District Industry Centre has been appointed as Receiver. Revision was filed and that order has been set aside by this Court vide order dated 02.04.2014 and the matter was remanded back. Learned SDM, Rohtak after receiving the order, summoned the report from concerned SHO and in view of the report of the SHO, order under Section 145 Cr.P.C. was passed. Thereafter, the property was attached under Section 146(1) Cr.P.C. and after attaching the property, Joint Director of District Industries Centre, Rohtak was again appointed as Receiver. As per the impugned order, both the parties were given opportunity to produce evidence and proof. The counsel for the first party i.e. Arya Partinidhi Sabha Haryana submitted written statement and counsel for second party got recorded his statement that earlier written statement in the case may be read as written statement. As per the order, the counsel for second party orally stated that he had already produced the documents and proof and the arguments be heard in the main case. Counsel for the first party had given an application on 29.04.2014 and after taking reply, that application was dismissed and the case was fixed for arguments with the consent of both the parties in the main

Calendra. Counsel for the first party gave application on 06.05.2014 for arguments and copy of the application was given to the counsel for the second party and both the counsel were heard on the application.

As per the impugned order, opportunity was given to the first party to produce the documents to show the possession and the case was adjourned 2-3 times for the same. As first party had not produced any document, the petition was decided by holding that Acharya Vijaypal Arya Partinidhi Sabha was in the possession.

After perusal of this order dated 12.05.2014, I find that in no way, it can be held that no opportunity was given to the present petitioner. It is for the competent Court to see that whether the witnesses are summoned only for purpose of delay or whether they are material witnesses. Even before this Court, nothing has been argued as to which of the witnesses have been summoned and what relevancy they have with the matter in dispute. That order has already been challenged separately. It has not been argued as to what material evidence petitioner wanted to produce to show their possession. Rather, from the petition itself, it is clear that there are three groups in the Apex Body and the present petitioner was not in possession nor they were President etc. of the Body before the elections on 12.12.2013 as stated in the petition. Rather, as per petition, only it is stated that first executive meeting was held on 20.12.2013 and at that time, it was decided to convene Arya Partinidhi Maha Adhiveshan, on 24.12.2013 on which date this Calendra has been filed. The private respondents' case is that they are managing

the affairs of the Arya Partinidhi Sabha Haryana for the last so many years.

Therefore, from the record, it is clear that private respondents were in established possession. The petitioners are stating their possession on the basis of elections, which were stated to be conducted by dissolving Arya Partinidhi Sabha Haryana by one group of Apex Body.

Keeping in view the facts and circumstances of the present case, I find that no illegality has been committed by learned SDM, Rohtak while passing the impugned order dated 12.05.2014.

Therefore, finding no merit in the revision petition, the same is dismissed.

As regarding the petition CRM No.M-15683 of 2014, which has has been filed under Section 482 Cr.P.C. for quashing of orders dated 22.04.2014 passed by learned SDM, Rohtak under Sections 145(1) and 146(1) Cr.P.C., I find that these are interim orders passed during the proceedings and now the final order has already been passed.

Therefore, this petition has become infructuous and the same is dismissed as having been rendered infructuous.

January 08, 2015
Vgulati

(INDERJIT SINGH)
JUDGE