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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 6625 of 2012
Date of Decision: -21.9.2015

Captain Surjit Singh Panesar

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: - Mr. A.P.S.Shergill, Advocate for the petitioner.

Mr. Deepak Manchanda, Addl. AG, Haryana

Mr. Vikas Singh, Advocate for respondent No. 4.

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Rakesh Kumar Jain, J (Oral)

The petitioner has invoked the writ jurisdiction of this Court seeking a direction to respondents No.2 to 5 for quashing the election process dated 10.3.2012 and result declared vide notice dated 12.3.2012.

The petitioner was a member of Indian Air Lines Pilot's Co-operative House Building Society, Gurgaon (hereinafter referred to as 'Society'). His membership was terminated by the Society. He challenged the order of termination before the Deputy Registrar Co-operative Societies, Gurgaon in appeal which was allowed on 22.6.1999 and the membership was restored. However, the Society filed a revision under section 115 of the Haryana Co-operative Societies Act, 1984 in which the

order dated 22.6.1999 was set aside vide order dated 3.1.2000 (Annexure P-1). The revisional authority remanded the case back to the Deputy Registrar Co-operative Societies, Gurgaon to decide the matter afresh after taking fresh evidence from both the parties. The review application filed by the petitioner was also dismissed on 11.5.2000 being not maintainable. Thereafter, the petitioner filed CWP No. 8922 of 2000 in which notice of motion was issued on 21/24.7.2000. The order reads as under: -

“Notice of motion for August 2, 2000.

Notice regarding stay.

In the meanwhile, operation of the order (Annexure P-7) shall remain stayed.

Notice be given dasti to the learned counsel for the petitioner.

To be listed along with Civil Writ Petition No. 8922 of 2000.

Copy of this order be given dasti on payment to the learned counsel for the petitioner.”

The petitioner, along with other members, who were similarly situated, filed **COCP No. 476 of 2002, Shri R. Prasad and another vs. Captain D.S. Giare and ors** and **COCP No. 477 of 2002, Captain S.S. Panesar vs. Captain D.S. Giare & ors.** The said petitions were dismissed on 19.5.2015 with the following orders: -

In aforesaid view of the matter, it is apparent that the effect of the aforesaid reproduced interim order was, in the considered opinion of this Court, only with regard to staying the initiation of fresh proceedings by the Deputy Registrar regarding the issue of rightful expulsion of the

petitioners/members. It certainly did not contemplate that the society in the conduct of its business was to permit the participation of the petitioners as members of the society. Still further, in case the petitioners feel that they were required to be permitted, they were absolutely free to seek any further clarification or further protection by filing an application before this Court in their pending respective writ petitions. This view is fortified by a decision of Hon'ble Supreme Court in similar circumstances reported in para 11 of *Jhareswar Prasad Paul & Anr. Vs. Tarak Nath Ganguly & Ors. (2002)5 Supreme Court Cases 352.*

The petitioner has assailed the validity of the election process/result dated 10.3.2012 in which he was not allowed to participate on the ground that he was no more a member of the Society. Notice of motion was issued in this case and *staus quo* was also ordered to be maintained.

Learned counsel for the petitioner has submitted that the election process and the result of the election are both illegal as the petitioner has been illegally expelled from the membership of the Society. The revisional authority remanded the case back to the Deputy Registrar Cooperative Societies, Gurgaon who has restored the membership of the petitioner vide the order dated 22.6.1999. The petitioner has neither been allowed to participate in the election process nor to contest the elections.

On the other hand, learned counsel for respondents submits that this petition is totally misconceived, because in CWP No. 8922 of

2000, operation of the order dated 26.10.2009 (Annexure P-7) i.e. the order passed by the revisional authority on 3.1.2000 was stayed and it has been clarified by the contempt court that it would not contemplate that the Society, in the conduct of its business, was to permit the participation of the petitioner as the member of the Society. It is also submitted that the contempt court has further clarified that in case the petitioner feel that he was required to be permitted, he was absolutely free to seek any further clarification or further protection by filing an application before this Court in the pending writ petition i.e. CWP No. 8922 of 2000.

I have heard learned counsel for the parties and perused the record as well. After examining the record, I am of the considered opinion that no cause of action arises to the petitioner to assail the validity of the election process and the result dated 10.3.2000 because the membership of the petitioner has been terminated by the Society and the order of the Deputy Registrar Co-operative Societies, Gurgaon by which his membership was restored, was set aside by the revisional authority who had remanded the case back to Deputy Registrar Co-operative Societies, Gurgaon, to pass fresh orders. Meaning thereby, the said order of the Deputy Registrar Co-operative Societies, Gurgaon dated 22.6.1999 does not survive after it has been set aside but the order passed by the revisional authority was stayed by this Court in Civil Writ Petition No. 8922 of 2000 filed by the petitioner. The contempt court has held that the said order of stay passed by the revisional Court would not contemplate that the society in the conduct of its business was to permit the participation of the

petitioner as a member of the society.

Since, the right of the petitioner is still subjudiced in CWP No. 8922 of 2000 in which it has to be established by the petitioner that the order of termination of his membership is illegal, he has rightly not been allowed to participate in the election process nor to contest the elections.

Learned counsel for the petitioner submits that he may be allowed to challenge the order dated 19.5.2015. The petitioner, if so desire, may challenge that order in accordance with law but in so far as present petition is concerned, it does not survive for further orders.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

21.9.2015
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