

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA-276-2015

Date of decision:- 23.02.2015

Indian Ex Servicemen Movement (IESM)

...Appellant

Versus

State Registrar of Societies, Haryana, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. A.D.S. Jattana, Advocate,
for the appellant.

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S.J. VAZIFDAR, A.C.J. (ORAL)

The appellant/original petitioner has challenged two orders, namely, orders dated 14.11.2014 and 20.01.2015.

2. By the first impugned order dated 14.11.2014, the learned Single Judge disposed of the 3rd respondent's application for vacating the stay order granted by the learned Single Judge on 06.09.2014. The learned Single Judge did not stay the election proceedings, but observed that the validity thereof would abide by the decision in the writ petition. The appellant is aggrieved by the said order to the extent that it allows the governing body as it existed before with the 3rd respondent as Chairman to continue till a new elected body is approved by a Court order.

3. The elections were thereafter held on 16.11.2014. The appellant filed an application on 29.11.2014 for an order approving the election results of the appellant – society and for permission for the newly elected committee to take charge of the society.

By an order dated 04.12.2014, the learned Single Judge passed the

following order:-

*“Application is allowed.
Replication is taken on record.”*

4. It appears as if the learned Single Judge had accepted the election results.

5. In view of the above order, the appellant withdrew the appeal against the order dated 14.11.2014. We recorded the statement of learned counsel for the appellant that the appeal was being withdrawn as the application of the appellant had in fact been allowed by the learned Single Judge.

6. The respondent No. 3 thereafter filed an application on 05.01.2015 for review/modification of the order dated 04.12.2014. The learned Single Judge disposed of the said application by the second order impugned before us dated 20.01.2015. The learned Single Judge clarified that he did not intend disposing of the appellant's application dated 29.11.2014 by approving the election results. This was clear from the fact that he also took the replication on record. He, therefore, clarified that by the order dated 04.12.2014 he merely received the replication and did not approve the result of the elections and the same would abide by the decision in the writ petition.

7. We see no reason to interfere with the order of the learned Single Judge dated 20.01.2015. The learned Single Judge has himself recorded that he did not decide the validity of the election. He clarified that he had not even considered the same. The ends of justice required this clarification as in fact the learned Single Judge had not decided the application. This is also evident from the fact that no reasons were given for the said order.

8. The result, therefore, is that the order dated 22.12.2014 would also automatically stand revoked for it was made on the basis that the appellant's

application for approving the elections was allowed. We would, therefore, normally have considered the appeal against the order dated 14.11.2014 afresh without considering the appellant to be bound by the order dated 22.12.2014. However, we do not intend doing so in view of the changed circumstances, namely, the result of the elections. It is always open to the appellant to move an application in the appeal to vacate that part of the order dated 14.11.2014 by which the learned Single Judge permitted the existing governing body with the 3rd respondent as the Chairman to continue pending the disposal of the appellant's application dated 29.11.2014 for approving the election results. Even if the application itself is not disposed of, it is always open to the appellant to contend and for the learned Single Judge to decide, whether the interim relief to that extent ought to be allowed or not in view of the changed circumstances, namely, the election results and on the basis of all other contentions including on the ground that the two years' term of the earlier governing body and its incumbents including the respondent No. 3 had come to an end by an efflux of time.

9. The appeal is accordingly dismissed in so far as it challenges the order dated 20.01.2015. The appeal is disposed of in so far as the first impugned order dated 14.11.2014 is concerned with liberty to the appellant to apply as aforesaid.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

23.02.2015
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