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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6573/2015 & CM Nos. 11972, 14397/2015

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Date of decision : 10th September, 2015

P P MALHOTRA & ORS

..... Petitioner

Through: Mr. Atul Bandhu, Adv.

versus

REGISTRAR CO-OPERATIVE SOCIETY PARLIAMENT
STREET NEW DELH & ANR

.....

Respondent

Through: Mr. Naushad Ahmed Khan, ASC
for R-1

Mr. Rajiv Vig, Adv. for R-2

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE I.S.MEHTA

JUDGMENT (ORAL)

GITA MITTAL, J

1. By way of the present writ petition, the petitioner had sought the following prayers :-

“(i) Allow the present writ petition thereby issuing appropriate writ, order or directions quashing the illegal demands being raised on the petitioners vide notice dated 30.06.15 as pasted on the notice board of the society and direct the respondent no. 2 to strike off the names of the petitioners from the defaulters list dated 30.06.15 (Annexure P-5) and further to permit the petitioners and other similarly placed members to

participate in the election process for the year 2015;

(ii) To direct respondent no. 1 to appoint administrator, conduct special audit and do the necessary inspection of the society being Antariksha Cooperative Group Housing Society respondent no.2;

(iii) Issue a writ of mandamus thereby directing the respondent no. 1 to appoint any gazetted officer as the returning officer for the purpose of the elections of the society Antariksha Cooperative Group Housing Society respondent no. 2 as provided in the rules.

(iv) Pass such further order or orders as this court may deem fit and proper in the facts and circumstances of the case.”

2. So far as the first prayer was concerned, we had diverted the petitioners to their efficacious alternate remedy under Section 70 of the Delhi Cooperative Societies Act by our order dated 14th July, 2015. So far as the prayer 3 is concerned, we are informed that elections stand conducted on 9th August, 2015 to the managing committee of the respondent-society which is in place and is functioning. We are further informed that some of the petitioners have already challenged the conduct of the elections and the results thereof by way of appropriate proceedings before the Registrar of Cooperative Societies under Section 70 of the Delhi Cooperative Societies Act, 2003 which are pending.

To that extent the present writ petition seeking the same prayer is rendered infructuous.

3. So far as the prayer (ii) is concerned, we are of the view that this grievance of the petitioners deserves to be considered by the office of the

Registrar of Cooperative Societies who would take a view thereon and pass orders in accordance with law. It is pointed out by learned counsel appearing for the respondent-society that the complaints of the petitioner with regard to the audit, are against the previous managing committee and consequently these are also rendered infructuous. The petitioner vehemently disputes this submission on the ground that several of the members of the managing committee were in the previous managing committee as well.

4. Be that as it may, this grievance of the petitioner can appropriately be also considered by the office of the Registrar of Cooperative Societies which is statutorily mandated to do so. The present writ petition would also not be the appropriate remedy for the same.

We accordingly, dispose of the present writ petition with the following directions :-

- (i) So far as the grievance of the petitioner made in prayer (ii) above is concerned, the writ petition be treated as a representation by the office of the Registrar of Cooperative Societies who will take a considered view and pass appropriate orders within a period of six weeks from today.
- (ii) The respondent o. 2 society shall be entitled to place its defence to the grievance of the petitioners before the RCS.
- (iii) The petitioner may file any further records within two weeks from today with advance copy to the respondent no.2-society. The respondent no.2-society shall file its response to the contentions of the petitioner within a period of four weeks thereafter. The office of the respondent no.

3 shall take a considered view thereon within a period of four weeks thereafter.

(iv) So far as prayer (iii) is concerned, the petitioners have not invoked the remedy under Section 70 of the Registrar of Cooperative Societies and no orders thereon are required to be passed in this petition.

(v) The writ petition and the application are disposed of in the above terms.

We have not adjudicated on any of the contentions of the petitioners and the respondent no.1 shall pass orders thereon uninfluenced by the proceedings before this court.

Dasti to parties

GITA MITTAL, J

I.S.MEHTA, J

SEPTEMBER 10, 2015

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