

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Civil Writ Petition No. 10568 of 2016

Date of decision : May 25, 2016

Mohinder Jeet Kaur & Ors.

... Petitioners

versus

Secretary Cooperation, U.T.Chandigarh & Ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

Present: Mr. Sandeep Moudgil, Advocate, for the petitioners.

PARAMJEET SINGH DHALIWAL, J (Oral)

The instant writ petition has been filed for issuance of a writ in the nature of certiorari for setting aside the election notice dated 06.05.2016 (Annexure P/8) published in "The Indian Express" newspaper on the ground that the same is contrary to the provisions of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as 'the Act') and further prayer has been made to restrain the respondents from holding the election to the Managing Committee of the Labour Bureau Employees Cooperative House Building (1st) Society Limited, Sector 49, Chandigarh (hereinafter referred to as 'the Society'). In the alternative, the prayer has been made not to allow the person claimed to be members of the Society, who are infact GPA holders to cast their vote.

Petitioners are stated to be members of the Society. Petitioner No.1, 2 and 3 were duly elected as President, Secretary and Treasurer. The Managing Committee of the Society was dissolved vide order dated

21.01.2013 without affording an opportunity of hearing to the petitioners. Thereafter, administrator (respondent No.4) was appointed. The administrator allegedly exceeded his jurisdiction by enrolling new members who are only GPA holders and further included their names in the voters list. The notice for holding fresh elections has been issued vide publication in “The Indian Express” newspaper on 06.05.2016. The same is against the Bye-law No.32, which reads as under:-

“The Committee shall be elected in the manner laid down in the Act, the Rules and the instructions issued by the Registrar in this regard from time to time. The committee shall hold office for 03 years. An interim vacancy caused by resignation or otherwise shall be filled by re-election for the un-expired period of the terms of the Committee.”

I have considered the contentions raised by learned counsel for the petitioners and perused the record.

Admittedly, the election process has already commenced. This Court is not required to interfere in the election process once it has commenced. In the present writ petition election program approved by the competent authority has been sought to be stayed. It is now well settled that once an election is over, the aggrieved candidate will have to pursue his remedy in accordance with the provisions of the Act and this Court will not ordinarily interfere with the elections where there is an appropriate or equally efficacious remedy available, particularly in relation to election disputes.

Hon'ble Supreme Court in “**Shri Sant Sadguru Janardan**

Swami (Moingiri Maharaj), Sahakar Dugdha Utpadak Sanstha and another Vs. State of Maharashtra and Ors.”, 2001(8) SCC 509 has held as under :-

“12. In view of our finding that preparation of the electoral roll is being an intermediate stage in the process of election of the Managing Committee of a specified society and the election process having been set in motion, it is well settled that the High Court should not stay the continuation of the election process even though there may be some alleged illegality or breach of rules while preparing the electoral roll. It is not disputed that the election in question has already been held and the result thereof has been stayed by an order of this Court, and once the result of the election is declared, it would be open to the appellant to challenge the election of returned candidate, if aggrieved, by means of an election petition before the election tribunal.

13. In that view of the matter, we are in agreement with the view taken by the High Court that the appellant having an alternative remedy, the writ petition deserved dismissal.”

In view of above, this writ petition is dismissed.

(Paramjeet Singh Dhaliwal)
Judge

May 25, 2016
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