

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

CWP-19310-2014

Date of decision : 17.03.2016

Sri Guru Ravi Dass Sabha (Regd.)

..... Petitioner

Vs

Registrar General of Societies, Haryana & Ors.

..... Respondents

Coram : Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Akshay Jindal, Advocate,
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

Mr. Pardeep Solath, Advocate,
for respondents No. 4 to 7.

Rakesh Kumar Jain, J. (oral)

This petition is filed to challenge the validity of the order dated 12.09.2014 passed by respondent No.1 while exercising the powers under Section 79 of the Haryana Registration and Regulation of Societies Act, 2012 (for short 'the Act').

For the sake of brevity the minimum facts which are required to be mentioned in this case are that this petition was filed by the Society though the cause which is sought to be espoused is of the past Governing Body whose term had expired on 16.5.2014. The new Election has been notified by the

erstwhile Governing Body in August, 2014. The District Registrar, Firms and Societies, Panchkula vide order dated 6.8.2014 stayed the election which was sought to be held by the erstwhile Governing Body of the Society. The said order was challenged by the said Governing Body by way of an appeal before the State Registrar of Societies, Haryana on 14.8.2014, which was allowed on the same day without even issuing notice to anybody. It was ordered that the District Registrar shall approve the scheme of electoral colleges immediately, which was pending with him. The society was directed to conduct the election in a free and fair manner strictly in accordance with the provisions of the Act.

Aggrieved against this order, further appeal was filed by respondents No. 4 to 7 before the Registrar General of Societies, Haryana, which was allowed on the ground that in view of Section 39(10) of the Act, the election can be held either by way of appointment of an adhoc body or an Administrator appointed by the District Magistrate to manage the affairs of the society, whose term has already expired. It was also observed that the membership fee being an item related to by-laws, special resolution was necessary to introduce any changes.

Counsel for the petitioner has vehemently argued while referring to Section 39(2) that the process of election has already been initiated on 2.5.2014 much before expiry of the term on 16.5.2014. It is also submitted by him that the question of

reduction of membership fee has nothing to do with the election of the Members and has specifically relied upon the order passed by the State Registrar who had given the permission to the petitioner to hold election.

In reply, learned counsel for the respondent has submitted that once the term of the erstwhile Governing Body is over it becomes functus officio and any action necessary for holding election has to be taken by District Registrar in terms of Section 39(10) of the Act by constituting an adhoc Committee or appointing an Administrator to manage the affairs of the Society, immediately upon the expiry of the due date, for the intervening period and for conducting the elections of the Governing Body. It is also submitted that the Act came into being on 28.3.2012 and as per Section 92(3) of the Act all registered Societies already in existence are deemed to have been registered under the Act and the Memorandum and the Bye-laws of any such Society are repugnant to or inconsistent with any of the provisions of the Act and the rules made there under, shall be brought in conformity with the provisions of the Act within a period of two years. It is also submitted that amendment in the bye-law was put forward by the said Governing Body whose term had expired within two years as well. It is further submitted that the annual fee of the membership cannot be reduced, in any case, which is fixed in the rules as ₹ 500/- whereas the petitioner has reduced it to ₹ 60/- for the purpose of increasing the fake membership for the

purpose of election. It is further submitted that the process of election is initiated with the notification in terms of Section 39(3) of the Act and the said process cannot be initiated by the Governing Body after it becomes functus officio. The said action could only be taken by the District Registrar.

After hearing learned counsel for the parties and considering the provisions of law, I am of the considered opinion that the impugned order dated 12.09.2014 does not require any interference by this Court because admittedly term of the office of the erstwhile Governing Body stand expired on 16.5.2014. Counsel for the petitioner failed to show any provision of the Act which empowers the Governing Body to hold election of the Society whose term has already expired. The only power vests with the District Registrar in terms of Section 39(10) of the Act for conducting the elections of the Governing Body, which reads as under :-

“Where the elections of the Governing Body are not held by the due date, for whatsoever reasons, the District Registrar may constitute an adhoc Committee or appoint an Administrator to manage the affairs of the Society, immediately upon the expiry of the due date, for the intervening period and for conducting the elections of the Governing Body.”

Nothing can be so specific, as has been mentioned in the aforesaid provision, which deals specifically with the elections of the Governing Body.

In the present case, the facts speaks for themselves because the State Registrar had allegedly allowed the appeal filed by the petitioner on the same day which was filed without issuing any notice. If this fact is correct then it is a matter of concern. But in any case, nothing has been brought on record by the petitioner to justify the actions taken by them after expiry of the due date of holding the election of the Society whose term had already expired on 16.5.2014. All election proceedings should have been conducted by either District Registrar or any adhoc body or an administrator appointed by District Registrar in terms of Section 39(10) of the Act.

In view of the above, I do not find any merit in this petition.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

17.03.2016

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