

In the High Court of Punjab and Haryana at Chandigarh.

**CWP-19053 of 2016
Decided on 15.9.2016**

Joginder Chawla

--Petitioner

Vs.

The State of Haryana and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. K.S.Khehar, Advocate, for the petitioner

Mr.D.V.Sharma, Sr. Advocate,
with Mr.Aman Vashisht, Advocate, for the Caveator

Rakesh Kumar Jain,J: (Oral)

This petition is filed to challenge the order dated 07.04.2016 passed by the Principal Secretary to Govt. of Haryana, Department of Industries & Commerce, allowing the appeal filed by respondent No.6 against the order dated 09.10.2015 passed by the Director General of Industries & Commerce-cum- Registrar General of Societies, Haryana.

In short, the Society called Sidh Pith Shri Hamuman Mandir, Shri Sanatan Dharma Mandir Dal, NIT Faridabad (for short, 'the

Society) was registered under the Societies Registration Act, 1860, having its office at District Faridabad. The said Society has now been registered under the Haryana Registration and Regulations of Societies Act, 2012 (for short, 'the Act') w.e.f. 09.2.2013. The managing committee of the Society was elected on 25.6.2013 for a period of two years which was to complete on 24.6.2015. The controversy started because of the appointment of the Administrator by respondent No.2 while exercising his powers under Section 56 (2) of the Act. It is ordered therein that Sh. Gaurav Antil, HCS, Faridabad, shall be the Administrator of the Society for managing the affairs of the Society from the date of assumption of office and will take action as per the provisions of the Act.

The said order was challenged by way of an appeal, filed under Section 79 (2) of the Act, which has been allowed by respondent No.1 on the ground that the S.D.M, on whose report the proceedings were initiated for the purpose of appointment of the Administrator, has wrongly projected that there is no valid committee of the Society, whereas the governing body was elected on 25.6.2013 which was certified by the District Registrar and the tenure of the Managing Committee was to expire on 24.6.2015.

Learned counsel for the petitioner has argued that in the order dated 09.10.2015, it has been observed that Rajesh Bhatia was not the member of the society then how he became office bearer of the society. It is also submitted that the counsel who had appeared on behalf of Rajesh Bhatia did not produce any document before respondent No.2 showing him as the member of the society. Therefore, in the said circumstances, action was initiated under Section 56 (2) of the Act which has been wrongly set aside in appeal by respondent No.1.

On the other hand, Mr.D.V.Sharma, learned senior counsel for the caveator has submitted that appointment of the Administrator is regulated by Chapter 12 of the Act in which the Registrar General, after holding enquiry in respect of the affairs of the society, has to pass order in terms of Section 56 (1) and (2) of the Act. It is further submitted that no power vests with the S.D.M for invoking the provisions of chapter 12 of the Act. He further submits that the elections of the society which had taken place on 27.4.2015 were in consonance with Section 39 (2) of the Act. It is further submitted that if the petitioner was not satisfied with the election, which had taken place on 27.4.2015, then the same could have been challenged by the petitioner in terms of Section 40 of the said Act but the said procedure has not been adopted.

I have heard learned counsel for the parties and examined the available record.

The only issue which is required to be decided in this case is as to whether the order dated 09.10.2015 has rightly been set aside by the impugned order or not ?.

Section 56 (2) of the Act gives powers to respondent No.2 to pass order for the purpose of appointment of Administrator under Section 56 (3) of the Act, but there is a complete procedure prescribed which has not been followed as noticed in the impugned order dated 09.10.2015 in which it has been held that the S.D.M who had initiated the proceedings, had no jurisdiction to make recommendation for appointment of the Administrator.

This aspect of the matter has not been argued by learned counsel for the petitioner to satisfy the Court about the powers of the

S.D.M to initiate the proceedings for the purpose of appointment of Administrator.

In view of the above, I do not find any merit in this petition as the impugned order dated 07.4.2016 has rightly been passed. The petitioner, if not satisfied with the election of the managing committee, may invoke the relevant provisions of the Act to challenge it.

While parting with the order, learned counsel for the petitioner has submitted that the conclusion drawn in the impugned order at point Nos.2 and 3, may be set aside, whereas learned counsel for the respondents has submitted that the appeal bearing No.263 of 2015 in this regard is already pending which is being contested by the petitioner. In view thereof, the prayer made by the petitioner shall also be considered in appeal.

Dismissed.

15.9.2016
rr

(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned:

Yes/No.

Whether Reportable:

Yes/No