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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4454/2013**

RAKESH KUMAR & ORS.

..... Petitioner

Through: Mr G.S. Singh, Adv.

versus

THE REGISTRAR, CO-OPERATIVE SOCIETIES & ANR.

..... Respondents

Through: Mr Gautam Narayan, ASC, GNCTD and
Mr Shatrajit Banerji, Adv. for R-1
Mr Vipin Dilawari, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% 15.01.2016

1. The petitioner calls into question the order of Registrar of Cooperative Societies dated 12.02.2013 which had cancelled the elections held by the Society, which has, therefore, approached this Court under Article 226 of the Constitution.

2. The petitioner is a Cooperative Society was registered on 28.01.2005. On 05.10.2012, the Society issued a notice for Special/General Body Meeting scheduled for 28.10.2012 to all its members. The agenda circulated disclosed that elections were also to be held on the same day. The venue for the AGM and the elections were, however, separate. The elections were apparently conducted on

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28.10.2012 after which results were declared. The Registrar, Cooperative Societies issued notice after noticing certain discrepancies on 07.12.2012 to explain certain details. The petitioner furnished its reply on 15.12.2012. In these circumstances, the elections were cancelled and Returning Officer was appointed by the Registrar. This order was subject matter of challenge before this Court initially in another writ petition. The Court directed the society to exhaust its remedies and approached the Delhi Cooperative Tribunal with an appeal, which he did. The Tribunal, after examining the factual matrix and the provision of law, concluded that it did not possess jurisdiction. It is, in these circumstances, that the petitioner has approached this Court once again.

3. The petitioner argues that the impugned order cancelling the elections is unjustified and besides, without authority of law. It is contended that the basic premise of the impugned order, i.e., the AGM and elections were scheduled on the same day at two different places is wrong. Learned counsel submitted that the distance between the office premises of the petitioner where the AGM was scheduled and the place where the elections were scheduled is barely about 1-2 kilometres. In these circumstances, the apprehension that members would not be able to exercise their right to vote or participate meaningfully in the affairs of the society by attending the AGM were unfounded. It was also submitted that since there were a large number of defaulters, who were not entitled to exercise their franchise (650), the assumption of the Registrar that members were deprived of right

to vote was also factually incorrect.

4. Counsel for the Registrar, on the other hand, contended that the response and the official record available disclosed that the Society had a membership of over 1000. At no stage the fact that 650 defaulters existed on the election date was ever communicated. Furthermore, submitted counsel, the minimum quorum, according to the Delhi Cooperative Societies Act and the Rules framed thereunder, is 1/3 of the total membership. Such being the case, absolutely no particulars were furnished as to the members who actually attended the meeting and voted.

5. This Court has considered the submissions. It is evident from the above discussion that the Society's membership is over 1000. There is no dispute that minimum quorum required by law is 1/3 of such membership. In these circumstances, the claim of the society, i.e., that adequate number of members exercised their franchise and voted facially appears to be dubious given that no particulars about who actually went to the venue or venues on the date concerned on 28.10.2012 have been disclosed. Having regard to these circumstances, we find no infirmity with the impugned order.

The writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 15, 2016

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