

S-3

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 3892/2016

CS K K SINGH

..... Petitioner

Through: Ms. Madhumita Bhattacharjee, Adv.

Versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Suprana Srivastava, Adv. for R-1.

Mr. R.D. Makheja, Adv. for R-2.

Dr. S.K. Kumar, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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06.05.2016

CM No.16521/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) No.3892/2016

3. The petition impugns the election of the respondent no.3 CS Rajiv Bajaj to the Council of the respondent no.2 The Institute of Company Secretaries of India and seeks the relief of setting aside of the said election.
4. The counsel for the petitioner has fairly handed over a copy of the order dated 26th April, 2016 of dismissal of W.P.(C) No.3128/2016 also challenging the same election and has further fairly stated that the case of the petitioner herein is not different from that of the petitioner Hitender Kumar Mehta in W.P.(C) No.3128/2016 save that it was also a plea of the petitioner herein that the respondent no.3 CS Rajiv Bajaj was also guilty of practicing undue influence within the meaning of Rule 42(4)(ii) of the Company Secretaries (Election to the Council) Rules, 2006.

5. Rule 42 supra concerns "Disciplinary action against member in connection with conduct of elections" and Section 9(2)(a) of the Company Secretaries Act, 1980 disputes listed wherein only are to be referred to the Election Tribunal constituted under Section 10A of the Act, does not list the same as an election dispute. Thus the remedy of the petitioner for the undue influence if any practiced by the respondent no.3 CS Rajiv Bajaj in connection with the conduct of the election is to take steps for initiating disciplinary action against the respondent no.3.

6. Save for the aforesaid, the petition is dismissed for the same reasons for which W.P.(C) No.3128/2016 was dismissed.

7. The petitioner shall be entitled to in accordance with law pursue the remedy with respect to misconduct in connection with the election if any committed by the respondent no.3 CS Rajiv Bajaj. The petitioner shall also be entitled to make representation for amendment of the Rules.

No costs.

RAJIV SAHAI ENDLAW, J

MAY 06, 2016

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