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

+ W.P.(C) 565/2014

THE COOPERATIVE STORE LIMITED, SUPER BAZAR

..... Petitioner

Through: Mr.N.K. Modi, Sr. Adv. &
Mr.Adarsh Tripathi, Adv.

versus

**CENTRAL REGISTRAR OF COOPERATIVE SOCIETIES AND
ORS**

..... Respondents

Through: Mr.Abhay Prakash Sahay, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **11.02.2016**

The present petition challenges the order dated 02.04.2013 by the Central Registrar Cooperative Societies, Govt. of India, whereby the contesting respondent's application was allowed.

Briefly, the petitioner is a Multi State Cooperative Societies registered under the Multi State Cooperative Societies Act, 2002. It is admitted fact that currently it is facing the winding up proceedings. The contesting respondents had applied for membership of the society on 03.08.2011 to the Managing Director (MD) of the petitioner. At that time, the concerned form was applied for. Subsequently on 18.08.2011, they were informed that the membership could not be acceded to since a new form was made applicable. The petitioner society's contention is that this form was necessary because of an

amendment to its bye-laws. The respondents felt aggrieved by the rejection and appealed to the Registrar. The Registrar on 16.05.2012 directed the respondent to apply in terms of the new application form. The new form was accordingly furnished to the respondents. They challenge this stating that the new form contained a clause that a “No objection” of the employer had to be furnished along with the application.

The Registrar during the course of the proceedings directed the petitioner to submit the evidence with respect to the Board of Director’s decision to modify the format of applications. After considering the submissions, the Registrar held as follows:-

5. “The last amendments to the bye-laws of the society were adopted in the General Body Meeting held on 11.6.2009 and the same were registered by CRCS on 7th July, 2009. However, the above amendments registered by the Central Registrar with certain modifications did not make any change in the existing eligibility conditions for membership. The only change was relating, to increase in the share capital and minimum share holding by new and existing members. The Order passed by Hon'ble High Court of Delhi referred to by the respondent in W.P(C) No. 1963 of 2010 was regarding the amendments made in the bye-laws of the society increasing the minimum share capital to be subscribed by existing and new members and the admission of new members by the administrators. The Hon'ble High Court had upheld the amendments on the ground that the revival of the society ordered by the Hon'ble Supreme Court had stressed on the need for mobilizing further share capital to make the society's net worth positive. It was in the spirit of the orders of the Hon'ble Supreme Court and High Court that the society is being revived

by mobilizing more share capital and working capital. Thus, restricting membership of certain categories who are interested in subscribing to its share capital and thus contributing to its revival process, by putting new conditions, especially the requirement of NOC from the prospective members who are employees of cooperatives/banks/semi-Govt./Govt. organizations or Super Bazar is a restrictive/discriminative clause and tantamount to change in the eligibility conditions without any justification or authority. Considering the facts of the case, it is concluded that there is no justification to ask" the employees of the Super Bazar to produce no objection certificate for being considered for membership in Super Bazar. This unreasonable restriction to enroll new members appears to have been kept mainly to keep them away from being the member therein which is against the law and cooperative principles enunciated in the MSCS Act, 2002”.

Learned counsel for the petitioner submitted that the impugned order is without authority of law. He relied upon Article 19(1)(c) of the Constitution and submitted that the right to association entitles the petitioner society to impose such conditions as are appropriate as a pre-condition for membership. Given such a freedom, the Registrar could not have directed as he did in the impugned order, that the imposition of the pre-condition obtaining No Objection, from the employer was unreasonable. Counsel also submits that the authority of deciding to except or reject the application under Rule 11 is of the Board of the Society.

It is evident from the impugned order that the bye-laws of the society which were apparently amended were gone into by the Central Registrar who then modified them. He did not approve any

change in the existing eligibility condition for membership.

In these circumstances, the society could not have by introducing clause innocuously in the application form sought to impose a pre-condition for eligibility, the absence of which would serve as a disqualification for membership. In these circumstances, we find no infirmity in the order.

The writ petition stands dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

FEBRUARY 11, 2016

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