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

+ W.P.(C) 5613/2015

RANBIR SINGH KUSHVAH

..... Petitioner

Through: Mr. K.K. Sharma, Sr. Adv. with Mr.
Rajiv Bakshi and Bhanita Patowary,
Advs.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Shiva Lakshmi and Mr. Arindam
Dey, Advs. for R-1.
Mr. Siddharth Dias, Adv. for R-2&3.
Mr. R.A. Iya and Mr. Gautam
Narayan, Advs. for R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **21.04.2016**

1. The petition seeks mandamus directing the respondents i.e. (i) Union of India, (ii) Family Planning Association of India (FPAI), (iii) New Delhi Branch of FPAI and the (iv) Registrar of Societies, to conduct the general elections to the Executive Committee of the New Delhi Branch of FPAI, so that the said Branch functions in a democratic way.
2. Notice of the petition was issued and counter affidavit has been filed by FPAI.
3. On 28th March, 2016 hearing was begun but the counsel for the petitioner was unable to show any rule or regulation for holding of the elections sought. Accordingly, the matter was adjourned to today.

4. Today, the senior counsel for the petitioner has in the Court handed over a document purporting to be the copy of the Constitution of the New Delhi Branch of FPAI. However, the document is found to be not the constitution of the New Delhi Branch of FPAI but Model Branch Constitution as prescribed by FPAI. It has thus been enquired from the senior counsel for the petitioner, as to where is the actual Memorandum of Association and Rules and Regulations of the New Delhi Branch of FPAI and the model prescribed therefor by FPAI cannot be read as the Constitution of the New Delhi Branch of FPAI.

5. The senior counsel for the petitioner states that in fact there are no Memorandum of Association in Rules and Regulations of the New Delhi Branch of FPAI and the model thereof only has been approved. However, the document in that regard is also not forthcoming.

6. Be that as it may, the position has been enquired from the counsel for FPAI. He has drawn attention to Rule 2.2 of the Rules and Regulations of FPAI annexed to the counter affidavit, which empowers FPAI to *inter alia* withdraw the recognition of any Branch and dissolve any Branch of FPAI. Attention next is invited to para L in the counter affidavit pleading that FPAI has derecognised the New Delhi Branch of FPAI and to the resolution of the Central Executive Committee of FPAI in the meeting held on 15th December, 2004.

7. It has as such been enquired from the senior counsel for the petitioner that once the New Delhi Branch of FPAI itself does not exist, how the relief for holding its elections has been sought and can be granted.

8. Though the senior counsel for the petitioner has sought to refer to the letter dated 3rd February, 2004 of FPAI to its New Delhi Branch (which was then under suspension) and has contended that *ad hoc* committee with respect to New Delhi Branch of FPAI was appointed only for a period of one year and the elections were to be held thereafter and more than fifteen years have passed since then but the counsel for FPAI points out that the same was the position when the New Delhi Branch of FPAI was under suspension but by subsequent resolution, the New Delhi Branch of FPAI has been derecognised and hence the earlier resolution suspending the New Delhi Branch of FPAI is of no avail.

9. The senior counsel for the petitioner then seeks to withdraw the petition with liberty to take appropriate remedies in accordance with law.

10. Dismissed as withdrawn with liberty aforesaid.

11. It is clarified that nothing observed herein will tantamount to this Court having held the writ petition in this regard to be maintainable and the said question will also remain open for consideration.

No costs.

RAJIV SAHAI ENDLAW, J.

APRIL 21, 2016

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