

\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11539/2015 and CM Nos. 30539/2015, 5874/2016 (O.1 R.
10 CPC)

MANPOWER COOPERATIVE GROUP HOUSING SOCIETY LTD
..... Petitioner

Through: Mr Sunil Kumar and Mr P.P. Sharma,
Advs.

versus

THE OFFICE OF THE REGISTRAR OF COOPERATIVE
SOCIETIES, GNCT OF DELHI Respondent

Through: Mr Satyakam, Additional Standing
Counsel, Govt. Of NCT of Delhi
Mr Abhinav Gupta, Adv for applicant in CM No.
5874/2016

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **22.03.2016**

The petitioner/Cooperative Society challenges an order, whereby the Registrar of Cooperative Societies directed the appointment of a Returning Officer to conduct the election within 90 days, and Shri Rajesh Jain, Superintendent, Central Excise as the Administrator.

The petitioner had earlier approached this Court by filing W.P.(C) No. 6054/2014 challenging the appointment of another Administrator. The contention made by the petitioner *inter alia* was that the Administrator, who was originally appointed, was unable to

carry out his task of completing the election. After the end of his tenure, elections were announced on 16.05.2015. Thereafter, the second order impugned in W.P.(C) No.6054/2014 appointing another Administrator, was issued by the Registrar. On 18.05.2015, another Administrator was appointed—this was the subject matter of challenge. The cooperative society contended that without issuing the notice, its management cannot be superseded. This Court agreed with the Society's contention and quashed the order appointing the Administrator by its judgment dated 24.06.2015. The Court granted liberty to the Registrar to pass an appropriate speaking order noting the Society's contentions on the show-cause notice to be issued by the Registrar.

After the order dated 18.05.2015 was quashed, the Society went ahead and conducted the elections in accordance with the previously notified schedule of 05.07.2015. After the new Management took charge, the Registrar issued the impugned order on 12.11.2015 directing the appointment of yet another Administrator as well as the appointment of a Returning Officer to conduct the elections. It is contended by the petitioners that there was no impediment in the conduct of elections and if the Registrar wished to take any precipitate action in that regard, nothing prevented him from doing so before the elections were completed. However, the power of the Registrar to appoint an Administrator under Section 35(5) could not have been exercised as was done in this case. Counsel for the Registrar contended that the process of dealing with the petitioner's contentions in compliance with this Court's order took some time;

consequently the order of 12.11.2015 was issued. While making the order, the Registrar took note of various complaints made by the members of the cooperative societies regarding allegation of large scale irregularities in the conduct of elections.

The order of this Court dated 24.06.2015 is categorical. In that, the appointment of Administrator dated 18.05.2015 could not have been made in the circumstances as they ensued. That order was quashed. There is no serious dispute about the fact that the election notice had been issued on 16.05.2015. In the previous proceeding before this Court (W.P.(C) No. 6054/2015), the Registrar did not contend that the petitioner could not be permitted to conduct the elections scheduled for 05.07.2015. Today, the Registrar contends that erstwhile Managing Committee was really *functus officio*. However, in our opinion that argument is not available because it could well have been urged in the previous proceedings, but was expressly not contended by the Registrar. The Registrar appears to have proceeded on the assumption that the state of affairs which existed as on 24.06.2015 continued to remain so even on 12.11.2015 which clearly was not the case once the elections were held in an unimpeded manner. As to the complaints of irregularity in the conduct of elections made by certain members, it is clearly open to such members who are aggrieved by the manner of conduct of the elections to approach the concerned authorities, i.e., the Registrar of Cooperative Societies in accordance with law. In case they do so, the Registrar shall ensure that dispute is adjudicated on its merits and the claim for arbitration not rejected merely on the ground of limitation.

In view of the above findings, we are of the opinion that the Registrar could not have issued the order of 12.11.2015, which he did and has been impugned in the present case. The same is hereby quashed. The Administrator is directed to forthwith handover the custody of the all documents pertaining to the books of accounts, bank account and other movable assets to the Cooperative Society, in any case within two weeks.

The writ petition is allowed in the above terms.

Order *dasti*.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 22, 2016
bg