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HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on : 07.09.2017

Order delivered on : 13.09.2017

Writ Petition (C) No.1360 of 2017

Kamlesh Sharma S/o Late R. R. Sharma, Aged About 57 Years President Bilaspur Press Club, Raghvendra Rao Hall, Bilaspur Chhattisgarh, R/o Gupta Gali, Tikra Para, Mannu Chowk, Bilaspur Chhattisgarh.

----Petitioner

Versus

1. The State Of Chhattisgarh Through- The Secretary, Commerce & Industry Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil And District- Raipur Chhattisgarh.
2. The Assistant Registrar, Firms & Societies, Bilaspur Chhattisgarh.
3. Mangatrai Agrawal, Election Officer, Press Club, Bilaspur Chhattisgarh.
4. Tilakraj Saluja, S/o N. R. Saluja, Near Shitla Mandir, Dayalband, Bilaspur Chhattisgarh.
5. Bilaspur Press Club, Through- Its Secretary, Raghvendra Rao Hall, Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr.S.C.Verma, Advocate
For Res.No.1 and 2	:	Mr.Arun Sao, Dy.A.G.
For Respondent No.4	:	Mr.Awadh Tripathi, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V.Order

1. Heard on admission.

2. Mr.S.C.Verma, learned counsel for the petitioner, would submit that the impugned order dated 11.4.2017 passed by the

Divisional Assistant Registrar, Firms and Societies, Bilaspur setting aside the election of Press Club, Bilaspur is unsustainable and bad in law and this matter be heard along with WPC No.2201/2016 (Shashikant Konher Vs. The State of Chhattisgarh and others).

3. On the other hand, Mr.Awadh Tripathi, learned counsel for respondent No.4/caveater, would submit that the petitioner has preferred an appeal before the Registrar, Firms and Societies questioning the order dated 11.4.2017, therefore, the instant writ petition as framed and filed is not maintainable and deserves to be dismissed as the petitioner cannot be allowed to maintain two parallel proceedings against the order of the Assistant Registrar, Firms and Societies.

4. In **Shashikant Konher** (supra), this Court directed that election of Press Club, Bilaspur to go on and pursuant to the order of this Court, election was held, to which respondent No.4 challenged before the competent authority i.e. Assistant Registrar, Firms and Societies and the said election has been set aside, against which, the petitioner admittedly and undisputedly preferred an appeal before the appellate authority i.e. Registrar, Firms and Societies and that is pending consideration.

5. Now the question is whether the petitioner can be permitted to pursue two parallel remedies in respect of the order dated

11.4.2017 at a time ?

6. The issue so arises for consideration is no longer *res-integra* and it has authoritatively been decided by the Supreme Court that parallel proceedings in respect of the same subject-matter cannot be pursued at the same time. The pertinent decisions of the Supreme Court may be noticed hereinabove profitably and gainfully:-

6.1 The Constitution Bench of the Supreme Court in the matter of **R.S. Rashid and Son Vs. Income-tax Investigation Commission and others**[1] has held that if other remedies available and it is being pursued, then the writ Court should refuse to exercise the discretionary jurisdiction under Article 226 of the Constitution of India. It was observed as under:-

> "4…..For purposes of this case it is enough to state that the remedy provided for in Article 226 of the Constitution is a discretionary remedy and the High Court has always the discretion to refuse to grant any writ if it is satisfied that the aggrieved party can have an adequate or suitable relief elsewhere. So far as the present case is concerned, it has been brought to our notice that the appellants before us have already availed themselves of the remedy provided for in section 8(5) of the Investigation Commission Act and that a reference has been made to the High Court of Allahabad in terms of that provision which is awaiting decision. In these circumstances, we think that it would not be proper to allow the appellants to invoke the discretionary jurisdiction under Article 226 of the Constitution at the present stage, and on this ground alone, we

1 AIR 1954 SC 207

> would refuse to interfere with the orders made by the High Court….."

6.2 In the matter of **Jai Singh Vs. Union of India and others**[2] the Supreme Court has clearly held that such a parallel proceeding is barred. It was observed as under:-

> "4……It has also been brought to our notice that after the dismissal of the writ petition by the High Court, the appellant has filed a suit, in which he has agitated the same question which is the subject-matter of the writ petition. In our opinion, the appellant cannot pursue two parallel remedies in respect of the same matter at the same time."

6.3 In the matter of **M/s. Tirlok Singh and Co. Vs. District Magistrate, Lucknow and others**[3] order of release was challenged by filing an appeal and also by way of the writ petition, the Supreme Court has held as under:-

> "13…..The appellants have since filed an appeal against the order of release to the District Judge and that appeal is pending. That is the proper forum for adjudicating on the rival claims of the appellants on one hand and respondent Nos. 2 and 3 on the other."

6.4 In the matter of **Arunima Baruah Vs. Union of India and others**[4], the Supreme Court following the judgment of **Jai Singh** (supra) deprecated the parties to pursue two remedies in respect of one subject-matter and held as under:-

> "18. There is another doctrine which cannot also be lost sight of. The court would not ordinarily permit a

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2 (1977) 1 SCC 1
3 (1976) 3 SCC 726
4 (2007) 6 SCC 120

> party to pursue two parallel remedies in respect of the same subject-matter. (See Jai Singh Vs. Union of India.). But, where one proceeding has been terminated without determination of the lis, can it be said that the disputant shall be without a remedy?"

7. In the light of principle of law laid down by the Supreme Court in the aforesaid judgments (supra), it is quite vivid that the petitioner cannot be allowed to pursue two parallel remedies in respect of subject-matter of the order dated 11.4.2017 i.e. one by way of appeal before the Registrar, Firms and Societies and other by way of this writ petition particularly when the petitioner was granted leave by this Court to prosecute his appeal by order dated 5.5.2017 in **Shashikant Konher** (supra).

8. As a fallout and consequence of the above-stated discussion, the writ petition deserves to be and is hereby dismissed. However, it is open to the petitioner to pursue the appeal, which is preferred and pending before the Registrar, Firms and Societies. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-