

LPA no.2075 of 2017 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA no.2075 of 2017 (O&M)
Date of Decision :20.12.2017

Mandeep Singh and others

....Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. K.S.Khehar, Advocate for
Mr. Parveen Kaushik, Advocate for the appellant(s)

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned Single Judge dated 28.2.2017 and order passed in review petition dated 22.9.2017. While considering the issue of membership dispute in a Society, learned Single Judge initially disposed of the writ petition in the following terms:-

“Learned counsel for the petitioners seeks permission of this Court to withdraw the present writ petition with liberty to avail the alternative remedy of filing the civil suit.

In view of the statement made by learned counsel for the petitioners, present writ petition stands dismissed as withdrawn with liberty to avail the alternative remedy of filing the civil suit. In case the civil

suit is filed within a period of one month from the date of receipt of certified copy of this order, the period spent herein shall deemed to be condoned."

This resulted in a review petition which was accepted and the learned Single Judge while referring to Section 21 and 68 of the Haryana Registration and Regulation of Societies Act (hereinafter referred to as 'the Act') modified his earlier order to relegate the appellants to the remedy before the Registrar.

Section 21 and 68 of the Act are extracted herebelow:-

"21. Settlement of Membership Disputes (1)

Where any member claims to have been admitted as a member but not included in the register of members or any member is aggrieved with his removal from the membership of the Society, such person may submit a petition to the District Registrar along with prescribed fee.

(2) The District Registrar may require such person to support his petition with such documentary or other evidence, as may be considered appropriate.

(3) Upon receipt of any such petition, the District Registrar shall consider the matter and settle the disputes in accordance with the Bye-laws after giving opportunity of hearing to all concerned.

(4) Where the Bye-laws are observed to be silent or lack clarity for addressing the dispute or are inconsistent with the provisions of the Act and the rules

made thereunder, the District Registrar shall decide the matter in accordance with the provisions contained in the Act or the rules made thereunder.

(5) Where the Society has large number of members and it is considered expedient to verify, determine and establish the identity and genuineness of such members, the District Registrar may require all members of the Society to appear before him in person alongwith an acceptable proof of identity and address, as recorded in the register of members, within such time and in such manner, as may be prescribed.

(6) Where action is taken in accordance with sub-section (5) above and certain members do not appear before him in spite of two opportunities granted, the District Registrar shall be competent to strike off the names of such members from the register.

68. Suspension of Governing Body & Appointment of Administrator (1) *If, in the opinion of the Government, the Governing Body of any Society,—*

(i) makes default or is negligent in the performance of duties imposed on it; or

(ii) commits acts which are prejudicial to the interests of the Society, its members or public at large; or

(iii) fails to resolve disputes with regard to the eligibility of members; or

(iv) fails to hold elections of the Governing

Body; or

(v) is otherwise not functioning properly, it may, after giving a show cause notice, direct the supersession of the Governing Body and appoint an Administrator, alongwith or without constitution of committee of persons to assist him for a period not exceeding two years in the first instance:

Provided that the period may be extended and continued at the request of Administrator but it shall not exceed five years in continuity.

(2) The Administrator shall, subject to the overall control of the Registrar General and such directions as may be received from him, have the powers to exercise all or any of the functions of the Governing Body of the Society and take action as may be required for proper management of the Society.

(3) The Administrator so appointed shall, before the expiry of his term, make efforts to arrange for the constitution of the Collegium, if applicable and the Governing Body, as the case may be, in accordance with the Bye-laws, provisions of the Act and the rules made thereunder.

(4) The Registrar General may fix the honorarium or remuneration payable to the Administrator or the member of the committee with the approval of the Government and direct such expenditure

to be defrayed out of the funds of the Society."

Even this was to the satisfaction of the appellants who has now contended that the Registrar would have no competence to look into the dispute for the simple reason that the issue pertains to the right of the petitioners to participate in the election process initiated by respondent no.3 and the ongoing election process ought to be conducted only as per the existing voter list.

It is specifically urged before us that Section 21 would not be attracted to the facts of the case.

After hearing learned counsel for the appellants, we are of the opinion that the grievance of the appellants is mis-placed. It is not disputed before us that the election has to be conducted from amongst the members of the Society whose names are registered in the voter list. The whole dispute as evident from the perusal of the writ petition centres around the claim of the appellants regarding list of members who would be entitled to vote as well. Even if dispute is about members then evidently Section 21 would cover the entire gamut of the controversy. Even if the voter list is to be upheld or modified by inclusion or exclusion of members, the basic issue of a person being a member of the Society would have to be decided first for which Section 21 empowers the Registrar. Consequently, the grievance of the appellants in this regard is totally mis-placed. We rather find that it seems to be an attempt to obstruct the process of election in the Society and is in the nature of a proxy battle. The appeal is frivolous and has resulted in sheer wastage of the time of the Court and these are issues best dealt with by the authority empowered to do so, with this Court clearly having its limitations to deal with the genuineness of the membership claim of a

Society in the exercise of its jurisdiction under Article 226 of the Constitution of India.

Hence, instant appeal is hereby dismissed with costs of Rs.25,000/- which shall be deposited with the account of Punjab & Haryana High Court Employees Welfare Association within a period of one month from the date of receipt of certified copy of this order.

(Mahesh Grover)
Judge

(Raj Shekhar Atttri)
Judge

20.12.2017	
rekha	
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No