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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2327/2017 & CM No.15132/2017**

DEEPANSH KALRA

..... Petitioner

Through: Mr. Moni Cinmoy with Mr. Manoj Kumar,
Advocates.

versus

REGISTRAR CO-OPERATIVE SOCIETIES

..... Respondent

Through: Mr. Varun Nischal with Mr. Mukesh
Kumar, Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

25.04.2017

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1. The present petition has been filed by the petitioner claiming that he is the President of Bairwa Bharti CGHS Ltd. and praying *inter alia* for issuing directions to the Respondent/RCS amongst others, for restraining the Administrator from interfering in the affairs of the society.
2. Accompanying the petition, is an application filed by the Respondent (CM No.15132/2017) praying *inter alia* that as an interim measure, operation of the Agenda notices dated 31.03.2017 and 04.04.2017 issued by the Administrator, appointed by the Respondent/Registrar Co-Operative Societies and the election process set into motion by him, be stayed.
3. When the matter was taken up in the first round, learned counsel for the Respondents had stated that he did not have clear instructions as to the background in which the Agenda notice dated 31.03.2017 was revised by the

Administrator by issuing another Agenda notice dated 04.04.2017. At his request, the matter was passed over, to enable him to obtain necessary instructions from the Administrator.

4. On the second call, Mr. R.S. Sahota, Advocate appointed by the Registrar Co-Operative Society as an Administrator, appears along with the counsel for the Respondent No.1/Registrar Co-Operative Societies and states that he was appointed as the Administrator of the Society vide order dated 04.05.2016 and by now he has taken all necessary steps to conduct the election of the Managing Committee of the Society, that is scheduled to be held on 30.04.2017. He states that Bye-law 23 of the Society contemplates that the Managing Committee must consist of a minimum of five members and a maximum of fifteen members and to give a larger representation to the members of the Society, vide earlier Agenda notice dated 31.03.2017, members were informed that an election shall be conducted in respect of five posts in the Managing Committee. But the same was revised to enlarge the number to eleven members. He further states that the Bye-laws make it mandatory for two lady members to be elected to the Managing Committee but the Agenda notice dated 31.03.2017 had erroneously reserved only one post for lady candidates, which was later on increased to two posts.

5. Lastly, vide Agenda notice dated 31.03.2017, the election of the Managing Committee of the Society was scheduled on 23.04.2017 but later on, it had transpired that the election of the three Municipal Corporations in Delhi was fixed for the same date. Thereafter, the Agenda notice dated 04.04.2017 was issued, rescheduling the date of the election to 30.04.2017. The Administrator states that the process of submitting the nominations and

finalizing the list of candidates has already taken place and the election shall be held at the end of this week.

6. Learned counsel for the petitioner contends that the Administrator is not empowered to enlarge the composition of the Managing Committee of the Society on his own when it has always consisted of five members and such a power can only be exercised by the General Body.

7. It is apparent that the election process has started and once the wheels are set into motion, courts should ordinarily refrain from interfering in the said process. Even if there is some illegality or breach of rules, as has been alleged by the petitioner herein, courts should forbear from interfering with the election process. There are several judicial pronouncements that state that as a matter of general principle, courts should refrain from interfering with the election process between the commencement of such a process and the stage of declaration of the result. Once the election is over, the aggrieved party has always an option to pursue his remedies in accordance with law. [Refer: Ponnuswami vs. Returning Officer, (1952) 1 SCR 218; S.T. Muthusami vs. K. Natarajan and Ors.; (1988) 1 SCC 572, Umesh Shivappa Ambi and Ors. Vs. Angadi Shekara Basappa and Ors.; (1998) 4 SCC 529, Shri Sant Sadguru Janardan Swami (Moingirid Maharaj) Sahakari Dugdha Utpadak Sanstha and Anr. vs. State of Maharashtra and Ors.; (2001) 8 SCC 509 and Avtar Singh Hit vs. Delhi Sikh Gurdwara Management Committee and Ors.; (2006) 8 SCC 487].

8. As the reliefs prayed for in the present petition are all based on the election process, this Court declines to entertain the same at this belated stage. Parties aggrieved by the result of the election including the petitioner

herein, shall be entitled to seek their remedies before the appropriate forum, in accordance with law after the elections are over.

9. While disposing of the present petition, we may clarify that we have refrained from making any observations on the merits of the pleas taken by the petitioner which shall be considered before the appropriate forum, if he seeks legal recourse after the election process is over.

10. The petition is dismissed along with the pending application.

HIMA KOHLI, J

SANGITA DHINGRA SEHGAL, J

APRIL 25, 2017
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