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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2438/2017 & CM No.10507/2017**
POLICE OFFICERS MULTI STATE COOPERATIVE HOUSING
SOCIETY LTD Petitioner

Through: Mr. Sudhir Nandarajog, Senior
Advocate with Mr. Praveen Swarup
& Mr. Satish Rana, Advocates

versus

CENTRAL REGISTRAR OF COOPERATIVE SOCIETIES AND
ANR Respondents

Through: Mr. Ajay Digpaul, CGSC with Ms.
Mohita, Advocates for respondent
Nos.1 & 2
Mr. R.K. Gupta, Advocate for
Caveator

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER
% **17.03.2017**

The term of the elected members of the Board came to an end as per Section 45(6) of the Multi State Cooperative Societies Act, 2002 ('Act' for short) read with the bye-laws of the petitioner society on 1.3.2015.

2. The contention of the learned senior Counsel for the petitioner is that the General Body, in its Meeting held on 14.12.2014, had unanimously resolved that the Board, elected on 2.3.2010, must continue for a period of five more years and continue the ongoing project.

3. We do not see how the General Body could have passed the said

Resolution, which would be contrary to the statutory provisions, i.e. Section 45(5) of the aforesaid Act, which stipulates that the term of the Office of the elected members of the Board shall be such, not exceeding five years from the date of elections, as may be specified by the bye-laws of the Society. In terms thereof, the election must be held and the General Body is not competent to pass a Resolution, stating that the elections would not be held and the earlier elected Office-Bearers would continue for a further period of 5 years. A resolution is not a substitute for elections. It is a different matter if the earlier elected members get re-elected.

4. Learned counsel for the petitioner has submitted that the Resolution passed by the General Body dated 14.12.2014 was communicated to the Central Registrar and, therefore, there was acquiescence and acceptance. We do not agree with the said contention. At best, it will show that the Central Registrar did not act promptly. When the statute itself is clear, the Central Registrar should have acted immediately. Reference can be made to Section 45(6) of the aforesaid Act, which stipulates that where the board fails to conduct elections to elect new members of board, the Central Registrar shall hold the election within a period of ninety days from the date when such election is due. Thus, at best, it can be urged and argued that the Central

Registrar had delayed in taking action in terms of Section 45(6) of the aforesaid Act. This cannot be a ground or reason to accept the prayer made by the petitioner.

5. In the end, it is submitted that the Central Registrar has appointed one Mr. Kulbhushan, Assistant Commissioner of Police, South-District, Delhi as the Returning Officer ('RO'). It is submitted that the RO should not be from the Police Force as several senior officers of the Delhi Police are members of the Petitioner Society. We find that no such prayer has been made in the writ petition. It is open to the members of the Petitioner Society to make a representation in this regard and if any such representation is made, the Central Registrar will examine the issue to ensure that free and fair elections are held promptly and expeditiously.

6. With the aforesaid observations, the writ petition is dismissed. CM No.10507/2017 is also dismissed. We clarify that we have not expressed any opinion on merits on the question of appointment of the RO.

Dasti.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 17, 2017/tp