

CWP No.291 of 2018

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.291 of 2018
Date of decision:11.01.2018**

Bhagat Singh ...Petitioner

Versus

The Director of Industries & Commerce and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Gurinder Pal Singh, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

The petitioner has challenged the order dated 08.12.2017 passed by the Registrar General of Societies, Haryana, in terms of the Haryana Registration and Regulation of Societies Act, 2012 (hereinafter referred to as the "Act").

In brief, the District Registrar, Firms and Societies, Gurgaon received a complaint from the residents/members of the Uppal's Southend Residents Welfare Association, Sector 49, Gurgaon (hereinafter referred to as the "society") through the SDM (North), Gurgaon about illegal rejection of the nomination forms of the contestants for the election of Governing Body of the society by the Returning Officer. The District Registrar, vide his order dated 06.04.2016, opined that the matter falls within the jurisdiction of the State Registrar of Societies, Haryana under Section 40 of the Act, therefore, he relegated the petitioners to file appeal before him and the complaint was disposed of. Accordingly, an appeal was filed under Section 40(1) of the Act

before the State Registrar of Societies, Haryana, who had passed the following order on 20.09.2016:-

“In view of the above, I hereby set aside the elections of the Governing Body held on 27.03.2016. It is further ordered that the District Registrar shall constitute a Adhoc Committee for conducting elections of the society within three months and no further extension shall be granted. The Adhoc committee should comprise of neutral members and such members who had ever been elected office bearer in any Governing Body shall not be included in the Adhoc Committee to ensure free and fair elections. The Adhoc Committee shall issue proper notices to the members for clearing the outstanding membership dues if any in the interest of natural justice.”

The said order was challenged by way of appeal filed under Section 79 of the Act before the Registrar General of Societies, Haryana, which was dismissed on 08.12.2017, with the following order:-

“4. I have heard the parties and have gone through the record. The appellants are asserting that the respondents were ineligible to contest the elections on account of being defaulters in payment of dues to the society. They have based their arguments on record pertaining to a 'day book' statedly relating to the year 2008, which is of little relevance without further corroboration and subsequent record. Further, it is clear from the record that the respondents were earlier declared eligible in the list of members published on 10.03.2016 by the society under the heading 'list of eligible residents for RWA election-2016'. Not only this, the nomination papers of the respondents were also accepted without objection. Subsequently, their names were published in a list of defaulters in a circular dated 24.03.2016 and thereafter the election was held after rejecting the nominations of the respondents. No individual notice was sent to the respondent to defend themselves and state their case, which was required since their names were initially held eligible and nomination papers were accepted. The action of the Returning Officer in rejecting the nominations subsequently without giving due effective opportunity to the respondents is

arbitrary and unjust.

5. In view of the above, I do not find any merit in the appeal and the same is hereby dismissed.”

Counsel for the petitioner has submitted that the District Registrar had committed an error in relegating the petitioner to file an appeal before the State Registrar of Societies.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that after having chosen the remedy of appeal and after loosing in the same, it cannot be challenged by the petitioner. If the petitioner was not satisfied with the order of the District Registrar of Societies dated 06.04.2016, he should have challenged that order in accordance with law but he never challenged that order which has attained finality.

Consequently, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

January 11, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No