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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10095/2018 and CM APPL. 39350/2018

G. N. D. ELANGO VAN Petitioner

Through: Mr. Abhishek Gupta, Advocate

versus

REGISTRAR OF COOPERATIVE SOCIETIES

AND ANR.

..... Respondents

Through: Mr. R.P. Sahu, Advocate for R-2/Society

Mr. G.C. Joshi, respondent No.3 in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **27.09.2018**

1. This order is in continuation of the orders dated 25.09.2018 and 26.09.2018.

2. The petitioner has prayed for directions to the respondent No.1/RCS to conduct the elections in respect of the respondent No.2/Thrift and Credit Society through a Returning Officer appointed by the respondent No.1/RCS. Further, the petitioner has prayed for restraining the respondent No.3/Returning Officer appointed by the Managing Committee of the respondent No.2/Society to conduct the elections of the Society scheduled on 29.09.2018.

3. On 26.09.2018, Mr. G.C. Joshi, respondent No.3/Returning Officer had appeared in person and had explained that the nomination form of the petitioner for the post of President had been declared as invalid for the

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reason that the rules of the Society requires that no candidate, who has less than three years of service left, ought to be permitted to participate in the election to the Managing Committee of the respondent No.2/Society. As the respondent No.3 had sought time to produce the relevant rules, the matter was adjourned for today.

4. Today, appearance is entered by Mr. R.P. Sahu, Advocate for the respondent No.2/Society. The respondent No.3/Returning Officer is also present in person. Counsel for the respondent No.2/Society and the respondent No.3 rely on the provision of Rule 54 of the Delhi Co-operative Societies Rules, 2007 that deals with disqualifications for membership of the Committee to justify the decision of the Returning Officer to disqualify the petitioner. Learned counsel for the respondent No.2/Society submits that since the petitioner is a member of the salary earners co-operative society and shall be superannuating on 31.05.2021, he has been disqualified from contesting the elections.

5. The aforesaid submission is borne out on a perusal of Rule 54(n) of the captioned Rules. Rule 54(n) prescribes that *“no person shall be eligible for election as a member of the Committee, if he is a member of the salary earners co-operative society and is retiring from his services within the period of term of the committee, subject to provision of byelaws”*. In view of the said rule, we are of the opinion that the respondent No.3/Returning Officer was justified in turning down the nomination form of the petitioner. We are not inclined to examine the other issues raised in the present petition, particularly when the election of the Managing Committee of the respondent No.2/Society is scheduled on 29.09.2018.

6. At this stage, counsel for the petitioner states that he may be permitted to withdraw the present petition while reserving the right of his client to seek legal recourse, if so advised, after the elections are conducted and results declared.

7. Leave, as prayed for, is granted. The petition is dismissed as withdrawn alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 27, 2018

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