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

+ W.P.(C) 12820/2018

PRATIBHA RAI & ANR

..... Petitioners

Through: Mr. Mahesh Kumar, Advocate with
petitioner No.2 in person.

versus

REGISTRAR OF COOPERATIVE SOCIETIES, GOVT. OF NCT OF
DELHI & ORS

..... Respondents

Through: Mr. Devesh Singh, ASC (Civil) for R-
1 & R-8.
Mr. Arjun Pant, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **30.11.2018**

C.M. No. 49730/2018

Exemption allowed, subject to all just exceptions. Application stands disposed of.

W.P.(C) 12820/2018 with C.M. No. 49729/2018 (for stay)

Issue notice.

Notice is accepted on behalf of respondent no.1 and 8 by Mr. Devesh Singh, ASC (Civil), GNCTD. Mr. Pant, Advocate accepts notice on behalf of respondent No.2-DDA. Respondent No.3 is the Secretary of the erstwhile Managing Committee of Jai DibaMaa CGHS Limited ('the Society').

The petitioner has impleaded the Auditors of the said Society as well. In our view, none of them are necessary parties in view of the order that we propose to pass in the present writ petition.

We have heard learned counsel for the petitioner as well as the learned counsel for the served respondents.

The primary grievance of the petitioners is that the Annual General

Meeting ('AGM') of the said Society, *inter alia*, for electing a new Managing Committee has not been held in terms of Section 31 of the Delhi Cooperative Societies Act, 2003 ('the Act'). As per Section 31 of the Act, the said Society was obliged to hold the AGM within a period of 180 days after the date fixed for making-up its accounts for the year under the Rules for the time being in force. The AGM has to be held, *inter alia*, for the purpose of –

- (a) approval of the programme of the activities of the co-operative society prepared by the committee for the ensuing year;
- (b) elections, if any, of the members of the committee other than the nominated members subject to the provisions of section 35;
- (c) consideration of the audit report along with audited accounts and the annual report;
- (d) disposal of the net profits; and
- (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

In case the Annual General body Meeting is not held in terms of Section 31(1) of the Act, it is for the Registrar or any person authorised by him to call for such meeting.

The petitioner submits that the said period of 180 days has expired on 21.11.2018 and the AGM is proposed to be held on 02.12.2018. The petitioners claim that the erstwhile Managing Committee of the Society has become defunct and is not competent to hold the elections. The petitioners further submit that the erstwhile Managing Committee has nominated one Sh. K.K. Nangia as the Election Officer. However, the said Managing Committee had no authority to nominate the Election Officer and the petitioner has grave apprehensions that the elections, if held, under the aegis of the erstwhile Managing Committee, will not be fair.

Considering the controversy raised by the petitioners and with a view to nip any such controversy in the bud, we consider it appropriate to substitute the Election Officer while not disturbing the AGM schedule. Accordingly, we direct that the AGM shall be held, as proposed, on 02.12.2018. However, Mr. K.K. Nangia, Election Officer is substituted with Mr.Dhiraj Singh Bhandari, Mobile No.7042367368, 9910390912 in his place. While making this substitution, we make it clear that we have not gone into the correctness, or otherwise, of the allegations made and the said substitution is being made only with a view to obviate any controversy later on. As the time period is short, and also since this order does not adversely impact the rights either of the Society, or the members of the erstwhile Managing Committee, or of the Election Officer, we do not consider it necessary to put either the Election Officer, or the members of the erstwhile Managing Committee or the Society to notice. We direct Sh.K.K.Nangia to deliver the entire record that he may be in possession of to Mr.D.S.Bhandari, who is appointed as the Election Officer. The erstwhile Managing Committee and the members of the said Committee of the Society are directed to cooperate with Mr.D.S.Bhandari, the newly appointed Election Officer. All the expenses shall be borne by the Cooperative Society. It shall be open to the petitioner to raise all his other grievances before the appropriate Forum.

The petition stands disposed of in these terms.

Dasti under the signatures of the Court Master.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 30, 2018

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