

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9686 OF 2016

Shri. Vikas Yashwant Khare

...Petitioner

Versus

**The Institute of Company Secretaries of
India & Ors.**

...Respondents

Mr. A.V. Anturkar, Senior Advocate, i/by Mr. Sandeep M. Phatak, for the Petitioner.

Mr. Mustafa Doctor, Senior Advocate, Mr. Yogesh Chawak, Mr. Chirag Dave, Mr. Dnyaneshwar Jadhav, i/by Legasis Partners, for Respondent No. 1.

Mr. Sunip Sen, Senior Counsel, a/w Ms. Sonali Patil, i/by Ms. Asmita S. Sarangdhar, for Respondent No. 3.

Mr. Parag A. Vyas, a/w Ms. Ashwini Singh, for Respondent No. 4-UoI.

**CORAM : A.A. SAYED &
RIYAZ I. CHAGLA, JJ.**

DATE : 8 January 2019

ORDER :

1. This Writ Petition is filed invoking Article 226 of the Constitution of India impugning the order dated 30th March 2016/1st April 2016, passed by the Election Tribunal, New Delhi established under Section 10B of the Company Secretaries Act, 1980 (“*the C.S. Act*” for short). By that order, the Application of the Petitioner under Section 10A of the C.S. Act raising a dispute in relation to the election of Respondent No. 3 as a member of the Central Council of the Respondent No. 1-Institute of Company Secretaries of India (ICSI) in the election held in December 2014, came to be dismissed.

2. The present Petition was filed on 29th June 2016. By the interim order dated 17th January 2017, it was directed that the result of the election, which was to be held on 19th January 2017, will be subject to the further orders which may be passed by this Court.

3. The Petitioner had contested the aforesaid election held in December 2014, which was also contested by the Respondent No. 3. The Petitioner was however unsuccessful in the said election.

4. In the 'further Affidavit' filed on behalf of Respondent No. 1-ICSI, it is stated that the fresh elections for 13th Council of ICSI was held on 14th and 15th December 2018 at Delhi, Kolkata and Mumbai and counting of votes held on 24th December 2018 to 27th December 2018 and 15 candidates have been declared elected to the Central Council of ICSI. The names of said 15 candidates has been notified vide notification published in Gazette of India dated 27th December 2018 and the new Council of ICSI is to take charge on 19th January 2019, as the tenure of the present Council of ICSI headed by the Respondent No. 3 shall expire on 18th January 2019.

5. In view of the above, the issues raised by the Petitioner, which essentially relate to alleged unfair means

adopted by the Respondent No. 3 in the Elections which were held in December 2014, are rendered academic and the exercise of the extraordinary writ jurisdiction of this Court to entertain the Writ Petition is not warranted.

6. Even otherwise, it is noticed that in the impugned order, it is observed in paragraph 27 that the Petitioner in his Rejoinder had admitted that he has nothing to do with his election or non-election, but he was concerned about the wrongful manner and reprehensible method adopted by the Respondent No. 3 in winning the election. It is further observed in the said paragraph that the Petitioner has admitted that he had no proof to substantiate his allegations. In paragraph 32 of the impugned order, it is observed thus:-

“It has also been alleged that the email of Mr. B. Narsimhan was circulated among the members by some one from unknown email id acsvsfcs@gmail.com. The Applicant has not impleaded the aforesaid known and unknown

persons as Respondents. The other four persons, apart from the Respondent, who were elected as a Central Council Members in the election held in 2014 have also not been impleaded as Respondents in the Application.”

In paragraph 33, it is observed that the Petitioner has not placed on record any incontrovertible evidence to establish his allegations.

7. In the circumstances, the Election Tribunal had arrived at a clear finding of fact that the Petitioner had not been able to substantiate his allegations, which finding is not liable to be disturbed in the exercise of the writ jurisdiction of this Court.

8. In the result, the Petition is dismissed. There shall be no order as to costs.

[RIYAZ I. CHAGLA J.]

[A.A. SAYED, J.]