

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

**CWP-12645-2019 (O&M)
Date of Decision:29.10.2019**

Satyapal

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. B.S. Rana, Senior Advocate with
Mr. Deepak Gollen, Advocate for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana.

....

TEJINDER SINGH DHINDSA, J. (ORAL)

Challenge in the instant writ petition is to the order dated 13.06.2018 (Annexure P-2) passed by the Secretary to Government of Haryana, Industries and Commerce Department/respondent No.1 and in terms of which an Administrator has been appointed to look after the affairs of Janta Vidya Butana Society, District Sonapat.

Notice of motion having been issued, a short reply on behalf of respondents No.1, 2 and 3 has been filed and placed on record.

Counsel for the parties have been heard.

Perusal of the impugned order would reveal that the same has been passed in ostensible exercise of the powers under Section 68 of the Haryana Registration and Regulations of Societies Act, 2012 (herein after to be referred to as 'the Act').

Section 68 is contained in Chapter XIV of the Act and contains (Special Provisions In Respect Of State Aided Societies.

Section 68 of the Act reads as follows:

“68. Suppression of Governing Body and appointment of Administrator:-

(1) If, in the opinion of the Government, the Governing Body of any Society:-

(i) makes default or is negligent in the performance of duties imposed on it; or

(ii) commits acts which are prejudicial to the interests of the Society, its members or public at large; or

(iii) fails to resolve disputes with regard to the eligibility of members; or

(iv) fails to hold elections of the Governing Body; or

(v) is otherwise not functioning properly,

it may, after giving a show cause notice, direct the supersession of the Governing Body and appoint an Administrator, alongwith or without constitution of committee of persons to assist him for a period not exceeding two years in the first instance: Provided that the period may be extended and continued at the request of Administrator but it shall not exceed five years in continuity.

(2) The Administrator shall, subject to the overall control of the Registrar General and such directions as may be received from him, have the powers to exercise all or any of the functions of the Governing Body of the Society and take action as may be required for proper management of the Society.

(3) The Administrator so appointed shall, before the expiry of his term, make efforts to arrange for the constitution of the Collegium, if applicable and the Governing Body, as the case may be, in accordance with the Bye-laws, provisions of the Act and the rules made thereunder.

(4) The Registrar General may fix the honorarium or

remuneration payable to the Administrator or the member of the committee with the approval of the Government and direct such expenditure to be defrayed out of the funds of the Society.

As per impugned order, the elections of the governing body of the Society in question were held on 22.02.2015 and the tenure of the governing body was for a period of 3 years. The tenure of the governing body having expired on 21.02.2018 and elections to the Society having not been held thereafter, has prompted the passing of the impugned order dated 13.06.2018 appointing an Administrator.

Sections 66 and 67 contains under Chapter XIV Act would be relevant to the issue at hand and which also reproduced hereunder:

“66. Chapter to override other provisions of the Act:-*The provisions of this Chapter shall be applicable to State Aided Society and shall have effect notwithstanding anything contrary contained in the Act or any other State law for the time being in force and any reference to the word Society in this Chapter shall mean a State Aided Society.*

67. Powers of the Government to issue directions:- *The Government shall have the powers to issue such directions to a State Aided Society , as may be considered expedient from time to time, with regard to the management of its affairs, membership, elections, financial management, audit and submission of documents on their working to the District Registrar or the Registrar.”*

A bare reading of the afore reproduced provisions would clarify that the provisions contained under Chapter XIV including Section 68 of the Act shall be applicable only to a State Aided Society and the Government is vested with the powers under Section 67 to issue such directions to, a State Aided Society as may be considered expedient from time to time with regard

to the management of its affairs, membership, allegations etc.

The entire case projected on behalf of the Janta Vidya Butana Society is that it is not a State Aided Society.

Per contra, issuance of the impugned order appointing an Administrator is sought to be justified on the reasoning that the status of the Society had changed from State Aided to Non State Aided w.e.f. 31.03.2018 and whereas appointment of the Administrator under Section 68 of the Act has been made on the basis of status as obtained w.e.f. 21.02.2018 i.e. the date of expiry of the term of the last governing body of the Society.

In the considered view of this Court, the reasoning adopted on behalf of the State is not well founded.

Concededly, on the date of passing of the impugned order dated 13.06.2018 (Annexure P-2), whereby an Administrator was appointed, the Janta Vidya Butana Society, District Sonapat was not a State Aided Society. In other words, the impugned order lacked jurisdiction as on the date of passing of such order by virtue of operation of Sections 66 and 67 of the Act. For the first respondent to have invoked Section 68 of the Act for purposes of appointment of an Administrator, it was the status prevailing as on the date of taking a decision as regards appointment of an Administrator that would be relevant.

Since on the date of passing of the impugned order dated 13.06.2018 (Annexure P-2), the Janta Vidya Butana Society, District Sonapat was not a State Aided Society, the impugned order cannot sustain as it lacked necessary legislative competence.

For the reasons recorded above, the writ petition is allowed.

Order dated 13.06.2018 (Annexure P-2) is set aside.

29.10.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- i) Whether speaking/reasoned? Yes/No
- ii) Whether reportable? Yes/No