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

+ W.P.(C) 2282/2019

GHALIB MEMORIAL CO-OPERATIVE GROUP HOUSING
SOCIETY LTD & ANR Petitioner

Through: Mr. Rakesh Dhingra, adv.

versus

THE REGISTRAR OF CO-OPERATIVE SOCIETIES

..... Respondent

Through: Mr. Satyakam, ASC.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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08.03.2019

C.M. No. 10663/2019

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

W.P.(C) 2282/2019

Issue notice. Mr. Satyakam is present and we have asked him to accept notice and he accepts the same. He should be provided with a copy of the writ petition today itself. We find that an advance copy has been served in the office of the Registrar of Co-operative Societies (RCS) on 05.03.2019.

The present petition presents a shocking state of affairs and the RCS has a lot of explaining to do. The last elections to the petitioner society were held on 10.01.2016. The next elections were due on or before 10.01.2019.

Well in time, on 06.09.2018, intimation was sent by the petitioner society to the Assistant Registrar for holding and supervising the elections before the expiry of the term of the Managing Committee. On 26.10.2018, the Returning Officer was appointed by the RCS. Firstly, we may observe that the said act of the RCS was itself highly belated, for which the petitioners could not be held responsible. There is no reason why it should have taken over one month and 20 days for the RCS to appoint the Returning Officer.

The Returning Officer, in any event, completed the formalities for holding the election. On 04.11.2018, the General Body Meeting of the Society was scheduled, which was postponed to 23.12.2018 on the instructions of the RCS. The petitioners state that the annual accounts, audit report, etc. were given to all the members of the co-operative society, including one person, namely, Mr. Wilfred Fernandez on the basis of whose complaint, the impugned action has been taken by the RCS. In any event, the postponed General Body Meeting took place on 23.12.2018 in the presence of Sh. Amrit Pal Singh, the representative/ observer of the RCS. The complainant Wilfred Fernandez was also present and the copies of annual accounts, audit report, etc. were supplied to all members of the society.

Interestingly, on 18.01.2019, the RCS himself accorded permission for holding of the elections in the petitioner society. The Returning Officer took steps for holding of the elections by fixing the schedule; issuing nomination forms, accepting nomination forms and scrutinizing them. This process was completed on 15.02.2019.

Pertinently, the permission accorded by the RCS on 18.01.2019 was after 10.01.2019, by when the elections were to be held. Evidently, they

were not held on account respondent No.1 itself not permitting the General Body Meeting to be held on 04.11.2018. On 18.02.2019, the withdrawal of nominations and display of final list of contesting candidates took place. Pertinently, the complainant Wilfred Fernandez is also found to be eligible to contest for the post of President.

Suddenly, 2 days before the elections were scheduled to be held on 03.03.2019, respondent No. 1 sent a communication dated 28.02.2019, which was received by the petitioner society on 01.03.2019 stating that since the elections had not been held before the expiry of the term of the Managing Committee on 09.01.2019, appointment of Administrator is necessitated, and as per Section 35 of the Delhi Co-operative Societies Act, the election of the Managing Committee would now be held by the Administrator within 90 days from the date of his appointment. One Vijay Singh has been appointed as the Administrator, apparently vide order dated 27.02.2019. Pertinently, the same Returning Officer appears to have been continued, and he has been directed to issue fresh agenda notice and hold elections after obtaining the latest list of members from the Administrator, and also after consideration of the representation of the complainant Wilfred Fernandez. The impugned communication has been issued without prior notice or hearing to the petitioner society.

We, therefore, call upon the RCS to personally remain present in Court on the next date of hearing with the relevant record and to explain to this Court as to what led to issuance of the communication dated 28.02.2019, and to as to why the time for holding of the elections by the Returning Officer could not be extended to 03.03.2019. He should explain as to why he has intervened and stopped the election process which was to

be held just two days later.

Copy of this order be given dasti under the signatures of the Court Master for onward transmission to the RCS.

List on 15.03.2019.

VIPIN SANGHI, J

A. K. CHAWLA, J

MARCH 08, 2019

N.Khanna