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

+ W.P.(C) 4482/2019 & C.M. No. 19983/2019

SIDHARTH KUNJ CGHS LTD. AND ORS. Petitioners

Through: Mr. Ranjit Sharma, Adv.

versus

SHRI RAVI PRAKASH YADAV AND ANR. Respondents

Through: Mr. Naushad Ahmed Khan, ASC,
Civil, GNCTD with Mr. Zahid Hanief
and Ms. Manisha Chauhan, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **01.05.2019**

The petitioners assail the order dated 25.02.2019, passed by the Registrar of Co-operative Societies, appointing an Administrator-cum Returning Officer under Section 35(5) of the Delhi Co-operative Societies Act to manage the affairs of the petitioner society and to conduct the elections of the Managing Committee of the society within a period of 90 days. The petitioner also assails the order dated 21.02.2019, passed by the Delhi Co-operative Tribunal (DCT) in Appeal No. 217/2018/DCT, wherein the petitioner had assailed the arbitral award dated 05.10.2018 rendered under Section 71 of the said Act. The said appeal has been rejected by the DCT.

Two members of the petitioner society had raised an arbitral dispute in relation to appointment of Returning Officer by the petitioner society to conduct its elections on 27.03.2016. The Arbitrator, after detailed examination, inter alia, concluded that the Returning Officer appointed by the petitioner society was incompetent to be so appointed, on account of the fact that, firstly, he was a consultant to the petitioner society and he was also the husband of one of the members of the petitioner society. He was, therefore, not free from bias.

The elections held by the petitioner society were, therefore, held to be vitiated. The said finding has been affirmed by the Delhi Co-operative Tribunal in the impugned order dated 21.02.2019.

Consequent upon the rendering of the arbitral award and the dismissal of the appeal by the Delhi Co-operative Tribunal, the Registrar of Co-operative Societies has proceeded to appoint the Administrator-cum-Returning Officer.

At the outset, we may observe that learned counsel for the Registrar of Co-operative Societies has stated that, in the order dated 25.02.2019, it has inadvertently been mentioned that the award made by the arbitrator had been upheld by this Court in an order dated 16.11.2018. He submits that the Registrar of Co-operative Societies has issued a fresh order on 25.03.2019, making the necessary corrections in this regard, which is tendered in Court and taken on record.

Since the Arbitrator as well as the learned Delhi Co-operative Tribunal have returned consistent findings of fact, in these proceedings - in judicial review, we are not called upon to re-examine the factual dispute. The grievance of the petitioner with regard to appointment of Administrator-cum-Returning Officer, therefore, in our view, is completely unjustified. The petitioner, even otherwise, should have no objection to appointment of Administrative-cum-Returning Officer for conduct of elections to the Managing Committee, so as to maintain transparency, particularly when their earlier conduct has been found to be improper.

We find no merit in this petition. Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 01, 2019 kd