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

+ **W.P.(C) 8680/2019 and C.M. APPL. 35860/2019**

RAVINDRA KUMAR HAJELA

..... Petitioner

Through: Dr. K. S. Chauhan, Mr. Ravi Prakash
and Mr. Ajit Kumar Ekka, Advocates.

versus

REGISTRAR OF CO-OPERATIVE
SOCIETY AND ORS.

..... Respondents

Through: Mr. Manoj Goel, Ms. Vibhuti Vasisth,
Mr. Wajech Shafiq and Ms.
Alemjungla, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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17.09.2019

Dr. S. Muralidhar, J.:

1. The challenge in the present petition is two-fold. The first is a challenge to the expulsion of the Petitioner as member of Respondent No. 3, Nav Bharat Times Apts. Group Housing Society (hereafter 'Society'). The other prayer is to declare the elections to the Management Committee of Respondent No. 3 Society to be illegal inasmuch as the Petitioner's name was not included in the voters' list.

2. Preliminary objections have been raised by Respondent No. 3 Society in

the short counter-affidavit filed in response to the notice issued in the present petition. It is pointed out that the Petitioner is in fact not a member of the Society, and therefore, cannot maintain the present petition. More importantly, it is stated that there is a statutory remedy available to the Petitioner in terms of Sections 70 and 71 of the Delhi Cooperative Societies Act, 2003 ('Act'), and therefore, the Court should decline to entertain the present petition under Article 226 of the Constitution. It is pointed out that the Petitioner has already lodged a protest in writing with the Assistant Registrar of Co-operative Societies and has approached this Court without waiting for a response thereto.

3. Learned counsel for the Petitioner states that his expulsion from the Society was illegal. He seeks to rely on Section 35 of the Act to contend that the aforesaid elections were not held in accordance with law.

4. The Court finds that there is an alternative remedy provided under Sections 70 and 71 of the Act enabling a challenge to an election of the Management Committee. Under Section 70 (1) (b), any dispute concerning the constitution, management, or the business of a cooperative society, other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee, which includes a dispute between members, past members or persons claiming through members and the co-operative society, its committee or any officer, agent, employee or liquidator, shall be referred to the Registrar for a decision and no Court shall have jurisdiction to entertain any suit or any other proceedings in respect of such disputes. Under Section 70 (2), the decision of the Registrar on the

question whether a dispute referred to him is a dispute touching on the constitution, management, or the business of the cooperative society shall be final and shall not be called in question in any Court.

5. In relation to a nearly identical question that arose in the context of Section 70 of the Karnataka Cooperative Societies Act 1959, a decision of the learned Single Judge of the Karnataka High Court declining to entertain a writ petition challenging an election held therein was upheld by the Supreme Court in *Umesh Shivappa Ambi v. Angadi Shekara Basappa* (1998) 4 SCC 529. The Supreme Court observed as under:

“4. It is now well settled that once an election is over, the aggrieved candidate will have to pursue his remedy in accordance with the provisions of law and this (sic. High) Court will not ordinarily interfere with the elections under Article 226 of the Constitution. (See in this connection para 3 in *K.K. Shrivastava v. Bhupendra Kumar Jain* (1977) 2 SCC 494.) The Court will not ordinarily interfere where there is an appropriate or equally efficacious remedy available, particularly in relation to election disputes. In the present case, under Section 70(2)(C) of the Karnataka Cooperative Societies Act, 1959 any dispute arising in connection with the election of a President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or member of Committee of the Society has to be referred to the Registrar by raising a dispute before him. The Registrar is required to decide this in accordance with law.”

6. The Court accordingly declines to entertain the present writ petition but leaves it open to the Petitioner to seek appropriate remedies as provided for in the Act in accordance with law. The Court clarifies that it has not expressed any opinion on the objection raised by the Respondents regarding

the *locus standi* of the Petitioner as that is also a question which will be decided by the Registrar.

7. The petition and application are dismissed in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

SEPTEMBER 17, 2019

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