

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

(1) **CWP No.9732 of 2017**

Shanti Niketan Cooperative Group Housing Society Ltd. ... Petitioner

Versus

State of Haryana & others ... Respondents

(2) **CWP No.3747 of 2019**

Sunita Goyal & others ... Petitioners

Versus

State of Haryana & others ... Respondents

Decided on : 19.02.2020

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Ashish Aggarwal, Sr.Advocate
with Ms.Rimjhim Mahajan, Advocate,
for the petitioner in CWP-9732-2017.

Mr.D.V.Sharma, Sr.Advocate
with Mr.M.K.Garg, Advocate
Mr.Paras Sharma, Advocate,
for the petitioners in CWP-3747-2019 and
for respondents No.11 to 42 in CWP-9732-2017.

Ms.Vibha Tewari, AAG, Haryana.

Mr.Vishal Sharma, Advocate,
for respondents No.6 to 9 in CWP-9732-2017.

Ms.Gehna Vaishnavi, Advocate
Ms.Indu Kaul, Advocate
Mr.Vikram Kaul, Advocate,
for respondent No.14 in CWP-9732-2017.

G.S. Sandhawal, J. (Oral) :-

This judgment shall dispose of two writ petitions, bearing
CWP-9732-2017 and CWP-3747-2019, since common questions of law and
facts are involved.

Challenge raised in CWP-9732-2017, filed under Articles 226/227 of the Constitution of India, is to the interim order dated 02.05.2017 (Annexure P-11), passed by respondent No.1, the Additional Chief Secretary, Cooperation Department, Chandigarh, whereby the General Body Meeting of the petitioner slated for 26.03.2017, was stayed in revision petition No.16 of 2017, filed by respondents No.6 to 9, who are stated to be the elected members of the petitioner-Society.

In the revision petition, the said members had challenged the order dated 06.03.2017 (Annexure P-42 in CWP-3747-2019, the second writ petition filed by Sunita Goyal and eighty others), vide which, the Deputy Registrar, Cooperative Societies, Gurugram, had directed that the General Body Meeting of the Society be called. Similarly, the order dated 09.03.2017 (Annexure P-43 in CWP-3747-2019) whereby the agenda which had been fixed to discuss about the excess members of the Society, was also challenged.

The meeting which was to be held on 26.03.2017 was sought to be challenged in the revision petition dated 14.03.2017(Annexure P-3). The said respondents had also filed CWP-6303-2017 before this Court on the ground that their revision petition was not being heard and accordingly, directions were issued on 06.04.2017 (Annexure P-6 in CWP-9732-2017) that their revision petition be decided as expeditiously as possible and preferably within a period of six months. Resultantly, in the revision petition No.16 of 2017, notice was issued on 18.04.2017, for 16.05.2017.

During the pendency of the revision petition, it is apparent that the applicants filed a stay application and the General Body Meeting, which was scheduled to be held on 07.05.2017, wherein the agenda to confirm the earlier proceedings was fixed, was stayed on 02.05.2017 (Annexure P-11)

While issuing notice of motion order on 05.05.2017, an interim order was passed by the Coordinate Bench that the outcome of the proceedings of the meeting which was to be held on 07.05.2017, shall be kept in abeyance. The said outcome has not been placed on record by any of the parties before this Court. It is to be noticed that in CWP-3747-2019, challenge is primarily to the same set of proceedings regarding the filling up of the excess members and also the meeting held on 26.03.2017 wherein a proposal was also made to award the work to the Diverse Infratech (P) Ltd. Similarly, the issue of adding 74 members to the Society, is also subject matter of challenge in CWP-3747-2019 since the order dated 17.04.2017 (Annexure P-46) would go on to show that the Assistant Registrar of the Cooperative Society has granted approval of admission of new membership.

Similarly, the confirmation of the last General Body Meeting, held on 26.03.2017, election of Management Committee of the Society, construction of the Society project by Diverse Infratech (P) Ltd., was also subject matter of consideration of Annexure P-47, on which, a decision had to be taken on 07.05.2017 (Annexure P-48). Since one set of parties is already before the Additional Chief Secretary in a revision

CWP-9732-2017 & CWP-3747-2019

petition filed, this Court is of the opinion that it is open to the parties to raise all connected disputes in the revision petition, before the said Authority and challenge the said proceedings, including the proceedings which had been held on 17.04.2017 and 07.05.2017 since the same was done during the pendency of the revision petition which had already been filed by the Members. Since factual issues are being raised as to whether additional members have been added and it is settled principle that a Writ Court will not get into disputed matters, which are to be thrashed out and the extraordinary writ jurisdiction of this Court is not liable to be invoked at the initial stage.

Accordingly, in view of the above, the present writ petitions are disposed of and the petitioners are relegated to their alternative remedy before the Competent Authority, in accordance with law. Since the matter has been pending for almost 3 years, it is expected that the Additional Chief Secretary will decide the lis expeditiously and preferably within 4 months from the receipt of the certified copy of this order. Liberty is granted to the other members who wish to join proceedings by filing separate revision petitions before the said Authority.

February 19th, 2020
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No