

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

CWP 3429 of 2021 (O&M)

Date of Decision: July 19, 2021

Rishi Garg and others

...Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present:- Mr. Chetan Mittal, Sr. Advocate with
Mr. Mayank Aggarwal, Advocate
for the petitioners.

Mr. Tarun Walia, AAG Haryana
for respondents No. 1 to 4.

Mr. Gautam Dutt, Advocate, for respondent No. 5.

Mr. B.S. Rana, Sr. Advocate with
Ms. Divya Bajaj, Advocate
for respondent No. 6.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through
video-conferencing on account of outbreak of pandemic COVID-

19.

The Sonipat Hindu Educational and Charitable Society (hereinafter to be called as '**the Society**') is a registered body under the Haryana Registration and Regulation of Societies Act 2012 and Rules as amended upto date (in short, **the Act and the Rules**, respectively). The Society is claimed to be running educational institutions and carrying on social welfare work for the last more than 100 years. The Society has prescribed membership of 1100 members. During the course of passage of time, it was realized that the membership of the Society has dwindled due to unforeseen circumstances including death of some of the then members. A sub-committee was constituted for enrollment of life members. The Sub-Committee forwarded 168 applications to the Managing Committee of the Society for enrollment as life members. It is alleged that on 26.05.2013, 168 members were inducted as life members by the Managing Committee of the Society regarding which the meeting was held on 27.05.2013 and the same is detailed as Annexure P-1. The petitioners numbering 4 claim to

be members inducted at this meeting. It is subsequent thereto respondent No. 6 Sri Bhagwan Gupta filed a petition under Section 21 of the Act before the District Registrar of Societies challenging the membership so granted. The District Registrar of Societies respondent No. 4 vide order dated 17.04.2014 cancelled the membership to 168 members. The order was, thereafter, challenged by the Society before this Court through CWP 8182 of 2014 in which an interim stay was granted on the operation of the said order. It is vide order dated 28.07.2017, the High Court set aside the order dated 17.04.2014 of the District Registrar and remanded the matter back to the District Registrar for deciding the same afresh.

In the proceedings before the District Registrar who processed claim and counter-claim of the parties to assess the induction of 168 members by the Society, it is vide order dated 26.09.2017, the District Registrar held that the membership so inducted was required to be approved by the general body of the Society and the order is Annexure P-5. It is, thereafter,

some of the members filed an appeal against this order before the State Registrar respondent No. 3 for setting aside the order and vide interim order dated 23.01.2018 the operation of the impugned order was stayed allowing these newly inducted members to participate in the election procession due on 25.02.2018 which order is Annexure P-6.

Respondent No. 6 aggrieved over this order filed an appeal before the Registrar General respondent No. 2 who vide order dated 12.02.2018 though conferred upon these members to participate in the election process but held that outcome of the election would be subject to the decision of this appeal before the State Registrar and which order dated 12.02.2018 is Annexure P-7. It is vide orders dated 24.04.2018 (Annexure P-8), State Registrar allowed the appeal partly holding that governing body of the Society has absolute powers to induct new ordinary/life members. It is subsequently both the appeals by the newly inducted members respondent No. 6 were taken up together and it was held vide order dated 28.01.2021 (P-10)

that as per the bye laws of the Society, the Act, the Managing Committee of the Society is competent authority for inducting life members of the society. It is worthwhile to refer here that the Society regularized the membership of the 168 newly inducted members. The petitioners moved the Registrar General that they have not been supplied with the copy of the decision of the Managing Committee but the application (Annexure P-11) stood dismissed by the Registrar General vide order dated 03.02.2021 (Annexure P-12). It is, thereafter, in this unending tussle between various persons and on the invocation by one of the groups the District Registrar vide order dated 05.02.2021 (Annexure P-13) stayed the elections of the Society. It is in the background of this history of the tussle between the various persons the present civil writ petition by resorting to Articles 226/227 of the Constitution of India by way of writ of *certiorari* has come about seeking quashment of orders dated 28.01.2021 (Annexure P-10), order dated 24.04.2018 (Annexure P-8) and order dated 26.09.2017 (Annexure P-5) have come about and

also seeking permission for allowing 168 newly inducted members including the petitioners to participate in the election of the Managing Committee.

The grouse in brief is over the very maintainability of petition by respondent No. 6 under Section 21 of the Act as he had no *locus standi* to invoke the jurisdiction of the Act being neither a member of the Society nor claims that his membership was rejected and that in the impugned order the Registrar General failed to give any specific legally sustainable order as to the maintainability of a petition at the behest of respondent No. 6. The contentions are that once the Managing Committee has approved the induction of 168 members, the order sustaining their membership was untenable in the eyes of law when the Registrar General failed to appreciate his earlier approval to this membership in other proceedings and the general body of the Society had approved of this membership claiming that respondent No. 6 Sri Bhagwan Gupta is a chronic litigant and has detailed the numerous invocations made by him

against the Society and the members. It is contended that the observations of the Registrar General that giving membership to such members who were progenies of the erstwhile members would lead to making it a inheritable membership was wholly wrong and, thus, sought the relief in question.

Replies to the petition have been filed by respondents No. 1 to 4 and 5, wherein, common pleas have been taken by these respondents. The crux of the reply of these respondents is reiteration of the various functions and social aim including educational activities being carried out by the Society though it was never displaced as to the various proceedings and order passed by the District Registrar, State Registrar and had termed that the Society had always followed bye laws and respondent No. 6 Sri Bhagwan Gupta has tried to disrupt the functioning of the Society for a motivated cause. The answering respondents had termed the orders of the Managing Committee of the Society as legal and valid and in spite of the fact that the new membership was duly regularized even then certain

authorities continued passing order prejudicial to the interest of the Society and has agitated the *locus standi* of certain persons to file repeated petitions under the Act and Rules and the very applicability of Section 21 of the Act to the cause in question and has termed the membership of respondent No. 6 to be a life member of the Society and who had no issue regarding his membership with the Society. It is pleaded that to ensure fair selection of membership a Sub-Committee was constituted which recommended the criteria which was commensurate with the bye laws of the Societies and the provisions of the Act and Rules. It is pleaded that there has been due adherence to the law and that the smooth running of the Society was being put to hold by frivolous petitions by interested persons who stalled the same. The main assertion has been that the enforcement by the Managing Committee, general governing body of the Society to any such decision of the Society is finality and cannot be challenged on any such flimsy pleas as is being done by respondent No. 6 in various litigations.

Respondent No. 6, the main contesting respondent in his detailed reply has sought to claim the civil writ petition is not maintainable as the District Registrar Societies Sonipat is seized of the matter. It is pleaded that the Society is carrying on public functions and, therefore, all its acts have to be in consonance with the law and that the induction of 168 newly members is by way of making the membership to be a **“Heritable Estate”** which is not permissible under the law. It is claimed that the act of the Society in inviting membership was inherently faulty rendering the same to be an illegality though answering respondent does not disputes that the general body of the Society could induct life members who claimed that induction of 168 life members was not proper and termed it to be an illegality. It is pleaded as per orders dated 24.04.2018, the State Registrar had granted 06 months time to the Society to consider the issues regarding induction of legal heirs of their deceased life members and their regularization and that on 23.10.2018 this period already elapsed and, therefore, their

membership becomes nonest in the eyes of law. There has been virulent attack on the persons running the affairs of the Society and has termed their act and conduct to be infested with falsehood means and illegality. It is pleaded that none of the bye laws have been followed in letter and spirit and, therefore, impregnates the decision by the Society to be unsustainable. The answering respondents had termed each and every contention of the petitioners to be false and incorrect and sought dismissal of the writ petition.

The replication were of usual reiteration and denials.

Heard Mr. Chetan Mittal, Sr. Advocate assisted by Mr. Mayank Aggarwal, Advocate for the petitioners, Mr. Tarun Walia, AAG Haryana for respondents No. 1 to 4, Mr. Gautam Dutt, Advocate, for respondent No. 5, Mr. B.S. Rana, Sr. Advocate assisted by Ms. Divya Bajaj, Advocate for respondent No. 6 and perused the record.

Undoubtedly, the present dispute hovers around the dispute primarily between the members over the membership of

an educational society which is governed under the Act and Rules. The petitioners are trying to challenge the orders dated 26.09.2017 (Annexure P-5) dated 24.04.2018 Annexure P-8 and order dated 28.01.2021 Annexure P-10. Admittedly, the total membership strength of the Society is 1100 and on account of passage of time was left with 796 members which necessitated the Society to pass a resolution on 22.07.2012 facilitating enrollment of new members to this Society. What has led to this imbroglio is that the Society vide its decision dated 27.05.2013 Annexure P-1 gave new membership to 168 persons and which is the bone of contention in this matter. Under the bye laws and constitution of the Society, the membership to the Society is detailed in Part-I and under Clause (B) enumerates that the members of the Society shall be **life time members** and further Clause (C) enumerates as to qualification of **life time members**. Under Part 1 sub-clause 1 a person can become a life member of the Society upon recommendation of the Managing Committee and further under sub-clause (2) of

Clause (C) the member shall have right to cast the vote only after two years from the date of becoming the member of the Society in the general body meeting and only after completion of 6 years of membership would be eligible to be elected to the Managing Committee of the Society and further under Part (2) of the Constitution of the Society the general body of the Society shall have maximum 1100 members and for which Managing Committee/governing body has been made supreme authority in the Society and which has the right to suspend membership or initiate any action against one.

In the present case, there is no provision of delegation of powers by the Managing Committee especially in the light of the facts on the records how and by what means the Managing Committee delegated its powers to a sub-committee by virtue of Annexure P-1 and which was never approved by the general house. What further aggravates the feudalistic approach of the Society is highlighted from the fact that no proceedings of the sub-committee has been placed on the record as to the

manner in which they subscribed new membership to such a large number of persons numbering in all 168.

To the specific query of the Court as has been argued that applications of 20% were rejected. Nothing is illustrated as to how these applications were processed, the reasons for their rejection and so on and so forth. Furthermore, when all the vacancies which were supposed to be filled in by virtue of Annexure P-1 were not filled up leads to many guesses. Section 18 of the Act provides that every Society shall maintain a register of its members at its registered office and which is supposed to be updated by the authorized officer of the Society who will certify any inclusion and deletion as per the Act and Rules including the bye laws of the Society. Furthermore, under Section 18 sub Section (2) a copy of the register of the members needs to be filed before the District Registrar within 60 days of the registration. Under the Rules to the Act the governing body is supposed to name the newly inducted members in compliance of the Act and Rules. Further, there is

nothing suggestive that Form XVII so filed before the District Registrar within 30 days in compliance of Section 33 of the Act. Furthermore, Section 29 of the Act lays down the procedure/quorum for the meeting of general body and further Section 30 of the Act ensures that a Society consisting of more 1000 members need to constitute a Collegium and of not less than 21 and not more than 300 members in accordance with bye laws and has entrusted the status of Collegium as is there to be general body of the Society. In the present case, total membership of the Society approved is 1100 and, therefore, is governed under the provisions of this Section. The Rules with the Act by way of Rule 14 ensures that the District Registrar is to verify the credentials and genuineness of members in confirmation of powers under Section 21(5) of the Act and in instant case the District Registrar has failed to exercise its powers which has come about by virtue of these statutory provisions.

What is apparent to this Court is that a ding dong

battle has sought to be fought between warring groups over the membership issue when initially CWP 8182 of 2014 against order dated 17.04.2014 of the Registrar was filed regarding cancellation of membership and the matter was set aside and remanded back. The Registrar vide order dated 26.09.2017 (Annexure P-5) allowed the petition and on appeal to the State Registrar interim stay was granted on 23.01.2018 Annexure P-6 and, thereafter, on appeal to the Registrar General order dated 12.02.2018 (Annexure P-7) was made whereby 168 newly inducted members were allowed to participate. Further what complicates the matter is order dated 24.04.2018 of Registrar General (Annexure P-8) whereby it was held that the Managing Committee was competent to grant membership and the Registrar General vide order dated 28.09.2018 (Annexure P-9) stayed the same. Thus, this has led to logjam of the running of the Society affecting the interest of the Society and the elements who are interested in the running of the Society of its educational institutions and social organizations there has been

total by passing of provisions of Section 79 sub-section 2 which ensures that any order which originates from the Registrar General and appeal lies against it before the Government and which has never been resorted to apparently the influences wielded by the member owing allegiance to different group in the society.

The due admission by two sides that new membership has been given purely on the basis of lineage and, thus, not governed by bye laws of the Society but has been swayed by accumulation of its strength by a particular group apparently making the seat of membership mere inheritable estate which certainly is against its own bye-laws as well as an illegal and unconscionable. This Court is saddened and pained over the manner of this wrangling which is sapping at the very reputation of the Society adversely impacting the institutions being run by the Society. Rather than allowing this attrition to go on indefinitely, this Court in exercise of its inherent powers by virtue of Articles 226/227 of the Constitution of India deems it

expedient rather making any observation on the legal worth of the orders under challenge Annexure P-5, P-8 and P-10 which would not subserve the ends of justice and rather all the disputes are made to be sorted out for once and for all and for the betterment of the Society, its institutions and public welfare and thereby directing the Registrar General under the Act to exercise his powers and with the assistance of his officers including Registrar, Additional Registrar/Joint Registrar to call for the meeting of the general body of the Society of the members who were there as on before 27.05.2013/22.07.2012 and sort out the membership issue by taking a decision as per bye laws governing the Society and ensuring that fresh membership to the Society as per the vacancies available prior to the enrollment of the members is filled up after publishing public notices in leading three news papers in different languages of the area laying down the qualifications and receiving applications, processing the same under their supervision and ensuring that eligible and deserving, forward

looking, progressive, unbiased persons are brought as members of the Society in accordance with bye laws, Act and Rules and get the same duly approved in conformity with the bye laws. All these proceedings shall be carried out in writing in presence of total strength of the membership that exists on the dates detailed above. The exercise be completed within three months of the receipt of copy of this order which be served upon the Registrar General. All expenses to be borne by Society.

In the light of the same, orders under challenge are rendered inoperative and otiose.

The present petition stands disposed off accordingly.

July 19, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No