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

Date of decision: 8th December, 2021

+ **W.P.(C) 3265/2020 & CM APPL. 13290/2020**

THE INDIAN VETERINARY ASSOCIATION (REGD) ... Petitioner
Through: Mr. Sardavinder Goyal, Mr.
Sarwinder Goyal & Mr. Raj Selwan,
Advocates.

versus

GOVT OF NCT DELHI & ORS Respondents
Through: Ms. Mrinalini Sen Gupta & Ms.
Kritika Gupta, Advocates for R-1.
Mr. Anand Yadav, Advocate for R-4
to 6 (M-9810126454).
Mr. Harish Vaidyanathan, Advocate.

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AND

+ **W.P.(C) 3402/2020 & CM APPL. 12082/2020**

JAI PRAKASH AGGARWAL & OTHERS Petitioners
Through: Mr. Anil Goel, Advocate.
versus

REGISTRAR OF SOCIETIES Respondent
Through: Ms. Mrinalini Sen Gupta & Ms.
Kritika Gupta, Advocates for R-1.
Mr. Anand Yadav, Advocate for R-4
to 6 (M-9810126454).
Mr. Harish Vaidyanathan, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done in physical Court. Hybrid mode is permitted in cases where permission is being sought from the Court.
2. The Petitioner in WP(C) 3265/2020 is a society registered under the

Tamil Nadu Societies Registration Act, 1975. Its registration dates back to 18th May, 1967 with the name - The Indian Veterinary Association. The elections to this body were last held in 2019 wherein Dr. Chirantan Kadian, who has filed the present petition, was appointed as the President of the Association. The President is stated to be currently holding his position as and the society is fully operational.

3. The Petitioners in WP(C) 3402/2020 are Trustees of Lal Bahadur Shashtri Educational Trust, which owns the institute M/s Lal Bahadur Shashtri Institute of Management. The allegation against the Respondent in this petition is that a co-trustee of the said Trust has, to deceive the general public, registered a society by the same name i.e., Lal Bahadur Shashtri Educational Society, in accordance with the Society Registration Act, 1860.

4. The challenge in these petitions is to the registration of identically named organisations in Delhi as Societies - i.e. 'Indian Veterinary Association' in WP (C) 3265/2020, and 'Lal Bahadur Shashtri Educational Society' in WP (C) 3402/2020, under the Societies Registration Act, 1860. The main question is as to whether the Registrar of Societies has the power to cancel the registration of a society, under the Societies Registration Act, 1860. This Court has heard these matters from time to time.

Submissions of Mr. Sardavinder Goyal, Id. Counsel for Petitioner in WP(C) 3265/2020

5. In WP(C) 3265/2020, Mr. Sardavinder Goyal, Id. Counsel, appears for the Petitioners. He submits that Dr. Radhey Shyam Sharma, Respondent No.5 along with Dr. Umesh Chander Sharma - Respondent No.6, got a society registered with an identical name, namely, 'Indian Veterinary Association' in Delhi. He submits that to obtain the said registration, an

affidavit was filed by Mr. Radhey Shyam Sharma dated 14th July, 2017 with the Registrar of Societies, claiming that there is no society, which is identical or resembling to the Respondent's society. On the strength of this affidavit, approval of registration was granted by the Registrar of Societies, Delhi on 5th March, 2019.

6. Upon becoming aware of the registration of the Respondent No.4- Association, the Petitioner submitted an application to the Registrar of Societies with a request for cancellation of the said registration, on 16th September, 2019. The Registrar of Societies, upon receiving the application of the Petitioner issued a show-cause notice to the Respondent Nos. 4, 5 and 6 calling upon them as to why the registration of the society ought not to be cancelled and why a wrong affidavit was filed. The Respondent Nos. 5 and 6 filed their reply to this show cause notice, and the stand taken was that no false affidavit had been submitted as the only statement made in the said affidavit was that no society existed with an identical name *in their locality*. A further stand was taken in the reply to the said show cause notice that the Petitioner- Association is no longer functional. Thus, the Registrar of Societies, Delhi sought an explanation from the Petitioner-Association in respect of the same. Thereafter, a detailed explanation was furnished by the Petitioner-Association explaining the same, however, the Registrar of Societies, Delhi has rejected the request vide order dated 15th November 2019 on the ground that the matter should be raised before the Civil Court for the purpose of redressal of grievances.

7. Accordingly, he submits that in the present petition the prayer is to direct Respondent No. 2 and 3 to withdraw/ cancel the registration of Respondent No. 4 association, and to take action to be taken against

Respondent Nos. 5 and 6 for misleading the Registrar of Society, Delhi.

8. Mr. Goyal, ld. counsel further submits that Section 3 of the Societies Registration Act, 1860 (*hereinafter*, “Act”) vests the power for registration with the Registrar of Societies. Section 13 of the Act is for the dissolution of a society, which would be a voluntary act. However, in the absence of any specific provision for cancellation or withdrawal of the registration, reliance is placed upon Section 21 of the General Clauses Act, 1897, to argue that if any authority has been vested with the power to issue an order or rule or notification, the said power would include the power to amend that very order or rule or notification. He relies upon the judgment of the Full Bench of the Guwahati High Court in *Atowar Rahman v. State of Assam and 6 Ors.*, 2019 AIR (Gauhati) 3 wherein a specific issue as to the power of Registrar of Societies, which has provisions which are similar to the Registrar of Societies, Delhi, was considered. In the said case, he submits that the Guwahati Court held that the cancellation of the society would be a purely administrative act and not a *quasi-judicial* act, and thus, the Registrar of Societies does have the power to cancel the certificate of registration which it has granted to any party. He, thus, submits that due to the misleading statements made by Respondent Nos. 5 and 6 and the fact that the Registrar of Societies was misled into granting registration, the registration of the Respondent No. 4-Society is liable to be cancelled.

9. In response to the submission, that the Petitioner- Society is no longer functional, Mr. Goyal relies upon two documents. He firstly relies upon a document dated 31st October 2020, which were proceedings under the Tamil Nadu Societies Registration Act, 1975, wherein the complaint made on behalf of the Respondents was dealt with by the Registrar of Societies

Chennai and the same was dismissed. He secondly relies upon the document dated 26th February 2021, by which the Principal Secretary to the Government condoned the delay in filing of the returns of the Petitioner-Society. Reliance is also finally placed upon the response received from the Registrar of Societies in reply to the Petitioner's request. Thus, he submits that the Petitioner-Association is very much functional, and reliance is finally placed on the response received from the Registrar of Society to the RTI which is available on Page no. 28 of the Application for stay, wherein it has been stated that no dissolution proceedings have been commenced by the Petitioner-Society.

10. Thus, it is the submission of Mr. Goyal that on both counts, the case of the Respondents is completely bereft of merits, and the Registrar of Societies has power to cancel the registration of Respondent No. 4-Society. Thus, he submits that the present writ petition deserves to be allowed.

Submissions of Mr. Anil Goyal, Id. Counsel for Petitioner in WP(C) 3402/2020

11. Mr. Anil Goyal, Id. Counsel appearing for the Petitioners in WP(C) 3402/2020 has adopted the arguments of Mr. Sardavinder Goyal, in respect of the legal issues raised in the present petition. He has further submitted, relying upon the report of the Law Department of Delhi Government where an opinion was sought as to whether the Registrar of Societies would be empowered to cancel the Registration conferred, that the Registrar has the said power. The said report relies upon Section 21 of the General Clauses Act, 1977 and the judgment of the Supreme Court in ***Indian National Congress (I) v. Institute of Social Welfare and Ors. (AIR 2002 SC 2158)*** and reads as under:

“3. Hon'ble Supreme Court, in case of Indian National Congress (I) vs. Institute of Social Welfare and Ors. (AIR 2002 SC 1258), has an occasion to examine application of Section 21 with regard to power of Election Commission to deregister a political party. It was, interalia, observed that Section 21 of the General Clauses Act has no application where a statutory authority is required to act quasi judicially. Hon'ble Court further observed vide Para 34 and 35 of the judgment,

"34. However, there are three exceptions where the Commission can review its order registering a political party. One is wherein political party obtained its registration by playing fraud on the Commission, secondly it arises out of Sub-Section (9) of Section 29A of the Act and thirdly any like ground where no enquiry is called for on the part of the Election Commission, for example, where the political party concerned is declared unlawful by the Central Government under the provision of the Unlawful Activities (Prevention) Act, 1967 or any other similar law."

35. Coming to the first exception, it is almost settled law that fraud vitiates any act or order passed by any quasi-judicial authority even if no power of review is conferred upon it. In fact, fraud vitiates all actions. In Smith v. East Ellis Rural Distt. (1956) 1 All E.R. 855 it was stated that the effect of fraud would normally be to vitiate all acts and order. In Indian Bank v. AIR 1996 SC 2592, it was held that a power to cancel/recall an order which has obtained by forgery or fraud applies not only to

courts of law but also to Statutory Tribunals which do not have power of review. Thus, fraud or forgery practiced by a political party while obtaining a registration, if comes to the notice of the Election Commission, it is open to the Commission to de-register such a political party."

4. In view of above discussion, in case of obtaining registration by fraud by submitting false information, the authority which has the power to register the society would be empowered to cancel the registration by invoking Section 21 of the General Clauses Act. If agreed, the administrative Department may be advised accordingly."

Submissions on behalf of Mr. Anand Yadav, Id. Counsel appearing for Respondents 4 to 6 in WP(C) 3265/2020

12. Mr. Anand Yadav, Id. Counsel appearing for the contesting Respondents 4 to 6 in WP(C) 3265/2020 takes a preliminary objection that the relief sought in this petition cannot be granted, in as much as the Registrar of Societies, under the scheme of the Societies Registration Act, 1860 as is applicable in Delhi, does not have the power to cancel a registration. He relies upon the judgments of the Delhi High Court in support of his submission:

- 1. *Supreme Court Bar Association v. Registrar of Societies (2012 SCC Online Del 6415)***
- 2. *Brij Mohan Gupta v. The Registrar of Societies (2012 SCC Online Del 2535)***
- 3. *Maheshwari Mandal (Delhi) v. State of Delhi (2018 SCC Online Del 6426)***
- 4. *Pritam Singh v. Registrar of Firm and Society, (2015 SCC Online Del 8732).***

13. On the strength of all these four judgments, he submits that under Section 12 of the Societies Registration Act, 1860, no power is conferred upon the Registrar of Societies to perform, while performing his *quasi judicial* functions, to cancel registrations. He further urges that Section 21 of the General Clauses Act, 1897, has been interpreted in all the above four judgments of the coordinate bench of this Court, wherein the Courts have consistently arrived at a conclusion that Section 21 of the General Clauses Act, 1897, would not have any applicability.

14. On merits, Mr. Yadav, Id. Counsel, submits that he is not making any submissions in view of the fact that as no power to cancel registrations are vested with the Registrar, on merits, the Petitioners would have to be directed to avail of their remedies in accordance with law.

Submissions of Ms. Mrinalini Sen Gupta and Mr. Harish Vaidyanathan Shankar, Id. Counsels, on behalf of the Registrar of Societies

15. Ms. Mrinalini Sen Gupta and Mr. Harish Vaidyanathan Shankar, Id. Counsels, appearing for the Registrar of Societies, submit that the Registrar of Societies does not have any power to cancel the registration. This has also been specifically pleaded in the counter affidavit filed by the Respondent No. 2, Mr. Pradeep Tayal, SDM (Civil Lines)/ Registrar Of Societies, wherein he states as under:

“B. I say that the present Petition is not maintainable against the Answering Respondent and ought to be dismissed for the primary reason that there is no stipulation empowering the Registrar of Societies/ Answering Respondent to carry out cancellation/withdrawal of Registration of any Society once it is registered. The same can be done only

through the process of a Civil Court under Section 31 of the Specific Relief Act, 1963.”

16. Reliance is also placed upon the judgment of the Division Bench of this Court in ***Areness Foundation v. Government of NCT of Delhi and Anr.*** ***AIR 2019 Del 59***, to argue that the Registrar of Societies is similar to the Sub-Registrar’s act of registering documents under the Registration Act 1908, and does not have the power to annul or cancel the said registration.

Rejoinder submissions on behalf of the Petitioners in both petitions

17. In rejoinder, both Id. counsels for the Petitioners in these petitions, submit that Registrar of Societies is taking contradictory pleas to their stand in these cases, in W.P.(C) 13740/2019 and W.P.(C) 8040/2020 which are pending before the Court, and where the Registrar of Societies has cancelled the registration which has been issued.

18. It is also submitted that the Registrar of Societies cannot be rendered a toothless tiger by the registration sustaining on the basis of a false affidavit. The judgment of the full bench of the Guwahati High Court in ***Atowar Rahman (supra)*** is again pressed into service.

Analysis and Findings

19. Heard Id. Counsels for the parties and perused the record.

20. The following reliefs are sought in these petitions:

WP(C) 3265/2020

“i. Issue a writ in the nature of mandamus directing respondent no. 2 to cancel/withdraw the registration of respondent no. 4 association in view of the fact that the petitioner association is already registered with registration no. 96/1967 dated

18.05.1967 and functioning with the same name i.e., "THE INDIAN VETERINARY ASSOCIATION" and no subsequent society can be registered with name of the society which is identical with that by which any other existing society has been registered or so nearly resembles such name as to be likely to deceive the public or the members of either society.

- ii. Issue necessary directions to respondent no. 3 to cancel the approval of name granted to respondent no. 4*
- iii. Issue necessary directions to respondent no. 2 to take appropriate action against respondent no. 5 and 6 and other executive members of society those played fraud with respondent no. 2 and succeeded in registering society in the name of "INDIAN VETERINARY ASSOCIATION" by submitting false information/affidavit.*
- iv. Issue a writ in the nature of certiorari to quash the impugned order dated 15.11.2019 (Annexure XVII) passed by respondent no. 2 being illegal and arbitrary.*
- v. Award the cost of the petition to the petitioner."*

WP(C) 3402/2020

"It is therefore, most respectfully prayed that by means of appropriate order/direction/writ, the Respondent may be directed to decide the Complaint dated 27.08.2019 Annexure-P-1 of the Petitioners by well speaking, detailed and reasoned order, after hearing the petitioners, in the interest of justice."

21. The Registrar of Societies is an authority which is recognized under the Societies Registration Act, 1860, as the statutory authority for granting registrations to societies. The said Act has various provisions which confer the power upon the Registrar to register societies.

22. A perusal of Section 2 of the Act shows that every society ought to have a Memorandum of Association, and the same has to be filed along with a copy of the rules and regulations of the society, with the Registrar. Once the said memorandum and rules, along with the stipulated fee is filed, the society shall be certified as registered by the Registrar of Societies, under the provision of Section 3 of the Act. There is no process of checking by the Registrar or objections to be filed by third parties that is stipulated in the Act.

23. Further, various forms are also prescribed and affidavits are also sought by the Registrar, however the same are only mentioned under the Rules that have been framed by the GNCTD in respect of the applicability of the Act to Delhi. In most cases, allegations are raised that false affidavits are filed and wrong information is being supplied to the Registrar of Societies.

24. Under Section 12 of the Act, there are certain provisions which have been added by various later State amendments, specifically conferring power upon the Registrar to cancel the registration. However, insofar as Delhi is concerned, no such amendment permitting the Registrar to cancel the registration of a society has been enacted. Curiously however, there is a Delhi State Amendment adding Section 12A to the Act which reads:

“Sections 12A and 12B

Delhi — After section 12, insert following sections, namely.

“12A. Registration of change of name.—(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar for registering the change of name. If the proposed name is identical with that by which any other existing society has been

registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change the name.

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(3) The Registrar shall charge for any copy of a certificate issue under sub-section (2) a fee of rupee one or such large fee and exceeding rupees five as the State Government may, from time to time, direct; and all fees so paid shall form part of the Consolidated Fund of India.”

As per the above amendment applicable in Delhi, if an application for change of name is made, then the Registrar has to examine if there is any other society already existing which has an identical name or a nearly resembling name which may cause deception.

25. In this statutory scheme, insofar as this Court is concerned, the question as to whether the Registrar of Societies has the power to cancel a registration or not in the jurisdiction of Delhi has been decided in the four judgments by Ld. Single Judges, which are relied upon by Mr. Yadav, ld. Counsel for the Respondent Nos. 4-6.

26. In ***Supreme Court Bar Association (supra)***, this issue as to whether the Registrar of Societies would have the power to cancel a registration or not had arisen, and a ld. Single Judge of this Court had examined the judgment of the Supreme Court in the ***Indian National Congress (supra)*** which was rendered in context of a similar power of cancellation of

registration of political parties by the Election Commission of India. The Id. Single Judge concluded that the Registrar of Societies can only ensure compliance and cannot cancel or annul a registration that has already been conferred. The relevant observations of the Id. Single Judge are as under:

“17. In the present case, it would be seen that the ROS is obliged to ensure compliance of Sections 2, 3 and 20 of the Act while granting registration to a society. The ROS, therefore, exercises quasi judicial function while granting registration to a society. The said ‘order’ is neither an executive order nor a legislative order. By resort to Section 21 of the General Clauses Act, he cannot undo that registration.

18. There is yet another aspect which needs to be considered. Once the Act provides a procedure for dissolution of the society registered under the Act, it is only that procedure which can be invoked, and no other procedure can be adopted. If a thing is prescribed to be done in a particular way, it can be done in only that way, and by no other way. (See Patna Improvement Trust v. Smt. Lakshmi Devi, 812 SCR [1963] Supp. and State of Bihar v. J.A.C. Saldanha, (1980) 1 SCC 554). Therefore, the ROS cannot invent other methods or reasons to suspend or dissolve a society registered under the Act.”

27. A similar view has been taken by the Id. Single Judge of this Court in **Brij Mohan Gupta (supra)**.

28. In **Pritam Singh (supra)**, a question arose as to whether the Registrar of Societies could cancel the registration given in favour of one ‘Gurudwara Singh Sabha Dera Baba Wadbhag Singh Society’. A Id. Single Judge of this Court, in this case, has held that clearly there is no power conferred to the Registrar of Societies to cancel the registration.

29. Even in *Maheshwari Mandal (supra)*, following the judgment in *Brij Mohan Gupta (supra)* another Id. Single Judge of this Court has taken an identical view. The court observed:

“7. It is apparent from the plain reading of the sections 12, 12A, 12B and 12C of the Act read with section 3 of the Act that the Registrar does not have any power to adjudicate any issues with regard to the amendment of any purpose or object of the society. However, in terms of Section 12A of the Act, the Registrar has the power to review registration of the change in name of a society if in its opinion the same resembles or is identical to the name of any existing society.

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11. This Court finds much merit in the aforesaid contentions advanced on behalf of the petitioner. Plainly, the Act as applicable to Delhi does not include any provision which entitles the Registrar to cancel a registration once the same has been granted. As stated above, there is also no provision which empowers the Registrar to examine and adjudicate any dispute with regard to any alleged irregularity in the procedure adopted by the society to amend its Rules and Regulations.

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13. A coordinate Bench of this Court in Brij Mohan Gupta v. Registrar of Societies: (2012) 189 DLT 577 had repelled the contention that Section 21 of the General Clauses Act, 1897 could be invoked by the Registrar of Societies to cancel the registration of the society. The Relevant extract of the said decision reads as under:—

“I am, therefore, of the view that section 21 of the General Clauses Act could not have been invoked in the facts of the present case by the Registrar to cancel the registration of the society. The inter se disputes between the petitioner and respondent nos. 2 to 6 with regard to management and control of the society in question

cannot be decided in these proceedings. It shall be open to the parties to raise all such issues in appropriate civil proceedings, and in accordance with the law. As above noted, this Court has not gone into the issue of illegality, if any, committed by the deponent of the affidavit, namely, the President of the society in the present case. The said issue may be raised and decided on its own merits, in appropriate proceedings, if and when raised.””

30. It is noticed that in most of these cases, and specifically in **Brij Mohan Gupta (supra)**, allegations that were raised as grounds for cancellation of registration were that false affidavits were submitted to the Registrar of Societies and amendments were also made in the rules and regulations submitted to the Registrar. Despite these allegations, the conclusion of this Court has consistently been that the Registrar of Societies in Delhi does not have the power to cancel the registration conferred under the Act. Accordingly, this Court is bound by the decisions of the Id. Single Judges of this Court in the four decisions referred above.

31. In any case, it is noticed that the Guwahati High Court in **Atowar Rahman (supra)** held that the Registrar of Societies had the power to cancel the registration of a Society under section 3, in the peculiar statutory scheme of Societies Registration Act 1860, as applicable to the State of Assam. Vide the Assam Act No. 13 of 1967, sec. 2, Section 3A was entered into the Societies Registration Act as applicable to Assam, which categorically stipulates that no society shall be registered under a name which is identical with, or too nearly resembles, the name of any other society or any body corporate which has been previously registered or incorporated under the Act or any other law being in force. The provision reads:

ASSAM:

“3A. Name of Society-

(1) No society shall be registered under a name which is identical with, or too nearly resembles, the name of any other society or any body corporate which has been previously registered or incorporated under this Act or any other law for the time being in force, as the case may be.

....

[Vide Assam Act 13 of 1967, sec. 2 (w.e.f. 18-8-1967)]”

Such a provision does not exist in the context of the Act as applicable to Delhi. Thus, the judgment of the Guwahati High Court in ***Atowar Rahman (supra)*** is not applicable on facts and the statutory position as prevalent in Delhi.

32. This Court, however, does not agree with the submission of the Registrar of Societies, that the power exercised by it is identical to the power exercised by the Sub-Registrar who registers documents under the Registration Act, 1908. The said power may not be identical in terms of the power conferred under the respective statute.

33. Further the reliance of the Id. Counsel for the Petitioner on the report of the Delhi Government, Law Department, which in turn relies upon the ***Indian National Congress (supra)*** judgment is of no use to the Petitioners. This opinion is, in any manner, not binding on this Court, as it has completely ignored the four precedents of the Delhi High Court which have been noted above, clearly holding that the Registrar of Societies has no power to cancel registrations. Further, the judgment of the Supreme Court in ***Indian National Congress (supra)*** has also been considered by a Id. Single

Judge of this Court in *Brij Mohan Gupta (supra)*.

34. Accordingly, both the present petitions are liable to be dismissed. This Court, however, has no doubt that the issues and objections raised in the present petitions are important and raise essential concerns in respect of the remedies available to persons aggrieved by a society which is registered on the basis of incorrect facts, false and fraudulent affidavits, when proven on merits. However, the said issues would have to be decided by a higher Court. In any case, this Court is bound by the four decisions of the Id. Single Judges of this Court.

35. Insofar as the various allegations that have been raised on facts in these petitions, that false affidavits have been submitted and a fraud has been played to obtain the registration by the Respondent-Societies, it is made clear that these issues would have to be adjudicated or considered by the appropriate forum and the Petitioners are free to approach the said forum by way of a civil suit or any other proceedings, that may be appropriate in accordance with law. It is further clarified that this Court has not examined the merits of the allegations which have been raised by either side in these matters.

36. The present two petitions are accordingly dismissed. All pending applications are also disposed of. The remedies of the Petitioners are left open to be availed of in accordance with law, and observations made in these writ petitions would not have any bearing on any such proceedings, if initiated.

Directions to Government of NCT of Delhi and Ministry of Law, Union of India.

37. It is, however, important to highlight one issue that concerns this

Court. Societies that are registered under the Societies Registration Act, 1860, are permitted by law to conduct various activities as per their own Memorandum, rules and regulations. The broad public policy is to not allow registration of similar or identical names which may cause deception or confusion in the minds of those who deals with these societies. This aspect of public policy is evident and has been recognized statutorily both under statutory law and under common law, under various statutes like the Trademarks Act of 1999, Section 4(2)(a) of the Companies Act, 2013, as also under the common law of passing off. Unfortunately, the Societies Registration Act, 1860, as applicable to Delhi, does not have a specific provision for non-registration of a name which is already registered. Such provisions exists in the states of Assam, Goa, Daman and Diu, Gujarat, Maharashtra etc., which have enacted amendments to the Societies Registration Act, 1860 to incorporate the same. The spirit of the policy is evident from a perusal of Section 12A of the Act as amended in Delhi, extracted above, where the legislature clearly recognizes that in the case of change in name, no name which is identical to an existing society is to be registered. It is however unclear as to why such a provision has not been introduced in Section 3, that is the stage of initial registration, in addition to change of name. Further, in some states like Uttar Pradesh, by an amendment to Act, the Registrar of Societies has been vested with the power under Section 12D to cancel the registration of any society on the ground of the registration of the name being contrary to the provisions of any law or if the activities of the society are opposed to public policy, or registration/renewal obtained by fraud. Such provisions need to exist in order to make available quick and efficient remedies for persons who are

aggrieved by the registration of any Society which may be wrongly registered with an identical or deceptively similar name. Similar provisions for verification and cancellation/rectification exist in various other statutes such as:

<u>Statute:</u>	<u>Provisions:</u>
<i>The Companies Act, 2013</i>	Section 4(2)(a), Section 16, - Verification for identical or resembling name or mark as also for Rectification of the name of the company.
<i>The Trademarks Act, 1999</i>	Sections 9, 11 – Verification of an existing mark which may conflict with the mark applied for. Section 57- Power to cancel or vary registration and to rectify the register.
<i>The Limited Liability Partnership Act, 2008</i>	Section 15 - No LLP to be registered which has an identical or similar name or trade mark. Section 75 - Power of Registrar to strike off a limited liability partnership from the register.

Such provisions are necessary in the Societies Registration Act, 1860 and essential in order to maintain the sanctity of the 'Register' of Societies, which could be abused by obtaining wrong and deceptive registrations. Thus, there is an imminent need to consider amendments in the Societies Registration Act, 1860, as it applies to Delhi, for including provisions to safeguard the rights of third parties who may have grievances with the grant of registration to a particular society. In addition, the Registrar of Societies also ought to be an authority which exercises the responsibility of granting registrations to a society after at least doing a basic check as to whether a society with an identical/similar name exists or not. For this purpose, a

national database of societies may have to be created and access of the same would have to be provided to all the Registrars across the country, to check for existing Registered Societies, while granting registrations to new ones. Finally, it also appears that the Registrar of Societies itself, as an authority, is under confusion as to whether it has the power to cancel registrations or not, which is reflected in differing stands that it takes in various writ petitions, as can be gathered from the submissions made in these petitions.

38. Accordingly, let a copy of the present judgment be sent to the Principal Secretary (Law, Justice and Legislative Affairs), Delhi Government- Mr. Sanjay Kumar Aggarwal, as also to the Secretary, Ministry of Law and Justice, Government of India- Mr. Anoop Kumar Mehndiratta, for consideration of the above and for taking appropriate measures.

39. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

PRATHIBA M. SINGH
JUDGE

DECEMBER 8, 2021/Aman/dj/Ak
(corrected & released on 11th December, 2021)