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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of decision: 28<sup>th</sup> January, 2021*

+ W.P.(C) 8209/2020

ANIL GUPTA

..... Petitioner

Through: Mr. Anil Goel, Advocate.  
(M:9999904433)

versus

AGARWAL WELFARE SOCIETY  
(REGD.) & ORS.

..... Respondents

Through: Mr. Vibhor Garg and Mr. Sidhant  
Bhatia, Advocates for R-1.  
(M:9811352998)  
Mr. Gaurav Barathi and Mr. Kartik  
Bhagat, Advocates for R-3.  
(M:9810526981)  
Ms. Mrinalini Sen Gupta and Ms.  
Kritika Gupta, Advocates for R-4.  
(M:9873367274)  
Mr. Anuj Jain, Advocate for Mr. K.K.  
Bansal, with Mr. K.K Bansal in  
person.(M: 9810681232)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J.(Oral)**

1. This hearing has been done by video conferencing.

**CM APPL.2945/2021 (for exemption)**

2. Allowed, subject to all just exceptions. Application is disposed of.

**CM APPL.2944/2021 (for modification of order dated 14<sup>th</sup> January, 2021) in W.P.(C) 8209/2020**

3. The present writ petition was filed by the Petitioner seeking directions for conduct of elections for the office bearers of Agarwal Welfare Society (Regd.) at D-Block, Agarsain Bhawan, Ashok Vihar, Phase-1, Delhi –

110052 (*hereinafter*, “Society”). The said society is stated to be running a school affiliated with CBSE, a hospital, as well as a Dharamshala. On the last date, i.e., 14<sup>th</sup> January 2021, Mr. K.K. Bansal – Secretary of the Society, appeared in person, along with Mr. Anuj Jain, Id. counsel, and submitted a proposed schedule of the elections to be conducted for the society. He claimed to be the Member Secretary of the Advisory cum Control Board of the Society, and the said schedule that was placed on record was under his signature. According to the proposed schedule, the date of election was fixed for 14<sup>th</sup> February 2021. The said proposed schedule was also acceptable to the Petitioner, and the same has been recorded in the last order. On the basis of the mutual consent of parties, the petition was disposed of by this court, prescribing the schedule for the elections.

4. The present application has been filed seeking modification of the said order dated 14<sup>th</sup> January, 2021, vide which this court had directed conduct of elections of the Agarwal Welfare Society (Regd.)/ Respondent No. 1 on 14<sup>th</sup> February, 2021. It is evident from the order dated 14<sup>th</sup> January, 2021, that the election schedule was fixed by this Court on the basis of a representation made by one Mr. K.K. Bansal, who claimed to be the Member Secretary, Advisory cum Control Board, of the Society. The hearing was held in physical Court and Mr. Bansal had appeared in person. A schedule was put forth by him and the same was accepted by Id. counsel for the Petitioner - Mr. Anil Goel, and it was under these circumstances that the schedule, as mentioned in the order dated 14<sup>th</sup> January, 2021, was fixed.

5. The present application makes serious allegations against Mr. K.K. Bansal, the person who claimed to be the Member Secretary of the Respondent No. 1 Society. Mr. Vibhor Garg and Mr. Gaurav Barathi, Id.

counsels appearing for the Respondent Nos.1 & 3 respectively, submit that Mr. K.K. Bansal was not authorised to represent the said Society or the Board in any capacity. Reliance is placed upon the minutes of the meeting of the society, dated 3<sup>rd</sup> November, 2020, by which Mr. K.K. Bansal was specifically directed not to appear or represent the Respondent No.1 and Respondent No.3 before this Court or any other forum.

6. Mr. Goel, Id. counsel for the Petitioner submits that he was not aware of the said minutes of the meeting dated 3<sup>rd</sup> November, 2020.

7. Mr. K.K. Bansal, who has joined the proceedings through video conferencing today, submits that he continues to be the Member Secretary of the Respondent No. 1 society, and although the said minutes of the meeting dated 3<sup>rd</sup> November, 2020 were signed by him for attendance purposes, he does not agree to the resolution which was allegedly passed in the said meeting and recorded as such in the Minutes.

8. This Court has perused the minutes of the meeting dated 3<sup>rd</sup> November, 2020. A perusal of the same shows that one Mr. Shiv Charan Lal Gupta, member of the Control Board of the Society, was authorised to represent or appear on behalf of the Society before this Court in this petition. Further, the minutes of the said meeting specifically deny Mr. K.K. Bansal the authority to represent or appear before this court, on behalf of the said Society. The extracts of the said minutes of meeting are set out below:

**“Extracts of the Minutes of Meeting**

*Emergency meeting of the Control Board Agarwal Welfare Society Ashok Vihar Delhi was convened at the premises of the Society today on 3<sup>rd</sup> November 2020 at 7:00 p.m. Information of the meeting was given through WhatsApp to all the members of the Control Board due to the emergent*

*situation as detailed in the letter convening the meeting and also because Civil Writ Petition is listed before Hon'ble High Court on 6 November 2020 (coming Friday).*

*Meeting was called at 7:00 pm which was presided over by seven (below named Members). In spite of waiting/passing over for 15 minutes no other member come and accordingly meeting was held with quorum of 7 members.*

- 1. Shri Brij Mohar Garg, Chairman Control Board.*
- 2. Shir Ramesh Gupta, Member*
- 3. Shri Shiv Charan Lal Gupta, Member*
- 4. Shri Shanker Lal Singhal Member*
- 5. Shri Ram Kailash Member*
- 6. Shri K.K. Bansal Member Secretary Control Board.*
- 7. Shri Pawan Gupta President Society, Ex-Officio*

*It has been brought to the knowledge of the Control Board today that Ex-Vice President Sh. Anil Gupta has filed civil writ petition no. 8209/2020 case titled Sh. Anil Gupta V/s Agarwal Welfare Society (Regd.) and others, where by Agarwal Welfare Society through President Sh. Pawan Gupta and through General Secretary Sh. Kailash Chand Gupta are respondent no.1 and 2. Further Control Board has been made a party as respondent no.3 Sh. K.K. Bansal is being stated to be representing the Control Board as Sh. Anil Gupta has shown him to be representing the Control Board.*

*Further, President Agarwal Welfare Society Sh. Pawan Gupta informed the Control Board functioniers that Sh. Anil Gupta sent a legal Notice dated 01/10/2020 to Sh. K.K. Bansal but no information Was forwarded by Sh. K.K. Bansal regarding both above facts to the Control Board*

*and unilaterally represented Control Board before Hon'ble High Court on 19a Oct. 2020.*

*Further, it is being informed that Sh. K.K. Bansal without knowledge of the Control Board has declared Elections of Agarwal Welfare Society for the tenure 2020-2022 for 12a Dec.2020.*

*All the above facts are not in the knowledge of any of the Members of the Control Board and uncalled for politics/mudslinging is being planned. Considering the emergent situation of Hearing in High Court on 6 November 2020 and to avoid any political rift/tussle between members, the Control Board unanimously appoints Shri Shiv Charan Lal Gupta Member Control Board to represent the Control Board Agarwal Welfare Society before Hon'ble High Court in WP No.8209/2020 on 6 November 2020 and inform the Hon'ble Court that it has just been brought to knowledge of the Control Board and due to Covid-2019 Control Board shall be conveying next emergency meeting Sh. Shiv Charan Lal Gupta is authorized to engage a lawyer for proper representation.*

*Sh. K.K. Bansal is no more authorize to appear or represent Control Board AWS before Hon'ble High Court of Delhi or any other forum unless specifically permitted to do so by the minutes approved in the Meeting of the Control Board.*

9. The said meeting was attended by Mr. K.K. Bansal, as is clear from the signature sheet which has specifically been signed by him. The manner in which Mr. K.K. Bansal has completely denied and concealed knowledge of the fact of the minutes of the meeting, dated 3<sup>rd</sup> November 2020, is condemnable. On the last date, when Mr. K.K. Bansal had appeared before this Court, there existed a duty cast upon him to inform this Court about all the relevant facts in this petition, and to not mislead this Court in any

manner. The order dated 14<sup>th</sup> January, 2021 was passed on the basis of the schedule which was placed on record by Mr. K.K. Bansal, who claimed to be the Member Secretary of the Agrawal Welfare Society, and also claimed to be duly authorised by the Society to represent Respondent Nos.1 & 3.

10. The present application clearly reveals that Mr. Bansal did not enjoy the confidence of the Respondent Society or Board and held no authority to appear on their behalf. Accordingly, the order dated 14<sup>th</sup> January, 2021 stands recalled. In addition, notice to show cause is issued to Mr. K.K. Bansal, as to why contempt proceedings should not be initiated against him.

11. Insofar as the conduct of the elections is concerned, two members of the Respondent No. 1 Society, Mr. Kailash Chand Gupta and Dr. H.C. Gupta have joined the proceedings today. As per the averments made in the application various steps would have to be taken before the conduct of the said elections for the Respondent No. 1 Society. Such steps would include drawing up of the electoral roll, conduct of the Annual General Meeting (*hereinafter*, "AGM") as well as fixing a schedule for the said election.

12. Since Respondent No. 3 is represented before this Court by the above nominated persons, the elections for Respondent No.1 Society would have to now be conducted. Respondent No.3 – Advisory cum Control Board of the Agarwal Welfare Society, is stated to have appointed three Election Officers namely Dr. H.C. Gupta, Mr. Ratan Lal Gupta and Mr. Ram Lal Singla. However, since the said members have been nominated by Respondent Nos. 1 & 3 only recently i.e., on 17<sup>th</sup> January, 2021, as also owing to the disputes between various groups within the Society, this Court deems it appropriate to appoint an independent Election Officer for the conduct of the election for Respondent No.1 Society. Accordingly, in

supersession of the order dated 14<sup>th</sup> January, 2021, the following directions are issued:

- (1) Justice (Retd.) S.P. Garg, former judge of this Court, is appointed as the Election Officer for conduct of the election for the Agarwal Welfare Society (Regd.), Ashok Vihar, New Delhi. The Election Officer shall take charge of the election process immediately upon being served with this order.
- (2) The AGM of the Society, which is scheduled to be held shall be conducted under the chairmanship/supervision of the Election Officer.
- (3) The schedule of the election shall be put up in the AGM on 7<sup>th</sup> March, 2021. After the members of the AGM approving the election schedule, the election shall be held on 4<sup>th</sup> April, 2021, as per the procedure laid down by the Election Officer.
- (4) The Election Officer shall draw up a proper electoral roll and prescribe the procedures and rules for conduct of the election of the Society.
- (5) The Election Officer may take assistance of any of the office bearers of the Society, for the purpose of obtaining records of the Society and other details. All office bearers of the Society and Mr. K.K. Bansal shall extend their complete cooperation to the Election Officer.
- (6) The funds of the Society shall only be used for the purpose of running the day-to-day activities of the Society, the hospital and the school. No impermissible withdrawals shall be made by the office bearers. The bank statements shall be submitted to the

Election officer every fortnight.

(7) The expenses for holding the AGM and the election etc. shall be borne by the Society as per the directions issued by the Election Officer.

(8) The Election Officer shall be paid a lumpsum of Rs.5 lakhs for conduct of the AGM and the election, at this stage.

(9) None of the office bearers of the Society or Board shall interfere with the smooth conduct of the AGM and the elections.

13. Let copy of this order be sent to Justice (Retd.) S.P. Garg (M:9910384627) by the Registry. Any directions required for providing security etc. for conduct of the AGM/Election shall be issued by the Election Officer, to the local SHO. If the parties or the Election Officer need any further directions, they are permitted to approach this Court.

14. In view of the notice to show cause issued above, as to why contempt action be not taken, Mr. K.K Bansal, is permitted to file a reply. Mr. Anuj Jain Id. counsel submits that he represents Mr. K.K. Bansal and accepts notice on his behalf.

15. List on 9<sup>th</sup> April 2021, for hearing in respect of the proceedings initiated against Mr. Bansal on 9<sup>th</sup> April, 2021.

**PRATHIBA M. SINGH  
JUDGE**

**JANUARY 28, 2021/dk/Ak**