

IN THE HIGH COURT OF ORISSA AT CUTTACK**WP(C) No.20849 of 2022**

(Through Hybrid mode)

Guru Nanak Public School, Petitioners
Sundargarh and another

Mr. Pradipta Kumar Mohanty, Advocate

-Versus-

Collector-Cum-DM, Sundargarh and Opposite Parties
others

Mr. Manas Ranjan Dhal, Advocate
Mr. Sourendra Kumar Kanungo, Advocate

CORAM: JUSTICE ARINDAM SINHA**ORDER**
01.11.2022**Order No.**

05. 1. Mr. Mohanty, learned senior advocate appears on behalf of petitioners and submits, impugned is order dated 26th July, 2021 made by Additional District Magistrate, Sundargarh in purporting to adjudicate grievance referred by the writ Court on order dated 16th April, 2021 in WP(C) no.13192 of 2021. He submits, thereafter on 21st May, 2021 State amendment by insertion of section in 11A in Societies Registration Act, 1860 was notified. Under the amended provision, in event of any dispute arising among members of the society, any member of the society may file a petition in the Court of Senior Civil Judge having jurisdiction over the place, at which office of the society is situated. This provision removed authority of the Additional District Magistrate, to

adjudicate. Hence, impugned order should be set aside and quashed.

2. He refers to **judgment dated 6th January, 2020** passed by coordinate Bench in **WP(C) no.8886 of 2019 (Sri Guru Singh Sabha v. Additional Registrar of Societies-cum-Additional District Magistrate and others)**. He demonstrates from paragraph-13 therein that his client was found to have been unanimously agreed to be continued as President of the Sabha for period 2017 to 2020, by Annual General Body held on 27th April, 2017. The judgment referred, inter alia, to clause 30(a) of the bye-laws providing that a President of the Sabha would be ex-officio President of the Society, running the school. He then draws attention to letter dated 19th September, 2020 addressed by petitioner no.2 to the Additional District Magistrate-cum-Additional Registrar of Societies informing that Managing Committee of the Sabha for further period of three years till 10th May, 2023 had been nominated with said petitioner as its President.

3. Mr. Dhal, learned advocate appears on behalf of opposite party no.5. He submits, petitioner no.2 has purported to perpetrate control over the Sabha, Society and the school. There has been no election held. This was essentially the dispute referred by order dated 16th April, 2021 made in said writ petition and dealt with by impugned order. Therefore, it was made with due authority of direction made by this Court.

4. He submits further, by the judgment there was reference of the question formulated therein, to larger Bench. There is status quo order of the larger Bench subsisting. In the circumstances this writ petition cannot be proceeded with and should be adjourned to be dealt with after decision in the larger Bench case.

5. Mr. Kanungo, learned advocate appears on behalf of opposite party no.6 and submits, his client made impugned order. Copy of the writ petition was not served.

6. Opposite party no.6 need have no apprehension for being required to answer. Since said opposite party made impugned order, it is best that justification of it by said opposite party is avoided.

7. Direction made on aforesaid order dated 16th April, 2021 in WP(C) no.13192 of 2021 filed by petitioner no.2, was in a situation of absence of any provision regarding the authority or Court to decide such a dispute. Said order was made after said judgment dated 6th January, 2020, by which coordinate Bench had referred the question regarding whether the Additional District Magistrate/Additional Registrar of Societies could adjudicate on such a dispute. However, by said notification dated 21st May, 2021, published prior to impugned order, substantial provision by State amendment was inserted into the Act. In the circumstances, the law now provides that Court of Senior Civil Judge having jurisdiction over the place, at which office of the Society is situated, shall

after making necessary enquiry pass such order as it may deem fit.

8. The only ground of challenge urged against impugned order is operation of the amended provision of law. It does not touch on any other aspect of the adjudication, let alone the merits. In the circumstances, status quo as on date will be maintained, as is being maintained under order of status quo passed in the reference to larger Bench, till 30th November, 2022. Within that time opposite party no.5 and any other person will be at liberty to approach the Court of Senior Civil Judge having jurisdiction with their grievance.

9. The writ petition is disposed of.

(Arindam Sinha)
Judge

RKS

