

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

CWP No.14516 of 2022 (O&M)

Reserved on: 29.07.2022

Date of Decision: 09.08.2022

HANDBALL FEDERATION OF INDIAPetitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Ravinder Malik (Ravi), Advocate and
Mr. A.S. Balyan, Advocate
for the petitioner.

Mr. Lokesh Sinhal, Addl. A.G., Haryana and
Mr. Pankaj Mulwani, DAG, Haryana.

Mr. D.S. Patwalia, Sr. Advocate with
Mr. G.S. Patwalia, Advocate
for the Administrator.

Mr. Vaibhav Narang, Advocate
for respondents No.5 to 8.

Mr. Karun Bansal, Advocate
Mr. Rahul Bansal, Advocate
Ms. Bhavika Bansal, Advocate
for respondent No.11.

RAJ MOHAN SINGH, J.

[1]. Present writ petition has been preferred for the
issuance of an appropriate writ in the nature of certiorari

quashing the impugned order dated 05.07.2022 passed by respondent No.2 whereby order dated 11.11.2021 passed by respondent No.3 has been set aside. Respondent No.2 has directed respondent No.4 to appoint an Arbitrator to conduct the elections of the Governing Body of the petitioner and to manage the affairs for the intervening period.

[2]. Election of the petitioner-Society was held on 01.11.2020. According to the petitioner, an intimation in respect of newly elected body was given to the District Registrar, but the same could not be uploaded on the portal of the Society due to non-functioning of the site. Intimation and list of newly elected Governing Body along with resolution were brought to the notice of District Register of Societies, Rohtak. Respondent No.9 filed a complaint before respondent No.4 against the aforesaid election dated 01.11.2020. Respondent No.4 sought reply from the petitioner. Petitioner filed its reply to the said complaint along with orders passed by the Delhi High Court in WP(C) No.7029 of 2020 and WP(C) No.8530 of 2020 filed by respondent No.9. Vide the aforesaid orders passed by the Delhi High Court, prayers for cancellation of meeting of the Executive Committee dated 27.09.2020 before election, issuance of writ of certiorari to cancel the Annual General Meeting to be held on 31.10.2020 and to restrain the petitioner-Society to conduct

elections etc. were rejected.

[3]. According to the petitioner, respondent No.9 was filing false and frivolous complaints against the petitioner and, therefore, the petitioner-Society approached respondent No.2 on 23.12.2020, raising the issue of filing false complaints by respondent No.9 without any *locus standi*. Petitioner also informed respondent No.2 about the *mala fide* design of respondent No.9 in which petitioner was not allowed to upload the information about the newly elected Governing Body on the website of the Department. Petitioner also submitted a letter dated 14.12.2020 to respondent No.4 which was received in the office of respondent No.4 on 17.12.2020. Petitioner-Society received a letter dated 26.02.2021 from respondent No.4 in respect of complaint filed by respondent No.9, requiring the petitioner to respond in the context of letter dated 22.01.2021, whereby respondent No.3 had directed respondent No.4 to examine and decide the letters dated 28.11.2020 and 18.01.2021 filed by respondent No.9 against the petitioner-Society.

[4]. Petitioner filed CWP No.10079 of 2021 in the High Court. Learned State counsel appeared on the basis of advance notice on 28.06.2021 and submitted before the Court that the complaints dated 28.11.2020 and 18.01.2021 shall be decided

within eight weeks. In view of specific stand of respondent No.4, writ petition was disposed of by directing respondent No.4 to decide the aforesaid complaints within eight weeks in accordance with law. The District Registrar while deciding the aforesaid complaints on 20.08.2021 took notice of following facts:-

“1. That Handball federation of India, Rohtak was registered with the office of the then Registrar of Societies Haryana, Chandigarh vide Registration no.44 of 1972-73 and thereafter re-registration of the said society was got done under HRRS Act 2012 vide reregistration number HR-RTK-2013-00544 dated 31 December 2013.

2. That Sh. Pritpal Singh Saluja has apprised this office vide letter dated 14.12.2020 received by this office on 17.12.2020 that the election of the federation were held on dated 01/11/2020 and the information regarding newly elected governing body cannot be uploaded on the society portal due to none functioning or error and when the site is functioning the same shall be uploaded accordingly and till date no documents have been received by this office on department website.

3. xxxx xxxx xxxx

4. The complainant Dr. SM Bali in his complaint dated 28.11.2020 apprised that HFI has conducted their election on 01.11.2020 at Lucknow and prior to this they had conducted executive committee meeting on dated 27.09.2020 in violation of the byelaws of HFI as for the said meeting agenda was manipulated and in the emergent

executive meeting the issues which were decided were not incorporated in the agenda. He further mentioned that re-registration was got done in 2013 and as per provisions of the act elections were to be conducted every 3 years whereas in the beylaws the term is 4 years but the HFI had not conducted the election. In the said complaint the complainant requested that due to violation of various provisions of the act Administrator be appointed and election conducted on 01.11.2020 be set aside.

5. xxx xxxx xxxx

6. *That it is pertinent to mention here that the maximum terms of governing body of the society should be 3 years as per provisions contained under HRRS Act 2012 and as per record HFI had got their re-registration during December 2013 and in compliance of the guidelines elections were to be conducted in the year 2016 and 2019. It is worthwhile to apprise that under section 33(5) of HRRS Act 2012 it is categorically mentioned that constitution of the governing body appointed or elected for the first time or thereafter shall be valid only upon approval thereof by the District Registrar and its tenure shall commence from the date of its approval whereas in the said case HFI is working at its own.*

7. *That it is submitted that as alleged by the complainant that election have been conducted by the HFI on 1.11.2020 and after conduct of election under section 40 of HRRS Act 2012 settlement of disputes arising from election of collegiums or governing body and its office bearers the powers lies with Registrar and accordingly the election issue do not come under the preview of this office and complainant may file petition with the Registrar as per*

provisions contained under Section 40 of HRRS Act 2012.”

[5]. Ultimately respondent No.4 took the following decision:-

“I. That ceasing of membership of the complainant by HFI is not as per the provisions of the act as principle of natural justice/audi partum has not been followed. However respondent may cease the membership of a member after following due procedure envisaged in the HRRS Act 2012 and complainant may also avail the alternate remedy available to him under section 21 of HRRS Act 2012.

II. The issue of election could not be decided by this office as no election has been submitted to this office by the HFI and moreover after election the appeal lies with the Registrar u/s 40 of HRRS Act 2012 and if complainant is aggrieved he may avail the remedy.

III. Further various violations pertaining to provisions contained under the HRRS Act 2012 in the Byelaws i.e. tenure of governing body etc. the same should be brought in conformity with the provisions of HRRS Act 2012.”

[6]. Learned counsel for the petitioner submitted that the factum of election dated 01.11.2020 by the Governing Body is an admitted fact. The election has attained finality in the absence of any challenge made to the same. Instead of challenging the election, the five persons namely Kuldeep Singh, Gursharan Singh Gill, Khurshid Singh, Jile Singh and Paramvir filed a petition under Section 39(10) of the Haryana Registration and Regulation of Societies, Act 2012 (for short 'the

HRRS Act 2012'). Memo of parties of the complaint would show that Kuldeep Singh, Gursharan Singh Gill and Paramvir are not even members of the petitioner-Society. Khurshid Khan and Jile Singh had already signed the Annual General Meeting dated 01.11.2020 at Serial Nos.26 and 55. Petitioner was allegedly impleaded through respondent No.9, who had already been removed. The aforesaid complaint/petition was filed on the ground that Governing Body of the petitioner-Society has not been approved by the competent authority as required under Section 33(5) of the HRRS Act, 2012 and, therefore, an Administrator was appointed to get the elections of the Society conducted as per law. Respondent No.4 accepted the petition vide order dated 04.10.2021 on the premise that the Governing Body has not been approved under Section 33(5) of the HRRS Act, 2012 and the same cannot run the Society. The election in question has been declared to be of incompetent persons having no legal sanctity. Since the tenure of the petitioner-Society had already expired, therefore, Professor V.B. Luhach (retired) Principal Scientist was appointed as Administrator of the petitioner-Society.

[7]. Petitioner challenged the aforesaid order dated 04.10.2021 in CWP No.20815 of 2021 and the writ petition was dismissed by giving liberty to raise all the pleas before the

appellate authority vide order dated 08.10.2021. Order dated 08.10.2021 was challenged in LPA No.981 of 2021, but the same was dismissed on ground of availability of alternative remedy. Petitioner was relegated to the remedy of appeal and the same was to be decided at the earliest.

[8]. The appeal filed by the petitioner came to be listed before the State Registrar of Societies, Haryana and vide order dated 11.11.2021, the appeal was accepted thereby setting aside the order dated 04.10.2021 passed by the District Registrar. Feeling aggrieved against the aforesaid order, Kuldeep Singh etc. (pvt. respondents) filed an appeal before the Registrar General of Societies along with stay application seeking stay of operation of order dated 11.11.2021 passed by the State Registrar. The Registrar General stayed the operation of order dated 11.11.2021 passed by the State Registrar, operative part of the said order reads as under:-

“... Without commenting on the merit of this case, the election of the governing body held on 01.11.2020 cannot be considered as deemed approved on the basis of letter dated 14.12.2020. So, order dated 11.11.2021 passed by the Ld. State Registrar of societies Haryana is hereby stayed.

The District Registrar is also directed to inquire the veracity of letter dated 14.12.2020 especially keeping in view of the fact that Sh. Preet Pal Singh Saluja (Signatory)

of the said letter has specifically denied regarding submission of the said letter as well as his signature on the said letter. The district registrar shall take appropriate legal action, in case, the letter dated 14.12.2020 is found forged and submit his report within 30 days.”

[9]. Perusal of aforesaid order would show that the District Registrar was obligated to look into the veracity of letter dated 14.12.2020 in view of the fact that the author of the said letter namely Sh. Pritpal Singh Saluja had denied submission of said letter. The District Registrar was directed to take appropriate legal action in the context of letter dated 14.12.2020 and submit his report within 30 days. At that point of time, grievance of the petitioner was that the stay of operation of order dated 11.11.2021 was granted even before concluding the inquiry.

[10]. In CWP No.24164 of 2021, this Court vide order dated 30.11.2021 granted stay of operation of order dated 25.11.2021 till the next date of hearing. It was also observed that respondent No.2 would also be at liberty to dispose of the pending appeal in accordance with law without being influenced by any facts recorded in the order dated 30.11.2021. The aforesaid order dated 30.11.2021 was unsuccessfully assailed by Kuldeep Singh and other in LPA No.1170 of 2021 and the same was disposed of as withdrawn with a liberty to approach the Court again for the redressal of grievance vide order dated

07.12.2021. Thereafter vide order dated 06.04.2022 passed in CWP No.24164 of 2021 interim directions were made to continue till the decision of Registrar General. Listing of inquiry was directed before the State Registrar, who was to conduct inquiry into the veracity of letter dated 14.12.2020 in accordance with law by granting reasonable opportunity of hearing to all the stakeholders. The inquiry was ordered to be listed within a period of three weeks. On conclusion of the inquiry, report was to be placed before the Registrar General and the Registrar General was to consider the same while deciding the appeal on merits. Thereafter the Registrar General has decided the appeal on merits vide order dated 05.07.2022.

[11]. Learned counsel for the petitioner submitted that in view of Section 33(2) of the HRRS Act, 2012, list of elected office bearers was submitted to the District Registrar within the prescribed time and thereafter the District Registrar was under legal obligation to take decision regarding approval or rejection of the constitution of governing body within a period of 30 days of filing the list of office bearers, failing which the constitution of governing body of the society shall be deemed to have been approved. By referring to the proviso to Section 33(5) of the HRRS Act, 2012, learned counsel placed great emphasis on the deemed approval of the governing body and further submitted

that holding of election on 01.11.2020 and deemed approval of the governing body would make the election process complete and thereafter the remedy available to the aggrieved party was only to file an election petition in accordance with law.

[12]. Learned counsel for the petitioner further submitted that in view of Section 72 of the HRRS Act, 2012, if the society fails to comply with any of the requirements of the Act or contravenes any of the provisions thereof, the society in default shall be punishable with fine, as may be prescribed, which may extend to Rs.2000/-, and in case of continuing default, with fine which may extend to Rs.100/- for every day during which the default continues.

[13]. On the other hand, learned State counsel duly assisted by learned counsel for the respondent(s) submitted that holding of election on 01.11.2020 being one of the steps in the schedule of election is an admitted fact, however the alleged list of newly elected governing body was never approved as the same was not submitted by the petitioner in the manner as prescribed under the Act and Rules. Sh. Pritpal Singh Saluja, the alleged signatory of letter dated 14.12.2020 has denied his signature on the said letter and, therefore, the same cannot be presumed to be the list of elected office bearers which was presented before the District Registrar within 30 days of holding of election in the

manner as prescribed under Section 33(2) of the HRRS Act, 2012.

[14]. Learned State counsel further submitted that the letter dated 14.12.2020 allegedly signed by Sh. Pritpal Singh Saluja was not the list of governing body, rather the same was an intimation regarding newly elected governing body which could not be uploaded on the website of society due to non-functioning of the same.

[15]. Learned State counsel further submitted that the State Registrar has submitted inquiry report on 13.05.2022, finding that original letter dated 14.12.2020 has not come on record of the District Registrar. Stakeholders have failed to show the original letter dated 14.12.2020. From the perusal of the record of District Registrar would show that the letter dated 14.12.2020 received on 17.12.2020 in the office of District Registrar is a coloured photostat copy and the original has not been produced. Pritpal Singh Saluja signatory of the alleged letter on affidavit has denied existence of any such letter and signing of original copy of such like in any manner.

[16]. After hearing learned counsel for the parties and after perusing the record, this Court finds that holding of election on 01.11.2020 is not in dispute, however authenticity of letter dated 14.12.2020 is seriously disputed. The author of this letter Sh.

Pritpal Singh Saluja has denied the very existence of this letter in terms of his signature. The original letter dated 14.12.2020 was never produced before the District Registrar. Only a coloured photostat copy was produced. The inquiry was held by the State Registrar of Societies, Haryana and the existence of aforesaid letter dated 14.12.2020 has been negated being a fabricated document.

[17]. In view of aforesaid factual position, it has to be seen whether there is compliance of Sections 33(2) & 33(5) of the HRRS Act, 2012. Section 33(2) of the Act prescribes that the list of elected office bearers has to be submitted to the District Registrar within 30 days of holding of election of the governing body in the manner as prescribed. Deemed approval in terms of Section 33(5) would arise only when list is submitted to the District Registrar as prescribed under the Rules. In the absence of any approval, the governing body cannot be presumed to be in existence. The tenure of governing body will not commence till its approval. The constitution of governing body shall be valid only upon approval by the District Registrar for which the approval has to be sought on the basis of prescribed form.

[18]. According to Rule 19 of the Haryana Registration and Regulation of Societies, Rules 2012, every society shall maintain register showing the names, address and occupation

of the persons elected as office bearers of the governing body in Form No.XVII and shall file a list of elected office bearers/particulars of governing body with the District Registrar within a period of 30 days from the date of election of office bearers as required under clause 1 of Sub-section 4 of Section 33 of the HRRS Act, 2012. According to Rule 19 Sub-Rule 2 every change in the members of the governing body shall be filed with District Registrar in Form No.XVII-A within 30 days from the date of such change as required under Clause 2 of Sub-section 4 of Section 33 of the HRRS Act, 2012. Form No.XVII-A is a prescribed form under the HRRS Act, 2012. the list of elected members of the governing body is to be submitted in the prescribed form. Format as shown in Form No.XVII-A is as under:-

“Form – XVII - A

Change in the Office-bearers and members of the Governing Body of the Society under section 33 (4)(ii) of the Haryana Registration and Regulation of Societies Act, 2012 (See sub-rule (2) of rule 19)

1.	Name of the Society	
2.	Registration. No. and Date	
3.	Registered. Office Address of the Society	
4.	Date of Election of the Governing Body:	
5.	Elections valid Till:	

[19]. The requirements in terms of Sections 33(2), 33(4) and

33(5) of the HRRS Act, 2012 are to be complied with by the petitioner-society in order to complete the process of election. This compliance comes at stage no.2 after holding of election. The constitution of governing body shall be valid only on approval and the tenure of the governing body shall commence from the date of approval. In the absence of mandatory compliance of Sections 33(2), 33(4) and 33(5), the tenure of the governing body has not started. First component of holding of election on 01.11.2020 cannot remain in operation as the same has to be followed by necessary compliance of Sections 33(2), 33(4) and 33(5).

[20]. The submission with regard to Section 72 of the HRRS Act, 2012 would not be attracted as there was no valid formation of governing body. Question of functions to be performed by the governing body would come later on. Since from the very inception, the governing body suffers from a legal error, therefore, governing body never came into existence for want of approval and, therefore, Section 72 of the HRRS Act, 2012 would not attract. The said Section relates to the functions of the society and the formation of governing body did not comply with the legal requirements. Even if holding of election on 01.11.2020 is admitted, the same cannot remain in operation for want of mandatory compliance for approval of the governing

body and in such eventuality, the fresh elections are to be held in accordance with law.

[21]. For the reasons recorded hereinabove, I find no justification to interfere in the present writ petition. The present writ petition is found to be devoid of merits and the same is accordingly dismissed.

August 09, 2022

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No