

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

114

CWP-29532-2022

Date of decision: 21.12.2022

AKHIL BHARITYA RUSTAGI MAHASABHA

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Kunwar Rajan, Advocate,
Mr. Nitin Arora, Advocate and
Mr. D.K. Rustagi, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking issuance of writ in the nature of Certiorari raising a challenge to the order dated 06.07.2022 (Annexure P-31) as well as the order dated 08.07.2022 (Annexure A-32). It is evident that the order dated 06.07.2022 (Annexure P-31) is an order passed under Section 39 of the Haryana Registration & Regulation of Societies Act, 2012 on a petition filed by one Bhagwat Prasad Rustagi. Exercising the jurisdiction under Section 39 (6) and after noticing various grievances espoused by the complainant, the election process was ordered to be kept in abeyance. Simultaneously, vide order dated 08.07.2022 i.e. Annexure P-32 the State Registrar of Societies had recommended to the District Registrar of the Firms and Societies Gurugram that the society in question is a defunct society as per the report received by him and

that the District Registrar is required to take action in accordance with Section 57 of the Haryana Registration and Regulation of Societies Act, 2012.

Counsel for the petitioner contends that the proceedings under Section 57 of the Act have been instituted without affording an opportunity of hearing to the petitioner. It is thus apparent that two different proceedings i.e. one in terms of Section 39 of the Act and the other in terms of Section 57 have been recommended by the District Registrar as well as the State Registrar respectively. Section 79 of the Haryana Registration Regulation of Societies Act, 2012 contemplates the statutory remedy of appeal. As against initiation of proceedings by the District Registrar, an Appellate forum in State Registrar is contemplate while any such recommendation made by the State Registrar which is to the prejudice to the petitioner or to any other person aggrieved, an appeal before the Registrar General is available. The cause of action invariably is independent, distinct and has to be tested on different yardsticks. Merely because they have cascading effect on the outcome of the results of the instant petition, it would not give occasion for merger of cause of action. As the statute provides for statutory remedy of appeal, the filing of the instant writ petition as the Court of first instance would not be appropriate.

In view of the above, learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present petition with liberty to take recourse to the alternative statutory remedy available to him in accordance with law. A prayer is, however, made that a direction to the respondent authorities to take a time bound action be issued so

that the grievance of the petitioner can be redressed expeditiously.

The present petition is accordingly disposed of as withdrawn with liberty to the petitioner to approach the statutory appellate authority. In the event of the petitioner appearing before the said authority, an expeditious decision shall be taken on the said appeals and preferably within a period of 04 months of the appearance of the parties.

(VINOD S. BHARDWAJ)
JUDGE

DECEMBER 21, 2022

Vishal sharma

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