

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

Date of decision:- 25.04.2023

1. LPA-804-2021(O&M)

Rishi Garg and Others

.....Appellants

Versus

State of Haryana and Others

.....Respondents

2. CWP-4412-2021(O&M)

**Sonepat Hindu Educational & Charitable Society,
Sonepat**

....Petitioner

Versus

State of Haryana and Others

....Respondents

3. CWP-7840-2021(O&M)

Bhagwan Gupta

....Petitioner

Versus

State of Haryana and Others

....Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

**Present :- Mr. Chetan Mittal, Senior Advocate with
Mr. Mayank Aggarwal, Advocate,
for the appellants in LPA No.804 of 2021,
and for the petitioner in CWP No.4412 of 2021.**

Mr. Deepak Bhardwaj, DAG, Haryana.

Mr. B.S. Rana, Senior Advocate with
Mr. Harshit Singh, Advocate,
for the petitioner in CWP No.7840 of 2021,
for respondent No.6 in LPA No.804 of 2021,
for respondent No.5 in CWP No.4412 of 2021.

Mr. R.K. Doon, Advocate,
for respondent No.5 in LPA No.804 of 2021.

VIKRAM AGGARWAL, J.

This judgment shall dispose of the aforementioned three cases i.e. LPA-804-2021 titled as Dr. Rishi Garg and Others Vs State of Haryana and Others, CWP-4412-202 titled as Sonapat Hindu Educational & Charitable Society Sonapat Vs State of Haryana and Others and CWP-7840-2021 titled as Bhagwan Gupta Vs State of Haryana and Others.

2. The Letters Patent Appeal challenges the judgment dated 19.07.2021 passed by the Learned Single Bench vide which the writ petition filed by the appellants was disposed of with certain directions to respondent No.2. The writ petition before the Learned Single Bench sought quashing of the order dated 28.01.2021(Annexure P-10), order dated 24.04.2018(Annexure P-8) and order dated 26.09.2017(Annexure P-5).

CWP-4412-2021 challenges order dated 29.01.2021(Annexure P-8), order dated 05.02.2021(Annexure P-13) and order dated 19.02.2021(Annexure P-19).

The third case i.e. CWP-7840-2021 challenges the order dated 28.01.2021(Annexure P-1), to a limited extent that the order holds the Managing Committee of the Society as the competent authority for inducting life members.

3. The litigation pertains to a dispute with regard to induction of 168 persons as life members by the Sonapat Hindu Educational and Charitable Society

Sonepat. The facts shall be taken from CWP-3429-2021(from which LPA-804-2021 arose).

4. The Sonepat Hindu Educational and Charitable Society Sonepat (hereinafter referred to as the Society) is a Society registered under the Haryana Registration and Regulation of Societies Act 2012 (hereinafter referred to as the HRRS Act). It is said to be running a number of educational institutions and has been serving the Society for more than 100 years. It has a maximum membership of 1100 members. As the membership of the society was dwindling due to death of some of its members, the Managing Committee of the Society constituted a Sub-Committee for inducting new members. On 26.05.2013, 168 members which included the petitioners Rishi Garg etc (petitioners in CWP-3429-2021 from which LPA-804-2021 arose). Respondent No. 6 Sh. Bhagwan Gupta filed a petition under Section 21 of the HRRS Act before the District Registrar of Societies (respondent No.4) assailing the grant of life membership to 168 persons. Vide order dated 17.04.2014, the membership was cancelled by respondent No.4 leading to filing of CWP No.8182-2014 by the society. The writ petition was disposed of on 28.07.2017 (Annexure P-4) (reference to annexures hereinafter shall be from CWP-3429-2021) and the matter was remanded to respondent No.4 for a fresh decision as the life members had not been impleaded as parties by respondent No.6.

5. The matter was thereafter heard by respondent No.4 and vide order dated 26.09.2017 (Annexure P-5), the petition filed by respondent No.6 was allowed. It was held that the respondent No.6 had the locus standi to file the petition and the induction of 168 members by the Managing Committee was not in accordance with the provisions of the HRRS Act and the rules. However, it was held that the Managing Committee was valid. This decision was challenged by some members. Respondent No.3, vide order dated 24.04.2018 (Annexure P-8)

partly allowed the appeal and it was held that the Governing Body of the society had the absolute powers to induct new members. However, no specific finding was given on the locus standi of respondent No.6 and also suspended the membership of 168 members directing the Managing Committee to get the membership regularized from the general body.

This order was challenged by both sides by filing different appeals and vide order dated 28.01.2021(Annexure P-10), respondent No.2 partly allowed the appeal filed by Rishi Garg and Others holding that as per Bye laws of the society as well as the HRRS Act, the Managing Committee of the society was the competent authority for inducting life members in the Society. The locus standi of respondent No.6 to challenge the induction of life members was held to be valid. He further suspended the membership of the 168 life members till the time it was approved by the Governing Body.

A clarification application was moved by the society which was also dismissed vide order dated 03.02.2021(Annexure P-12).

The elections of the Managing Committee were notified for 28.01.2021 which were also stayed by respondent No.4 vide its order dated 05.02.2021(Annexure P-13).

6. The writ petition filed by Rishi Garg and Others(CWP-3429-2021) was disposed of by the learned Single Bench holding that instead of making any observations on the orders under challenge, it would be in the interest of justice and the society as also its members to direct the respondent No.2 to call a meeting of the General Body of the Society consisting of members who were there as on or before 27.05.2013/22.07.2012 and sort out the membership issue by taking a decision as per the Bye laws governing the society by adopting the proper procedure and complete the proceedings within a period of three months.

It is this judgment which has been challenged by Rishi Garg and Others (in CWP-3429-2021). The society separately challenged the orders passed by the authorities from time to time and respondent No.6 also filed a separate writ petition challenging the order dated 28.01.2021(Annexure P-10) in CWP-3429-2021 to the limited extent that it held the managing committee of the society as the competent authority for inducting life members.

7. Separate replies were filed by all sides justifying thereown actions and the orders passed by the authorities from time to time. The details of the replies are not being referred as it is basically the validity of the orders which is under challenge with reference to the provisions of the HRRS Act and the Bye laws of the society.

8. Learned Senior counsel, representing the appellants, in LPA No.804-2021 has submitted that the decision of the learned single Bench is not sustainable. It has been argued that the learned single Bench went on a completely different tangent and instead of examining the validity of the orders impugned before it, directed the authorities to decide the question of membership afresh. Reference has been made to Section 21 of the HRRS Act and various orders passed from time to time and an effort has been made to convince this Court that the action of the society in inducting 168 life members was legal and valid as the society was fully empowered to induct life members. Reference has also been made to the Bye laws of the society in this regard. During the course of arguments, learned Senior Counsel Sh. Chetan Mittal has restricted the arguments to the question of the induction of 168 life members by the managing committee and the locus standi of respondent No.6 and other similarly situated persons to challenge such induction of members and the challenge to the vires of the HRRS Act has been given up. In support of his contentions learned counsel has referred to certain judgment i.e.

Smt. Damayanti Narange Vs Union of India and Others, (1971) 1 SCC 678,
Maharashtra Shikshan Mandal Vs State of U.P., 2015 SCC Online All 9227,
Zoorastrian Co-operative Housing Society and Anr. Vs District Registrar, Co-operative Societies, (2005) 5 SCC 632 and Shailesh Kumar Soni Vs State of U.P.,
(Allahabad) 2021(149) ALR 807.

On the other hand learned counsel representing the State of Haryana has tried to justify the orders passed by the authorities from time to time giving reference to the provisions of HRRS Act and the Bye laws of the society.

Sh. B.S. Rana, learned Senior Counsel representing the petitioner Sh. Bhagwan Gupta (petitioner in CWP-7840-2021) has also referred to Section 21 of the HRRS Act and the provisions of the Bye laws from time to time and has contended that the managing committee had no power to induct life members and it merely had the power to make a recommendation for the induction of life members. It has been submitted that the authorities below had rightly held that respondent No.6 had the locus standi to challenge the induction of 168 life members by the managing committee of the society. Learned senior counsel has also referred to the orders passed by the authorities from time to time and has submitted that the order dated 28.01.2021(Annexure P-10) is legal and valid except for the fact that it has wrongly held that the managing committee of the society was authorized to induct life members.

9. We have given our thoughtful consideration to the arguments advanced by learned counsel representing the parties and with their assistance, have also gone through the voluminous pleadings of all three cases as also the judgment dated 19.07.2021 passed by the learned single Bench.

10. Before advertng to the merits of the case, this Court wishes to express its dismay over the manner in which different parties are fighting over the

membership of the society. It is time that the litigating parties realized that the society was constituted for the benefit of the society at large. These kinds of litigations and in fights only lead one to the conclusion that parties are fighting to gain control over the reigns of the society for financial and other benefits. It is sad that such a bitter litigation is going on for the last so many years leading to non-holding of elections and crippling the functioning of the society apart from giving the society a bad name.

11. Section 2(XV) of the HRRS Act defines ‘member’ and lays down that a member means a person who fulfils the eligibility criteria for becoming a member of the society, as specified in the Act and has been admitted as a member of the society in accordance with its Bye laws. Chapter V deals with the membership. Section 14 states that the society shall consists of a minimum of seven members at the time of its registration and it may admit persons as founder members, life members, ordinary members etc. The provision reads as under:-

“Minimum number of members and types of members:- A society shall consist of a minimum seven members at the time of its registration and it may admit persons as founder-members, life members, ordinary members, associate members, tenure members or honorary members, in accordance with the provisions contained in its Bye-laws. A donation shall not create a right in the donor to be admitted as a member of the society.”

Section 16 deals with eligibility conditions for becoming a member and lays down as under:-

“Eligibility conditions for becoming a member:- A person shall be eligible to become a member of society, if he,

- (i) Is 21 years of age on the date of admission;*
- (ii) Subscribes to the aims and objects of the society;*

- (iii) *Has deposited the membership fee as prescribed in the Bye-laws of the society; and*
- (iv) *Is not an insolvent or of unsound mind or have not been convicted of an offence involving moral turpitude, punishable with imprisonment of one year or more.”*

Section 21 deals with settlement of membership disputes and lays down as under:-

“Settlement of membership disputes:- (1) *Where any member claims to have been admitted as a member but not included in the register of members or any member is aggrieved with his removal from the membership of the society, such person may submit a petition to the District Registrar alongwith prescribed fee.*

(2) *The District Registrar may require such person to support his petition with such documentary or other evidence, as may be considered appropriate.*

(3) *Upon receipt of any such petition, the District Registrar shall consider the matter and settle the disputes in accordance with the Bye-laws after giving opportunity of hearing to all concerned.*

(4) *Where the Bye-laws are observed to be silent or lack clarity for addressing the dispute or are inconsistent with the provisions of the Act and the rules made thereunder, the District Registrar shall decide the matter in accordance with the provisions contained in the Act or the rules made thereunder.*

(5) *Where the society has large number of members and it is considered expedient to verify, determine and establish the identity and genuineness of such members, the District Registrar may require all members of the Society to appear before him in person alongwith an acceptable proof of identity and address, as recorded in the registrar of members, within such time and in such manner, as may be prescribed.*

(6) *Where action is taken in accordance with Sub-Section (5) above and certain members do not appear before him inspite of two opportunities granted, the District Registrar shall be competent to strike off the names of such members from the register.”*

12. The society has its Bye laws which are on record as Annexure P-20 with CWP-4412-2021 Part 1 Clause C deals with lifetime member and lays down as under:-

“Lifetime Member:-

- (1) *Any person who is not less than 21 years of age and who has one time donated to the Society Rs. 11000/- in cash or movable or immovable property of Rs. 51,000/- and who has expressed the desire to become a life member, that person can become a life member of the society upon the recommendation of the Managing Committee.*
- (2) *This member shall have the right to caste the vote only after three years from the date of becoming lifetime member of the society in the General body meeting and only after completion of 6 years of membership he shall be eligible to be elected as the Managing Committee of the Society. This rule shall be applicable upon all lifetime members in general, though they have given amount in laks to this institution. But under the present constitution, the members who have since been become members till 31.03.1989 their specific rights and other rights will continue in the same amended constitution as well.”*

Part 2 lays down that all the lifetime members together shall be call the general body. Part 2 (B) and (C) deal with suspension of members and lay down as under:-

“General Body:

- (A)
- (B) *In condition of below mentioned situation any lifetime member can be suspended by the Managing*

Committee after giving notice for a certain period of time, but this suspension will be done only after servicing show cause notice to such member, whereas:

1. *If he is declared bankrupt or declares himself/herself as bankrupt.*
2. *If he/she is punished by the Hon'ble Court due to Moral Turpitude.*
3. *If he/she filed a law suit against the Society before the Hon'ble Court in any scenario.*

(C) 1. *This suspension of the said member will be considered from the day on which the Management-committee passes a resolution to this intent.*

2. *After suspension as per situation the Managing Committee also issue Show Cause notice to him. And if his clarification is not deemed as satisfactory then upon the recommendation of the Managing Committee, General Body in its meeting with the majority of 3/4 members present can also cancel the membership of such member."*

13. Now we shall examine as to whether, the decision of the managing committee to induct lifetime members on the recommendation of the sub-committee from which all disputes originated was legally valid or not. The provisions of the Bye laws clearly show that lifetime members can be inducted by the managing committee. No doubt the word 'recommendation' has been used but there is no subsequent provision for ratification by the general body. With regard to suspension also, the power is with the managing committee but with regard to the cancellation of the membership of a life member, the power is with the general body. The provisions, therefore, clearly show that the managing committee has the power to induct life members.

The next question which would arise would be whether this power was exercised by the managing committee in a judicious manner or not. The answer to the said question is in the negative. First of all, the managing committee appointed a sub-committee. The recommendations of the sub-committee have not seen the light of the day. Further, the decision to induct the wards of previous life members as life members is riddled with unfairness and shows a feudalistic approach, as has rightly been held by the learned single Bench. Applications should have been invited from one and all in accordance with the provisions of the HRRS Act and the Bye laws and all those who were eligible to become life members should have been granted an opportunity and thereafter a decision should have been taken by the managing committee in a transparent manner. The wards of pre-deceased life members had no special right to be inducted as life members and it was not laid down anywhere in the Act or in Bye laws. This action of the managing committee in inducting 168 wards of pre deceased life members as life members is clearly arbitrary and cannot be sustained. Respondent No.2 also therefore rightly suspended the membership of these members vide impugned order dated 28.01.2021(Annexure P-10).

14. Insofar as the locus standi of respondent No.6 to challenge the induction of members or the locus standi of any other similarly situated person to lay such a challenge is concerned, there is no specific provision with regard to the same. Insofar as respondent No.6 is concerned, in the first round of litigation, this Court had directed the authorities below to hear both side and then take a decision which was relied upon by the authorities below while coming to the conclusion that respondent No.6 duly had the locus standi to challenge the induction of life members. No fault can be found with this as well. Even otherwise, any illegal Act by a managing committee should be open to challenge before the competent authorities by any person genuinely interested in the functioning of the society and

the question of locus would be decided from case to case and no hard and fast formula can be laid down for the same. The locus of course would be dependent upon the provisions of the HRRS Act and the Bye laws of the society.

15. The aforesaid conclusions that we have arrived at were also arrived at by the learned single Bench after discussing the stands of all the sides. We do not therefore find any infirmity in the findings arrived at by the learned single Bench and the directions given in consequence of the said findings arrived . After all, the society is being run for the benefit of the public at large and therefore its functioning should be as transparent as possible.

16. We have gone through the judgments relied upon by the learned counsel for the appellants. The judgment of the hon'ble Apex Court in the case of **Smt. Damyanti Naranga Vs Union of India and Others (supra)** deals with the restrictions that can be imposed upon a registered society, what constitutes its freedom etc. This judgment would not help the appellants in view of the categoric provisions of the HRRS Act and the Bye laws of the society which have been referred to in the preceding paragraphs. In the judgment of **Maharashtra Shikshan Mandal Vs State of U.P. (supra)**, the Allahabad High Court was dealing with a dispute with regard to membership of the society therein. While relying upon the judgment in **Damyanti Naranga Case**, the Allahabad High Court held that no one could compel the society to make members against its wishes or against the wishes of those members, who had informed the society or were running it. This judgment would again not come to the aid of the appellants in view of the specific provisions referred to in the preceding paragraphs. In the case of **Zoorastrian Co-operative Housing Society Limited and Another(supra)** also, the rights of an association and a society were discussed, and with regard to the membership, it was held that the societies were

free to take their own decisions as per their Bye laws or the rules. This judgment again would not help the appellants as it has been held by this Court that the action of inducting 168 life members, though within the domain of the managing committee, was not legally valid as the same was not done in a transparent manner or in accordance with law.

17. In view of the aforementioned facts and circumstances, we do not find any reason to interfere in the judgment of the learned single Bench and accordingly dismiss the Letters Patent Appeal No. 804-2021 titled as Rishi Garg and Others Vs State of Haryana and Others. The two writ petitions that is CWP-4412-2021 titled as Sonapat Hindu Educational & Charitable Society, Sonapat Vs State of Haryana and Others and CWP-7840-2021 titled as Bhagwan Gupta Vs State of Haryana and Others also stand disposed of in terms of the findings recorded in the preceding paragraphs.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

25.04.2023
himanshu

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