

2023:PHHC:132630

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22891-2023 (O&M)
Date of Decision:-10.10.2023

Singh Raj and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Surender Singh Dalal, Advocate for the petitioners.

GURVINDER SINGH GILL, J.

1. The petitioners seek quashing of order dated 26.9.2023 (Annexure P-11) vide which the Assistant Registrar, Cooperative Societies, Faridabad, while declaring the election of the Managing Committee of the Everwell Cooperative Group Housing Society Limited, Faridabad which had been held on 22.5.2022, to be invalid, further appointed Shri Parmod Kumar, Inspector Cooperative Societies, Faridabad as the Presiding Officer for conducting election of the Managing Committee of the Society.
2. The petitioners claimed that they had been elected as members of the Managing Committee of the Society pursuant to election held on 18.1.2017 for a period of 5 years i.e. upto 18.1.2022. As per the mandate of the Act i.e. Section 28(3) of the Haryana Cooperative Societies Act, 1984, the outgoing Committee is required to arrange for the elections of the Committee before

expiry of its term. Section 28(3) of the Haryana Cooperative Societies Act, 1984 reads as under:

“28. Election and tenure of committees-

xxxx xxxx xxxx

(3) The committee of each society shall, before the expiry of the term of its committee arrange for the election of a committee in accordance with its byelaws failing which the Registrar shall arrange to hold such elections within a period of ninety days after the expiry of the term of the committee at the cost of the society and the elected members of the outgoing committee shall be debarred from contesting the elections of the committee of any co-operative society for a period of five years from the date of the expiry of the term of the outgoing committee:

Provided that no such order shall be passed by the Registrar unless an opportunity of being heard has been given.”

3. It is the case of the petitioners that on account of onset of pandemic COVID-19, the election which had been scheduled to be held by 30.6.2021 could not be held and was deferred in tune with various directives issued by the Government of India from time to time pertaining to precautions and measures to be taken and that ultimately it was vide D.O. letter dated 22.3.2022 (Annexure P-4), strict measures were relaxed. Consequently, vide letter dated 5.5.2022, the Assistant Registrar, Cooperative Societies, Faridabad directed the Inspector, Cooperative Societies, Faridabad to take necessary steps for conducting election of the Managing Committee. Pursuant thereto, the Inspector, Cooperative Societies, Faridabad-II issued a Memo dated 5.5.2022 (Annexure P-6) intimating all the members of the Society that the election of the Managing Committee would be held on 22.5.2022.

4. However, on the day of election i.e. on 22.5.2022, the Inspector (Election Officer), Cooperative Societies, Faridabad did not appear and telephonically informed the members about being indisposed and having been admitted in hospital and expressed his inability to reach at the venue of election. The said facts were specifically recorded in the Proceeding Book (Annexure P-7) on 22.5.2022. It is further recorded in the Proceeding Book in proceedings dated 22.5.2022 that after having waited for the Inspector (Election Officer), the members present in the meeting themselves nominated one member namely Manphool Singh for conducting the election process and that in his supervision, the following members of the Managing Committee were elected unanimously :-

- (i) Singh Raj
- (ii) Rakesh Gupta
- (iii) Raju Aggarwal
- (iv) Indu Jain and
- (v) Yogesh Gupta

5. It is further the case of the petitioners that on the same day itself, an intimation with regard to the aforesaid election was conveyed to the Assistant Registrar, Cooperative Societies, Faridabad vide letter dated 22.5.2022 (Annexure P-8).
6. It may here be mentioned that on 17.5.2022, Vinod Panwar submitted a complaint to the office of the Assistant Registrar, Cooperative Societies, Faridabad alleging therein that the members of the earlier Committee despite expiry of their term on 17.1.2022 had continued to conduct transactions and requested that a special audit be conducted and that the said members be debarred from election. Pursuant to receipt of said complaint, the same was

examined and the Assistant Registrar, Cooperative Societies, Faridabad passed order dated 30.5.2022 debarring the petitioners from contesting elections for the next 5 years and it was further directed that Administrator may be appointed for conducting fresh elections. The petitioners challenged the aforesaid order for debarring the petitioners in this Court by way of filing CWP No. 14003 of 2022 wherein the following order was passed on 6.7.2022 :-

“ Learned counsel for the petitioners argues that the petitioners have been debarred from contesting the elections only on the ground that fresh elections were not held within the prescribed time. Learned counsel submits that order passed by the respondents debarring the petitioners from contesting the elections is beyond their jurisdiction.

Notice of motion for 24.08.2022.

Mr. Raman Kumar Sharma, Additional Advocate General, Haryana accepts notice on behalf of the respondent-State and seeks time to file reply.

The operation of the impugned order dated 30.05.2022 (Annexure P-10) shall remain stayed till the next date of hearing.”

7. It was subsequently that the impugned order dated 26.9.2023 (Annexure P-11) came to be passed vide which the learned Assistant Registrar, Cooperative Societies, Faridabad, while noticing the irregularities in the conduct of election, declared the election of the Managing Committee held on 22.5.2022 to be invalid and further appointed Shri Parmod Kumar, Inspector, Cooperative Societies as Presiding Officer for conduct of election.
8. Pursuant to the aforesaid order dated 26.9.2023 (Annexure P-11), the Inspector, Cooperative Societies in compliance of said order dated 26.9.2023 (Annexure P-11) issued an Agenda for the General Body Meeting to be

convened on 15.10.2023. The said order has also been challenged by the petitioners.

9. The learned counsel representing the petitioners submitted that since the order dated 30.5.2022 (Annexure P-10) passed by the Assistant Registrar, Cooperative Societies, Faridabad debarring the petitioners from contesting election is already under challenge and the said order has been stayed, therefore, the impugned order dated 26.9.2023 (Annexure P-11) could not have been passed and that the Assistant Registrar, Cooperative Societies, Faridabad was not competent to have set aside the election of the Managing Committee. It has further been submitted that in any case it is only pursuant to the decision of CWP No. 14003 of 2022 that fresh election could be conducted.
10. This Court has considered the aforesaid submissions.
11. A perusal of the impugned order dated 26.9.2023 (Annexure P-11) and the admitted facts, as discerned from the petition clearly show that the election allegedly conducted on 22.5.2022 in the absence of the Presiding Officer who had been nominated by the Assistant Registrar, Cooperative Societies, Faridabad to conduct the election falls grossly short of the touchstone of propriety and legality. The said Presiding Officer could not be present on account of his illness. Under these circumstances, the members on their own could not have proceeded ahead to appoint someone else to supervise the election. No sanctity can be attached to any such election. As such, this Court does not find any infirmity in the said order dated 26.9.2023 (Annexure P-11) and the same is upheld.

12. Since the impugned order dated 30.5.2022 (Annexure P-10) debarring the petitioners for contesting election is stated to have been stayed by this Court in another writ petition i.e. CWP No. 14003 of 2022, it shall be open to the petitioners to participate in the election process subject to outcome of the writ petition, which is stated to be already pending provided there is no order to the contrary passed in the other writ petition, and provided the same is otherwise permissible under the rules.
13. The petition stands disposed off accordingly.

10.10.2023

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No