

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

107+266

CWP-27851-2022 (O&M).
Date of Decision: 12.04.2023.

VAISH EDUCATION SOCIETY (REGD.) SAMALKHA

.. Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Pawan Kumar, Sr. Advocate, with
Ms. Vidushi Kumar, Advocate,
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana,
for respondents No.1 to 6.

Mr. Akshay Kumar Jindal, Advocate,
for respondent No.7.

VINOD S. BHARDWAJ, J. (ORAL)

The instant writ petition has been filed for seeking quashing of the order dated 11.11.2022 (Annexure P-15) passed by respondent No.2 i.e. The Additional Secretary to Government of Haryana, Industries and Commerce Department, Haryana as well as the letter dated 21.11.2022 (Annexure P-16) sent by respondent No.4-the District Registrar, Firms and Societies, Panipat, on the grounds of being arbitrary, perverse and having

been passed without affording an opportunity of hearing to the petitioner-Society.

Learned Senior counsel appearing for the petitioner contends that the petitioner-Vaish Education Society (Regd.) runs as many as four aided/unaided Institutes (Schools/Colleges) namely Vaish Kanya Mahavidyalya (Vaish Girls PG College); Vaish Girls Senior Secondary School; Vaish Boys Senior Secondary School; and Maharaja Agarsen Public School. All these Institutes are being run under the Umbrella Body of the petitioner-Society. He contends that election to the Governing Body of “Vaish Girls PG College Samalkha” had been conducted. One Neeraj Goyal, member of the Collegium of the Society, submitted a complaint against the said election to the Registrar, Firms and Societies, Haryana. A separate petition challenging the election of the Governing Body of the said Institute was also preferred before the District Registrar. However, the objection to the election of the Vaish Education Society, was dismissed by the District Registrar vide order dated 19.09.2022 on being barred by limitation.

He contends that in order to bypass the applicable statutory remedies against dismissal of the petitions, the District Registrar, Firms and Societies, forwarded a recommendation under Section 68 (1) (ii) and (v) of the Haryana Registration and Regulations of Societies Act, 2012, for appointment of an Administrator on the pretext of the resignation of 167 out of 279 collegium members. Based on the aforesaid recommendation, the Additional Chief Secretary, Department of Industries and Commerce, Haryana, appointed the Deputy Commissioner, Panipat as Administrator of the Vaish Education Society vide order dated 11.11.2022 (Annexure P-15).

A subsequent clarification was also issued by the District Registrar, Firms and Societies, based upon the orders passed by the Additional Chief Secretary, Department of Industries and Commerce, Haryana on 21.11.2022 (Annexure P-16) which is also impugned herein.

Feeling aggrieved, the petitioner-Society has preferred the instant writ petition wherein notice of motion had been issued.

Learned counsel appearing on behalf of respondent No.7 contends that there is no necessity of filing any separate reply on behalf of the said respondent.

Learned Senior counsel for the petitioner-Society submits that the Additional Chief Secretary, Department of Industries and Commerce has exceeded his authority and jurisdiction by appointing an Administrator to run the affairs of the petitioner-Society and to conduct fresh elections thereafter. He contends that there was no such dispute brought before the Additional Chief Secretary, Department of Industries and Commerce and that the dispute pertained only to the election of the Managing Committee/Governing Body of the 'Vaish Girls PG College, Samalkha.' He contends that the provisions of the Haryana Private Educational Institutions (Taking over of Management) Act, 1978 would instead have been the governing Statute in the event of any dispute being raised qua the Governing Body of an Institution and that the dispute qua the petitioner-Society had never been agitated before the Government/Additional Chief Secretary, Department of Industries and Commerce. He further contends that the petitioner-Society as well as the Institutions being separate entities are governed by separate provisions and that the said aspect has not been

taken into consideration by the respondents while passing the impugned orders.

Learned counsel for respondent No.7, opposes the contention of the petitioners on merits and he, however, fairly concedes that the impugned order dated 11.11.2022 (Annexure P-15) passed by the Additional Chief Secretary, Department of Industries and Commerce, Haryana, has been passed without affording an opportunity of hearing. He further contends that the issues as are being raised by the petitioner-Society may be kept open for an appropriate adjudication by the Competent Authority. He submits that he would have no objection in case the order passed by the Additional Chief Secretary, Department of Industries and Commerce, is set aside and the parties are relegated to appear before the Additional Chief Secretary, Department of Industries and Commerce and for a fresh order to be passed after affording an opportunity of hearing to all concerned parties.

Learned State counsel appearing on behalf of respondents No.1 to 6 also has no objection to the aforesaid offer made on behalf of respondent No.7.

Learned Senior counsel for the petitioner-Society, however, adds on to the submissions by contending that the Secretary was required to give a show cause notice before an order is passed.

I have heard the learned counsel appearing for the respective parties and have also gone through the record of the case with their able assistance.

Challenge in the present case is to the order dated 11.11.2022

on factual and legal aspects. Counsel for the respondents have fairly

conceded to the impugned order being set aside and for relegating the parties to the said Authority for fresh adjudication after granting an opportunity of hearing. Counsel for the parties do not dispute that all such issues can be examined by the Authority as well.

Since the object of affording a show cause is to afford an opportunity of hearing, hence, the requirement being to inform a party about a proposed action, the aforesaid objection is seemingly technical.

Accordingly, while keeping all questions regarding the jurisdiction; the legal objection raised by the petitioner-Society; and other submissions qua the scope of applicability of the Haryana Private Educational Institutions (Taking over of Management) Act, 1978 as well as Haryana Registration and Regulations of Societies Act, 2012, open, the impugned order dated 11.11.2022 (Annexure P-15) passed by respondent No.2 as well as the clarification dated 21.11.2022 (Annexure P-16) passed by respondent No.4, are set aside.

It is further directed that the parties shall appear before Additional Chief Secretary, Department of Industries and Commerce, Haryana on 11.05.2023 whereupon further proceedings shall be initiated/concluded by the Additional Chief Secretary, Department of Industries and Commerce, Haryana, in accordance with law, after affording an opportunity of hearing to the respective parties. The necessary orders may be passed in a time bound manner and preferably within a period of 03 months from the date of appearing before the Additional Chief Secretary, Department of Industries and Commerce, Haryana.

The petition accordingly stands allowed.

Pending misc. application seeking vacation of stay shall also stand disposed of accordingly.

April 12, 2023
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(VINOD S. BHARDWAJ)
JUDGE

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