

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2330/2022 & CM APPL. 6732/2022, 20617/2022,
35358/2022, 40355/2022**

Date of Decision: 17.03.2023

IN THE MATTER OF:

MR. MUKESH KUMAR GOMBAR

M/S. KANU OVERSEAS,
A-247/3, MA HIPALPUR EXTENSION,
DELHI-GURGAON ROAD, NH-8
NEW DELHI.

..... PETITIONER NO. 1

MR. MOHAMMAD WASIF ANSARI

M/S. TEPPICH-DE-ORIENTA,
NAYA BAZAR ROAD,
BHADOHI-221401,
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 2

MR. ASLAM MAHBOOB

M/S. ALAM RUGS,
HANEEF VILLA, STATION ROAD,
BHADOHI-221401
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 3

MR. DARPAN BARANWAL

M/S DESIGNS VIEW,
HOUSE NO. 188, STATION ROAD,
BEHIND POLICE STATION,
BHADOHI-221401,
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 4

MR. FEROZE WAZIRI

M/S. WAZIRI BROTHERS,
NAYA BAZAR ROAD,
BHADOHI-221409,
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 5

MR. IMTIAZ AHMAD

M/S. TEXTICO,
STATION ROAD,
BHADOHI-221401,
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 6

MR. RAM DARSHAN SHARMA

M/S.MAYA TRADES,
32 HARI NAGAR, MINTO ROAD,
RAJPUR,
AGRA-282001 (U.P.)

..... PETITIONER NO. 7

MR. ROHIT GUPTA

M/S.GALLERY,
AURAI ROAD,
BHADOHI-221401,
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 8

MR. SHREE RAM MAURYA

M/S.LDEALLMPEX,
RAJ NAGAR, G.T. ROAD,
GOPIGANJ-221303,
DISTT. BHADOHI (U.P.)

..... PETITIONER NO. 9

MR. GULARN NABI BHAT

M/S. UMAR CARPET FACTORY,
BHAT MANZIL, GUZARBAL,
CHATTABAL,
SRINAGAR-190010 (J&K)

..... PETITIONER NO. 10

MR. SHEIKH ASHIQ ALUNAD

M/S. FEROZSON EXPORTS PVT LTD.,
90 FT.ROAD,AHMAD NAGAR EXT.,
NEAR MASJID TAQWA,
SRINAGAR-190001 (J&K).

..... PETITIONER NO. 11

MR. BODH RAJ MALHOTRA

M/S. RUGS OVERSEAS,
M-70, LADO SARAI, M.B. ROAD,
NEW DELHI-110030

..... PETITIONER NO. 12

MR. MAHAVIR PRATAP SHARMA

M/S. OSCAR EXPO DESIGN LLP,
15, RED KRISHNA HOUSE,
GOVIND BARI, BRAHAMPURI,
JAIPUR-302002 (RAJASTHAN).

..... PETITIONER NO. 13

MR. ANIL KUMAR SINGH

M/S. RAJPUT CARPETS
GOPALDAS ROAD, MUZAFFARGANJ
MIRZAPUR 231001

..... PETITIONER NO. 14

MR. KULDEEP RAJ WATTAL

M/S. BAZAZ ORIENT TEPPICHE
G-23, SURAJPUR INDUSTRIAL AREA
SITE IV
GREATER NO IDA 201306

..... PETITIONER NO. 15

Through: Ms.Neha Gupta and Mr.Swati
Rana, Advocates.

Versus

DEVELOPMENT COMMISSIONER (HANDICRAFTS)

0/O THE DEVELOPMENT COMMISSIONER
OF HANDICRAFTS, MINISTRY OF TEXTILES
WEST BLOCK NO. 7, R.K. PURAM
SECTOR- I, NEW DELHI 110066

.... RESPONDENT NO.1

UNION OF INDIA

THROUGH THE SECRETARY
MINISTRY OF TEXTILES
UDYOG BHAWAN,
DR. MAULANA AZAD ROAD
NEW DELHI- 110001

.... RESPONDENT NO.2

CARPET EXPORT PROMOTION COUNCIL (CEPC)

THROUGH ITS EXECUTIVE DIRECTOR CUM SECRETARY
RAJIV GANDHI HANDICRAFTS BHAWAN
2ND FLOOR, BABA KHARAK SINGH MARG
NEW DELHI- 110001

.... RESPONDENT NO.3

JAGMOHAN

THE THEN RETURNING OFFICER
CARPET EXPORT PROMOTION COUNCIL
RAJIV GANDHI HANDICRAFTS BHAWAN
2ND FLOOR, BABA KHARAK SINGH MARG
NEW DELHI- 110001

.... RESPONDENT NO.4

MR. ONKAR NATH MISRA

MEMBER, ELECTION COMMITTEE
CARPET EXPORT PROMOTION COUNCIL,
M/S. RESHMA CARPETS,
GOPIGANJ, DISTT. BHADOHI (U.P.)

.... RESPONDENT No.5/PROFORMA PARTY

Mr. PRAKASH MANI SHARMA

MEMBER, ELECTION COMMITTEE
CARPET EXPORT PROMOTION COUNCIL
M/S. CARPET WEAVERS (INDIA),
P.B. NO. 138, GYANPUR ROAD,
BHADOHI-221401, DISTT. BHADOHI (U.P.)

.... RESPONDENT No.6 / PROFORMA PARTY

Mr. DEEPTANSU HALDAR

MEMBER/OBSERVER
(DEPUTED BY O/O THE DEVELOPMENT COMMISSIONER)
ELECTION COMMITTEE
CARPET EXPORT PROMOTION COUNCIL
WEST BLOCK NO. VII, R.K. PURAM,
NEW DELHI-110066. RESPONDENT No.7/PROFORMA PARTY

MR. SANJAY KUMAR GUPTA

M/S GLOBAL OVERSEAS,
KHARHATTI MOHAL,GOPIGANJ,
DISTT. BHADOHI (U.P.)

.... RESPONDENT NO.8

MR. UMESH KUMAR SHUKLA

M/S. SHUKLA BROTHERS,
12,DEV PURA, RAJASTHAN INTER COLLEGE ROAD,
MIRZAPUR (U.P.)

.... RESPONDENT NO.9

MR. ASHOK AGARWAL

M/S. SHRI GANESH CARPETS
PLOT NO.201,RISAL GARDEN,
NANGLOI,NAJAFGARH,ROAD,
DELHI-11 0041.

.... RESPONDENT NO.10

MR. ABDUL SATTAR ANSARI

M/S. S. INTERNATIONAL
REWARA PARASPUR,
CHA URI ROAD,
BHADOHI-221401, DISTT. BHADOHI (U.P.)

.... RESPONDENT NO.11

MR. JITENDRA KUMAR GUPTA

M/S. ARVIND EXPORTS,
CIVIL LINES, PAKARI,
BHADOHI-221401, (U.P.)

.... RESPONDENT NO.12

MR. MOHSIN ALI ANSARI

M/S. IVORY RUG CREATION,
NAYA BAZAR, BHADOHI-221409,
DISTT. BHADOHI (U.P.)

.... RESPONDENT NO.13

MR. RASHID QAMAR ANSARI

M/S. KAY INTERNATIONAL,
STATION ROAD, BHADOHI-221401,
DISTT, BHADOHI (U.P.)

.... RESPONDENT NO. 14

Through: Mr. Anurag Ahluwalia, CGSC for R-2.
Mr. Raman Kapur, Sr. Advocate and
Mr. Varun Kapur, Advocates for R-3 &
4.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India challenging the impugned order dated 31.01.2023,

passed by the Office of the Development Commissioner (HANDICRAFTS) i.e. respondent No.1 herein (in short 'DC'), declaring the announcement of the election result dated 10.09.2021 as null and void.

2. The brief facts of the case are that the elections for 17 members of the Committee of Administration (COA) of respondent No.3-the Carpet Export Promotion Council (in short 'CEPC') were conducted in the month of September, 2021. The election result was declared on 10.09.2021. Aggrieved by the result of the election, the defeated contestants filed a complaint to respondent No.3-CEPC and subsequently an appeal to respondent No.1-DC, with regard to the e-voting process of the elections.

3. The petitioners' grievance is that by the impugned order, the DC declared the election null and void on the ground that the late fee was not deposited and the Chartered Accountant(CA) Certificates were not furnished, which had earlier been waived. He submits that both the requirements are non-essential.

4. It is pertinent to note that in pursuance of the election process, 17 members were elected. Since their elections have been set aside therefore, 15 members of them have filed the instant petition.

5. The principal argument advanced by the learned counsel appearing on behalf of the petitioners is that the impugned order suffers with material illegality, in as much as, the petitioners were not heard before passing of the impugned order.

6. The petitioners state that at the instance of complainants *Mr. Sanjay Kumar Gupta* and others, the case was registered in the office of respondent No.1-DC. The said authority in terms of the impugned order

dated 31.01.2023, set aside the election. She states that for various reasons, the grounds for setting aside the election of 17 members is improper. According to her, the requirement of submission of the late fees itself was waived and secondly, the requirement of CA Certificate was not necessary on account of certain relaxation given due to Covid-19 pandemic. She, therefore, states that had the petitioners been heard, the impugned conclusion would not have been arrived at.

7. Learned counsel appearing on behalf of the original complainants vehemently opposed the submissions made by the learned counsel appearing on behalf of the petitioners and they state that there are various reasons as to why the instant petition should not be entertained. According to them, two-thirds of the members of the COA are to retire by the subsequent Annual General Meeting. They submit that the late fee was never waived and the requirement of submissions of the certificate of the CA also remain intact. They, therefore, submit that the impugned order has correctly been passed by the respondent No.1/DC and no prejudice is caused to the petitioners. According to them, notwithstanding the fact that the petitioners are not personally heard but respondent No. 3 and 4, which is the CEPC and the Returning Officer respectively, were very much heard. According to them, no hearing to the members was necessary, when the Returning Officer was already heard by the concerned authority. They, therefore, state that on account of not hearing the present petitioners no prejudice is caused, therefore, no interference is called for.

8. I have heard learned counsel appearing on behalf of the parties and perused the record.

9. A perusal of the impugned order clearly reveals that certain

findings have been recorded with respect to eligibility / ineligibility to cast vote in the election of the members of the respondent No.3-CEPC. The relevant portion of the impugned order dated 31.01.2023 is reproduced as under:

Conclusion -

In view of the above statements and facts, it is concluded that:

1) Late fee and CA certificate was not taken from members.

2) Provision contained in Article 15 of Articles of Association regarding late fee, para 3(A)(IX) of Election Rule regarding dues on any account whatsoever and CEPC circular No. CEPC/ELE-2020-21 dated 5th July, 2021 for election regarding dues and CA certificate have been violated.

3) Inclusion of members as valid voters without following the Articles of Association, Election rules and Council's Election 2021 circular dated 5th July 2021 has been done with malafide intentions.

Keeping in view of the violations of article of association and the election rules, the election result announced on 10.09.2021 is declared null and void.

The council is directed to conduct a fresh election for 18 COA members of the council at the earliest.

10. The petitioners are admittedly declared as elected members pursuant to the election process. The impugned order sets aside the election which has already been conducted. The impugned order therefore, is undoubtedly causing prejudice to the petitioners as their vested rights are infringed. It is seen that respondent No.1/DC could not have proceeded to declare the election as null and void without hearing the elected members.

11. It is settled law that any order which would have civil consequences cannot be passed unless the party concerned is heard.

12. It is also noticed that the instant case is not a situation where only one conclusion is possible. In the instant case, the non adherence to the

principles of natural justice in itself prejudiced the petitioners.

13. In view of the aforesaid, the impugned order is set aside. The matter is remitted back to respondent No.1/DC. The complainant is at liberty to implead the elected members. The respondent No.1/DC thereafter, would be at liberty to proceed in accordance with law and pass appropriate orders, after hearing all concerned including the elected members. Needless to say that this court has not expressed any opinion on the merits of the case.

14. Accordingly, the instant petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

MARCH 17, 2023/MJ



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