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

Date of Decision: 16th January, 2023

+ **W.P.(C) 3381/2020**

SH. ANURAG SHARMA & ORS. Petitioners
Through: Mr. Rajeshwar K. Gupta, Advocate
(M:9873576770).
versus

THE GOVT OF NCT OF DELHI & ORS. Respondents
Through: Mr. Shadan Farasat, ASC, GNCTD
with Mr. Shourya Dasgupta,
Advocate. (M:7524814779)
Mr. Manmeet Singh Arora and Ms.
Jasbir Kaur, Advocates for R-3 to R-
10. (M:9811014972)
Mr. Vikas Gupta, and Mr. Sohil
Sharma, Advocates for R-11 'DDA'
(M:7060079384).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioners, who are the members of ITD Homes Welfare Society (*hereinafter, "ITD Society"*), have filed the present petition against the Respondents i.e. the Govt. of NCT of Delhi (GNCTD) - Registrar of Societies, the Commissioner - Delhi Police, Delhi Development Authority (DDA), the ITD Society and, various office bearers of the ITD Society
3. The reliefs sought in this petition are as under:

"a) issue an appropriate writ, order or direction in the nature of quo-warranto or certiorari or mandamus or any other appropriate writ, order or

direction in the nature of case thereby directing the respondent No. 1 for winding up the illegally & unconstitutional society i.e. the respondent No. 3 namely "ITD Homes Welfare

Society" which was registered with it under the Societies Registration Act XXI of 1860, vide registration No. S/1671/SDM/NW/2013 on 18.06.2013, contrary to the provisions of Section 20 of the said Act;

b) issue an appropriate writ, order or direction in the nature of quo-warranto or certiorari or mandamus or any other appropriate writ, order or direction in the nature of case thereby directing the respondent No. 1 that after taking steps for winding up the respondent No. 3 Society, the amount deposited by the petitioners be returned to them;

c) issue an appropriate writ, order or direction in the nature of quo-warranto or certiorari or mandamus or any other appropriate writ, order or direction in the nature of case thereby directing the respondent No. 2 to investigate into the criminal cases & FIR No. 61/2019 registered with it and prosecute against the respondent No. 4 to 10 and all other persons involved in the illegal activities, in a time bound manner;

d) issue an appropriate writ, order or direction in the nature of quo-warranto or certiorari or mandamus or any other appropriate writ, order or direction in the nature of case thereby directing the respondent Nos. 1 & 2 to place the action taken reports before this Hon'ble Court for kind perusal and to pass further necessary orders & directions as may be required in the circumstances of the case from time to time; AND

e) pass such other and further orders in favour of the petitioner and against the respondents as may be deemed necessary in the facts and circumstances of the case."

4. The case of the Petitioners is that the ITD Society has been incorrectly

registered under the Societies Registration Act, 1860 though it is a cooperative group housing society. It could have at best been registered under the Delhi Cooperative Societies Act, 2003. Further, it is submitted that there is large-scale mismanagement in the said society. The Petitioners on 5th August, 2019 filed a complaint against the ITD Society before the Registrar of Societies. However, it is submitted by the Petitioners that no action has been taken any action till date.

5. A specific question was raised, as recorded in the order dated 14th January, 2021 passed by this Court, as to how the present writ petition would be maintainable. Today, Mr. Gupta Id. Counsel for the Petitioner has pointed out that in the counter affidavit filed on behalf of, the Registrar of Societies the following stand has been taken:

*“6. It is further submitted that the aforementioned representations do not make any allegation that the Respondent No.3 Society was illegally registered by the Answering Respondent. However, since the Respondent No.3 Society prima facie appears to be functioning as a Group Housing Society, a notice dated 18.06.2020 has been sent to the Respondent No.3 by the Answering Respondent. A reply dated 23.06.2020 was received from the Respondent No.3 Society on 25.06.2020, and is being examined. **It is respectfully submitted that the Answering Respondent shall take appropriate action under law including inter alia de-registration of the Respondent No.3 Society should it be concluded that the Respondent No.3 was indeed a Group Housing Society and as such, could not have been registered under the Act.** A copy of the aforementioned notice dated 18.06.2020 is being annexed hereto as Annexure A-2 at Pg. 7. A copy of the relevant extract of reply dated 23.06.2020 is*

being annexed hereto as Annexure A-3 at Pgs. 8 to 24.”

6. As per the aforementioned counter affidavit, it is clear that the Registrar of Societies has already issued notice dated 18th June, 2020 taking action in terms of the complaint filed by the Petitioners. A detailed reply dated 23rd June, 2020 to the said notice has already been filed by the ITD Society through its president.
7. Pleadings on behalf of the parties have been completed in this matter.
8. In view of the fact that the Registrar of Societies has already issued notice to the ITD society and reply of the ITD society has been received, the stand of the Petitioners shall be considered by the Registrar of Societies and action shall be taken in accordance with law on the complaint received *qua* the ITD Society. The same shall be consistent with the stand of the Registrar of Societies in paragraph 6 of its counter affidavit, as highlighted above.
9. A decision on the complaint of the Petitioners shall be taken by the Registrar of Societies after hearing all the parties concerned, within three months.
10. The petition, along with all pending applications, is disposed of.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 16, 2023/dk/kt