



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

% Date of decision: October 11, 2023

+ W.P.(C) 13407/2023, CM APPLs. 52943/2023 & 52944/2023

(49) JYOTI COOPERATIVE G/H SOCIETY LTD.

..... Petitioner

Through: Mr. Ravi Chawla, Mr. Paras Hasija,
Mr. Himanshu Sood, Ms. A. Chawla
and Mr. R. Khandelwal, Advs.

versus

REGISTRAR COOPERATIVE SOCIETIES AND ANR

..... Respondents

Through: Mr. Udit Malik, ASC for RCS

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 52944/2023 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 13407/2023

1. The present petition has been filed by the petitioner with the following prayers:

"In view of above, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to:

i. Issue appropriate writ/direction / order in the nature of Certiorari thereby quashing / setting aside the impugned order dated 04.10.2023 as passed by the respondent No.1



appointing R-2 as the Administrator of the petitioner society and;

ii. allow the Returning Officer appointed by the petitioner society to resume and carrying on with the election process from the stage at which the same got stopped i.e. Scrutiny of Nominations already submitted by the members of the petitioner society due to the impugned order; and

ii. Any other or further order(s) that this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the present case may also be passed in favour of the petitioner society."

2. In effect, the challenge is to an order dated October 4, 2023, passed by the RCS appointing Sh. G.S. Aggarwal a former DANICS Officer as an Administrator of the petitioner / Society for a period of 90 days with a clear mandate that he shall establish a democratic setup in the Society within 90 days.

3. Learned counsel for the petitioner would submit that much before the expiry of the term of the Society, the Society has appointed one Sh. Mahesh Kumar Negi, as the Returning Officer to conduct elections and Sh. Mahesh Kumar Negi vide notice dated September 23, 2023 has issued an election notice conducting the elections on October 15, 2023 which aspect has been overlooked by the RCS.

4. He submits that since the elections are to be held only on October 15, 2023, i.e., after four days, no purpose shall be achieved in appointing an Administrator by the RCS. He submits that the democratic process be allowed to continue and the Management Committee to be elected shall take over the affairs of the petitioner / Society.



5. On the other hand, Mr. Malik, learned counsel appearing for the RCS would submit that in terms of Section 35 of the DCS Act, the elections have to be held before the expiry of the three years term of the Society. He states that though, a decision to conduct the election was taken on June 30, 2023, but no notice was issued till September 23, 2023 for the reasons best known. In effect, the elections are held after the expiry of the term of the Management Committee.

6. Learned counsel appearing for some of the Members of the Society, who are present in the Court, namely Mr. Prashant Kumar Mittal, Advocate would justify the order of the RCS on the ground that the Society, despite taking a decision to conduct election, has till date not held the election. In other words, he reiterates the submissions as made by Sh. Malik.

7. Having heard the learned counsel for the parties for some time and given our consideration on the issue raised in the petition, this Court is of the view that as the RCS has already appointed an Administrator and the elections have been declared to be held on October 15, 2023 and there is an apprehension expressed by the Members of the Society with regard to Sh. Mahesh Kumar Negi, acting as a Returning Officer, we deem it appropriate to direct that Sh. G.S. Aggarwal a former DANICS Officer, who has been appointed as an Administrator shall not act as an Administrator, but shall act as an Returning Officer, to conduct elections to be held on October 15, 2023. In other words, Sh. Mahesh Kumar Negi shall not function as the Returning Officer. Sh. G.S. Aggarwal shall conduct the elections on October 15, 2023. He shall have all the mandate with regard to conduct



of the elections including deciding objection (if any) raised by the Member(s) of the Society with regard to the electoral rolls. Sh. G.S. Aggarwal shall be paid an amount of ₹10,000/- for holding the elections.

8. It goes without saying that the parties herein shall be governed by the outcome of the elections. Sh. G.S. Aggarwal is directed to take over the charge as the Returning Officer today for which purpose, he shall contact the President of the Society who shall hand over the record of the Society for conduct of the elections. In view of this order, the order dated October 4, 2023 shall become ineffective.

9. The writ petition is disposed of.

CM APPL. 52943/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

OCTOBER 11, 2023/aky