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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 25th April, 2023

+ W.P.(C) 16885/2022 and CM APPL. 53505/2022, 56524/2022,
56526/2022

ALL INDIA SIDBI OFFICERS ASSOCIATION
DELHI UNIT

..... Petitioner

Through: Mr. Arvind Saha & Mr. Manish
Kumar, Advocates (M: 9911750282).

versus

SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA AND
ORS.

..... Respondents

Through: Mr Rakesh K. Khanna, Sr. Advocate
with Mr. Aditya Pushkal Khanna and
Mr. Ramya Khanna, Advocates for R-
1 (M: 9871534924).
Mr. Ashutosh Dubey, Mr. Abhishek
Chauhan, Ms. Vibha Mahajan and
Mr. Amit P Shahi, Advocates for R-2
(M: 9953587630).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

**CM APPL. 53505/2022 (interim stay), 56524/2022 (for recall of order),
56526/2022 (exemption from filing certified copies)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-All India SIDBI Officers Association (Regd.)-Delhi Unit (*hereinafter, 'the Association'*) seeking various reliefs against Respondent No. 1-Small Industries Development Bank of India (*hereinafter 'SIDBI'*).

3. In effect, the Petitioner-Association represented by Mr. Krishna Pratap Singh wants to be recognised as the duly elected body of constituting the Petitioner-Association.

4. The prayers in the writ petition are as under:-

- “i. Issue a writ of Certiorari or any other appropriate writ, order or direction, to Quash/set aside the letter dated 02.11.2022 issued by the respondent no. 1.*
- ii. Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondent no. 1 to recognize the result of election dated 04.10.2022 as legal and valid for all purposes.*
- iii. Pass any such other and further order which is necessary in the facts and circumstances of the case.”*

5. The present dispute has arisen due to two competing groups of the Association represented through its President Mr. Krishna Pratap Singh and Respondent Nos. 2-11 led by Mr. Rajiv Kumar.

6. The genesis of the dispute is an election called by the Managing Committee of the Petitioner-Association vide election notice dated 1st September, 2022 which reads as under:-

“Sub: Appointment of Election Committee for Election of the Managing Committee of New Delhi unit

As discussed, this has reference to AISIDBIOA Cir. No. 01/CY2022 dated July 28, 2022, Notifying the programme for biennial Election of Managing Committees [MCs] at Various 16 local Units and GC Nominees in assigned numbers from these units (Posted on the bulletin board). In terms of section 24(2) of Byelaws of AISIDBIOA, it has been decided to appoint a Two-member Election Committee (EC) for conducting the election of office-bearers and the members of the Management Committee (MC) of New Delhi Unit of AISIDBIOA as given below for the 2-year

term (September 2022 to August 2022). The EC consists of following members:

- (1) Mr. Bhanu Prakash Sharma (Returning officer)*
(2) Mr. Tulsi Das (Member)

the election of office bearers of the MC of New Delhi unit of AISIDBIOA comprising (as under):

	<i>Name of the Office</i>	<i>Number of Posts</i>
<i>a.</i>	<i>President</i>	<i>One</i>
<i>b.</i>	<i>Vice President</i>	<i>One</i>
<i>c.</i>	<i>Secretary</i>	<i>One</i>
<i>d.</i>	<i>Jt. Secretary</i>	<i>One</i>
<i>e.</i>	<i>Treasurer</i>	<i>One</i>
<i>f.</i>	<i>Committee Member</i>	<i>Min. 2 to Max .5</i>

The EC would be handling and taking care of the entire process of election till the declaration of results and would be issuing need-based communications/intimations to all the members in this connection.

The EC is humbly requested to take necessary steps for the entire process of proposed elections. ”

7. The above election notice was signed by the then Secretary Delhi Unit of the Petitioner-Association, Mr. Krishna Pratap Singh. Vide the said election notice two Election Officers, namely, Mr. Bhanu Prakash Sharma (‘the Returning Officer’) and Mr. Tulsi Das (‘Member’) were appointed for conducting the election of the office bearers and members of the Managing

Committee of Petitioner-Association. The said notice itself states that this notice was issued in terms of Clause 24(2) of the Byelaws of the Petitioner-Association. The said Clauses reads as under:-

“20. LOCAL UNITS

(i) "Unit" means a Unit of the Association at the place/s (City)/Town) where the Head Office, Zonal/Regional Office or Branch Office of the Bank is located.

Explanation: If in a City/Town where there are more than one offices, there shall be only one Unit and members of all such offices and officers deputed in other institutions/ organization within the City/Town shall form part of one single Unit.

(ii) The day-to-day management of the local Units shall vest in a Managing Committee inter alia consisting of a President, Vice President, General Secretary and Treasurer and such number of members as the Local unit may decide. (not exceeding five).

(iii) The Managing Committee of the Units shall be elected by the members of respective Units as per the procedure laid down in the Regulations for the purpose.

(iv) The Units at ZOs/ BOs shall represent the members of Branch Offices which do not have Units within the jurisdiction of the respective Zonal Offices.

(v) The term of office of the Managing Committee shall be conterminous with that of the CC.

(vi) The Managing Committee and its members shall hold office during the pleasure of the General Body of the concerned Units and shall follow such procedure as may be laid down in the Regulations for the conduct of its business.

(vii) Any vacancy on the Managing Committee of a Unit shall be filled in by co-option of a member for the remaining period of the term as a member of the Managing Committee. If the vacancy is that of an Office bearer of the Managing Committee, it shall be

filled in by electing one of the members of the Managing Committee to hold that post.

24. ELECTION RULES FOR LOCAL UNITS

1.

2. The Managing Committees of the respective Units shall, immediately after expiry of the term of GC, appoint an Election Committee consisting of not less than two and not more than three members- one of whom shall be the Returning Officer - for conducting the election of office-bearers and members of Managing Committee for the ensuing term. The members of the Election Committee shall not include any person who is a member of the Managing Committee or GC or one who seeks election or re-election as an office-bearer or member of the committee for the ensuing term."

8. After the election was called on 1st September, 2022, nominations were sought and vide notice dated 7th September, 2022, the nominations of eighteen persons were accepted and the nominations of five persons were rejected. The said rejection appears to have led to the entire dispute in the present case.

9. The five rejected candidates wrote representations dated 7th September 2022 to the Returning Officer and the Member, and appeared to have made certain allegations *qua* deficiencies in the nomination forms. The said representation resulted in the Returning Officer to resign on 7th September, 2022 itself. The rejected candidates then called their own General Body Meeting on 20th September 2022 on the ground that they had the support of 70 of the 90 members.

10. On the said basis, the General Body nominated a new Election Committee on 20th September, 2022. In the said meeting, it is claimed that a

total number of 70 out of 90 persons met. They then dissolved the existing Managing Committee consisting of Mr. Deepak Kumar, Mr. Krishna Pratap Singh and Mr. Ankur Dey and nominated the Interim Managing Committee on 21st September 2022 consisting Mr. Pratyush Mishra, Mr. Smirti Bajpai and Mr. Rishikesh Kumar and also constituted the Election Committee for the fresh election on 22nd September 2022.

11. In the meantime, on 19th September, 2022, the outgoing Secretary Mr. Krishna Pratap Singh also constituted his own Election Committee. Thus, in effect, for the same Association, two Election Committees came to be constituted and as on date there are allegedly two Elected Managing Committees, one the Petitioner-Association led by Mr. Krishna Pratap Singh and the other led by Respondent No. 2-Mr. Rajiv Kumar and other cancelled candidates. On the presumption that Mr. Krishna Pratap Singh is the Secretary of the duly elected body of the Association, the present writ petition has been filed in the name of the Association.

12. The Respondent No. 1-SIDBI, however, had issued a communication dated 2nd November, 2022 calling upon the Petitioner- Association to hand over the possession of the room of the Petitioner-Association to the representatives of the new body i.e Respondent No. 1, located at 1- Tolstoy Marg, New Delhi-11001, which was challenged in the present petition. Vide order dated 13th December, 2022, the following order was passed by this Court:-

“9. Heard. Clearly, there are two groups who are claiming to be the duly elected office bearers of the Association’s Delhi unit. The issue has got precipitated because of the communication by the Bank dated 2nd November, 2022.

10. *In the opinion of this Court, the outgoing Managing Committee having constituted an Election Committee to conduct the election, the newly constituted Managing Committee has to be duly recognized by the said Election Committee i.e., by Mr. Tulsi Das and Mr. Manoj Kumar Srivastav. Considering the documents on record at pages 87 and 88 which is signed by the Election Committee and the documents handed over to the Court today, which is an unsigned document, it appears that the Petitioner's case requires consideration.*

11. *The Association has to however be duly recognised by the Bank and commence its functioning. At this point, there appears to be a complete stalemate. Accordingly, let a meeting be held between the Petitioner, the Bank, and the other faction in the Association's office on 19th December, 2022 at 3:00 p.m. The concerned Election Committee, authorised by the outgoing Managing Committee which conducted the election shall oversee this meeting and declare the results in the presence of the duly authorized officials of the Bank. The results so declared shall be accepted by the Bank and all others.*

12. *The deliberations of the said Meeting shall be placed on record by the Bank before the next date of hearing."*

13. Today, Mr. Arvind Sah, Id. Counsel on behalf of the Petitioner has been heard. Further, Mr Rakesh K. Khanna, Id. Sr. Counsel has appeared on behalf of the Respondent-SIDBI and had made submissions. According to SIDBI, the letter dated 2nd November, 2022 is merely a letter asking the Petitioner-Association to hand over its office. According to the Petitioner-Association, this is the same office from where the Delhi Unit of the Respondent- SIDBI also operates from.

14. Mr. Ashutosh Dubey, Id. Counsel has been heard on behalf of the other Respondent Nos. 2-11, who now constitute the rival group and also conducted their own elections on 20th September 2022.

15. Heard. A perusal of the documents on record and the Byelaws of the Petitioner-Association would show that there cannot be two Managing Committees in the same Association. Once the elections were called, in effect, the Managing Committee is under suspended animation until the election results are announced. However, unfortunately, in the present case, the election did not take place, as was contemplated - leading to the breaking of the Petitioner-Association itself and leading to two alleged elected bodies. This is not a workable situation in respect of any association inasmuch as two elected bodies cannot run one Association. Clearly, Respondent Nos. 2-11 claim to be having a majority. On behalf of the Petitioner, the case is that Mr. Krishna Pratap Singh, the outgoing Secretary of the Petitioner-Association is conferred the authority to constitute the Election Committee.

16. Under such circumstances, the faction as to who or which group constitutes the proper Petitioner-Association is itself in doubt. The prayer in this writ petition is for recognizing the election of the Petitioners as constituting the Association.

17. The same obviously cannot be recognised by this Court considering the fact that Respondent Nos. 2 to 11 claim to be constituting a majority of the Petitioner-Association. Under such circumstances, since the Petitioner-Association has a General Body constituting of 90 members, this Court is of the opinion that a free and fair election ought to be conducted under the supervision of an independent election officer.

18. Accordingly, Mr. Gautam Narayan, Advocate (**M: 9811411735**) is

appointed as an Election Officer to conduct the elections of the Petitioner-All India SIDBI Officers Association-Delhi Unit. The Election Officer is free to conduct the proceedings of the election from the office of the Petitioner-Association located in Tolstoy Marg, New Delhi-110001 within the SIDBI premises. For the said purpose, if any cooperation is required, the Election Officer may contact Mr. Rakesh K. Khanna, Id. Sr. Advocate. The election shall be completed within a period of three months.

19. The Election Officer shall firstly finalise the electoral roll, invite nominations and thereafter conduct the election on a duly notified date in accordance with the applicable Byelaws of the Petitioner-Association. The fee of the Election Officer is fixed at Rs.2 lakhs lumpsum, exclusive of any expenses to be paid by the Association.

20. In view of the above, the office of the Petitioner-Association in the SIDBI premises located at Tolstoy Marg, New Delhi-110001 shall be used by the Election Officer for the next three months and upon the conclusion of the election.

21. Upon the elections being concluded and the Managing Committee being elected, SIDBI shall take a decision as to whether any office is to be allotted to the body or not.

22. The present petition is disposed of with all pending applications, if any. All interim orders stand subsumed in today's order.

PRATHIBA M. SINGH
JUDGE

APRIL 25, 2023

mr/dn