

**CWP-11499-2015 (O&M).
and other connected matters.**

-1- 2024:PHHC:056756

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

201

Date of Decision: 25.04.2024.

(1)

CWP-10227-2015

HARI KISHAN GUPTA

... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

... RESPONDENTS

(2)

CWP-11499-2015 (O&M)

JAI BHAGWAN GOEL

... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

... RESPONDENTS

(3)

CWP-12525-2015

SOURANG GOEL ETC

... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

... RESPONDENTS

(4)

COCp-1947-2015

JAI BHAGWAN GOEL

... PETITIONER

VERSUS

WAZIR SINGH AND OTHERS

... RESPONDENTS

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

Present: Mr. Brijender Kaushik, Advocate, with
 Mr. Yashvinder Singh, Advocate,
 for the petitioner in CWP-10227-2015.

 Mr. Anand Chhibbar, Sr. Advocate, with
 Ms. Ateevraj Sandhu, Advocate, and
 Mr. Arsh Singh, Advocate,
 for the petitioner in CWP-11499-2015 and COCP-1947-2015.

 Mr. Ravish Bansal, Advocate,
 for the petitioner in CWP-12525-2015.

 Mr. Pankaj Mulwani, DAG, Haryana.

 Mr. Vijay Kumar Jindal, Sr. Advocate,
 Mr. Akshay Jindal, Advocate,
 Mr. Samar P. S. Ahluwalia, Advocate, and
 Mr. Pankaj Gautam, Advocate,
 for respondents No.5 and 6.

VINOD S. BHARDWAJ, J. (ORAL)

 Present batch of petitions is being decided by a common

judgment as the controversy involved in this batch of petitions is same and

arises from the same cause of action.

2 For the facility of reference, the facts are being extracted from **CWP-10227-2015**, titled as **HARI KISHAN GUPTA V/S STATE OF HARYANA AND ORS.**

3 Challenge in the said petition is to the order dated 23.04.2015 (Annexure P-9) passed by respondent No.2-the Registrar General of Firms and Societies, Haryana as well as to the order dated 29.12.2014 passed by the respondent No.3-State Registrar of Firms and Societies, Haryana whereby the order dated 22.07.2013 passed by respondent No.4-District Registrar of Firms and Societies, Bahadurgarh. Civil Secretariat, Jhajjar, Haryana, has been set aside, wherein a decision was taken as regards membership of Maharaja Aggarsain Trust-respondent No.5, which is a Society registered under the Societies Registration Act (as it was then in the year 1980), and is governed by the Haryana Registration and Regulation of Societies Act, 2012 (for short referred to as 'HRRS Act, 2012').

4 Learned counsel appearing on behalf of the petitioner contends that respondent no.6 Ashok Gupta, made a complaint dated 15.02.2011 (Annexure P-1) to M.L.A Bahadurgarh, District Jhajjar, for getting elections of the society conducted since elections were last held in the year 2008 and terms of the governing body had come to an end and a further request was made for appointment of a competent officer as Returning Officer. As per the complaint submitted, there were originally only a total of 225 members out of which 50 members had already expired. On the said Complaint made by respondent No.6, the District Registrar, Jhajjar issued a show cause notice dated 16.02.2011 to the office bearers of the Society whereupon the following objections were filed by the Society:-

- (i) That a Civil Suit had been filed by one Vinod Kumar on similar grounds and that the same was pending before the Civil Judge;
- (ii) That present complaint has been filed by eight persons out of which Raj Kumar Gupta and Sushil Goyal are not members of the Society;
- (iii) That signature of Jai Parkash son of Ghamandi Lal is forged and does not tally with his signature;
- (iv) That Shri Vinod Kumar is a tenant of the Society in shops and has not paid rent and he is defaulter of rent of about one and half years; and
- (v) That Ashok Gupta participated in the proceedings of election held in the year 2004, so he is estopped from raising any question regarding the validity of voters list of 2004.

5 That vide order dated 18.08.2011 passed by the District Registrar, Jhajjar, the resolution dated 28.06.2009 granting membership to 121 members and the resolution dated 29.05.2011 granting membership to 39 members was also set aside.

6 Aggrieved against the same, CWP-17350-2011, CWP-610-2012 and CWP-611-2012 were filed before this Court. During the pendency of these writ petitions, elections to the Management of respondent No.5- Maharaja Aggarsain Trust were held on 18.03.2012, but said elections were subject to the further orders and final outcome of the writ petitions, as per the order dated 15.03.2012.

7 Vide its order dated 17.05.2013, this Court quashed the order dated 18.08.2011 and remitted the matter to the District Registrar of Societies to decide the same within 60 days. Till the final order of the District Registrar, the Managing Committee elected pursuant to the elections held on 18.03.2012 was permitted to run the affairs of the society.

8 The above said order dated 17.05.2013 passed in the above writ petitions was subject matter of challenge in LPA-1088- 2013, LPA-1089-2013 and LPA-1090-2013 filed by Ashok Gupta. Vide order dated 31.05.2013, the order dated 17.05.2013 was partially modified and the District Registrar was directed to decide the controversy within 60 days and to not give effect to his order for a period of 02 weeks thereafter to enable the parties to take recourse to their appropriate remedies.

9 After the matter was remanded by the Single Bench and as modified/affirmed by the Division Bench in its order dated 31.05.2013, the District Registrar decided the matter afresh vide order dated 22.07.2013 and declared that the resolution dated 28.06.2009 with respect to 121 members was valid and resolution dated 29.05.2011 with respect to 39 members was valid only with respect to 34 members and directed that they be considered as members of the Society and permitted them to contest elections. It is also stated that during the pendency of the said petition, pursuant to the resolutions dated 17.06.2012 and 02.12.2012, the Society also granted new membership to 278 applicants as per law. The District Registrar held that the said 278 members would not be included in the voter list for fresh elections.

10 The above said order dated 22.07.2013 was challenged by respondent No.6-Ashok Kumar Gupta before the State Registrar. Vide its

order dated 29.12.2014, the appeal was allowed by the State Registrar and the order dated 22.07.2013 passed by the District Registrar of Societies was set aside. The State Registrar of Societies held that the resolution dated 28.06.2009 inducting 121 members was not a valid resolution since it was signed only by three persons and that the resolution 29.05.2011 was also invalid since no receipt of members or subscription fee was produced in original. With respect to the 278 inducted as per resolution dated 17.06.2012 and 02.12.2012 it was held that the same was valid and that they shall have the voting rights whenever the fresh elections are held.

11 Aggrieved thereof, the petitioners preferred a revision before the Registrar General of Societies, Haryana.

12 Vide order dated 23.04.2015, the said revision was also dismissed by the Registrar General of Societies, Haryana and the order dated 29.12.2014 passed by the State Registrar of Societies, Haryana, was upheld reiterating that the enrollment of 121 members by the Governing Body was invalid on account of lack of quorum in the meetings and that 35 members whose donations/membership fee were confirmed by District Registrar would not be valid members in the absence of any proof of crediting the amount by donations/membership fee in the bank account of the Society while the induction of 278 members vide resolutions dated 17.06.2012 and 02.12.2012 was upheld.

13 Aggrieved thereof, the present writ petitions have been filed.

14 While arguing on behalf of the petitioners, Sh. Kaushik has argued that by virtue of Section 15 of the Societies Registration Act, 1860, once the name of a person figures on the roll or list of members, he would be a member of the Society. He contends that the petitioners had been

enrolled in the list of members and had also exercised their right to cast votes in different elections of the governing body of the respondent no.5-society, hence, their status as members could not be disputed or denied by the officials concerned. He submits that the Administrator of the Societies as well as the Registrar General of Societies failed to take into account the above said substantive provision under Section 15 of the Societies Registration Act, 1860 (as was in force then).

15 It is also argued by the learned counsel for the petitioners that only the resolutions were signed by the President and the member secretary, however, the minutes of meetings were duly signed by all the members present. He submits that induction had been done as per manner known to law and that the quorum was complete. Accordingly, their induction as members of the Society could not be set aside. The State Registrar of Societies as well as Registrar General of Societies, failed to take into account the minutes of the meetings which were duly countersigned and ratified by members of the Society. He further submits that the persons who were incharge of the affairs, including the President of respondent No.5-Society, duly furnished his affidavit before the District Registrar of Societies.

16 Additionally, learned counsel appearing for the petitioner in CWP-12525-2015 contends that in so far as the aspect of deposit of the fee is concerned, the cash sheet and the balance sheet were duly appended along with the petition, which established credit of the above said amount and as such, the receipt of the membership fee by the Society has been well established. Hence, they were validly inducted as members of the Society and the orders passed by the authorities suffers from failure to appreciate

the evidence that was already on record. He further submits that some of the attendance sheets were also signed by the respondent-complainant and as such, he cannot, at any point later in time, dispute the presence, induction and status of the petitioners. He submits that as per the Section 37 of the Haryana Registration and Regulation of Societies Act, 2012 the record of proceedings of the meetings of the general body or of the governing body is required to be separately maintained and is to be signed only by the Chairman and Secretary of the meeting. Hence, there was no such requirement that all the members have to sign the same.

17 Responding to the above, learned Senior Counsel appearing on behalf of respondents No.5 and 6 contends that so far as the submission of the petitioner as regards the applicability of Section 15 is concerned, the same is not valid since the condition prescribed under Section 15 of the Societies Registration Act, 1860 as was in force then provides that for being a member of the Society, such person has to be admitted in accordance with the rules and regulations and that it was thereafter and on satisfaction of eligibility conditions and on payment of the subscription for the name being reflected in the list of members that such person would fall under the definition of member as contained in Section 15. It is submitted that in the present case, the issue relates to admittance of the petitioners as members of the Society under the rules and regulations. A reference is made to the bye-laws of the Society as per which there are three different types of trustees i.e. a special trustee; an ordinary trustee and a nominated trustee. He submits that for a person or a firm to be a special trustee, he has to deposit Rs.5100/- or above in a prescribed time and is a lifelong member and is also entitled to nominate any other person in his place. An ordinary trustee is

inducted on payment of Rs.1100/- to Rs.5099/- and he shall continue to be a trustee for his life.

18 It is submitted that the dispute in the present case relates only to the above said two categories and does not relate to the nominated trustee. It is contended that the above said procedure and requirement had to be satisfied by the petitioners before they claim themselves to be lawful members of the Society and for being entitled to cast vote in the governing body of the Society.

19 While responding to the contentions raised by the learned counsel appearing for the petitioners in CWP-12525-2015 that cash book and balance sheet reflected the corresponding amount received by the respondent No.5-Society, it was contended that the donation received by the Society under any other account cannot be matched or be claimed as a membership fee deposited by a person claiming membership on the strength thereof. It is submitted that the issue as regards membership fee could have been determined only on the basis of the receipt produced before the authorities and a valid resolution having been passed with respect to they being inducted as members of the society. He submits that the reliance was placed by the petitioners on the initial resolution passed on 26.10.1986 which is stated to be ratified in 2009 and 2011 but the said resolutions of 1986 also does not give any detail or description as regards the total number of members inducted or their status in which they have been inducted. The said resolution was gravely deficient and it did not even mention about the members of the governing body who were present when the proceedings took place and those who attended such proceedings. The entire reliance is on certain loose sheets that could have been filled/created at any point of

time. As such, there can be no valid acceptance of any such documentation. He submits that the subsequent resolution of 29.05.2011 ratifying the earlier resolution cannot be accepted for want of quorum, absence of induction in form; absence of having deposited the subscription fee and also the details of the persons present and casting vote in the meeting not being discernible or reflected in the proceedings of the meeting. He submits that all these aspects have been taken into consideration by the State Registrar as well as Registrar General of Societies and that the factual aspect having already been gone into by the authorities concurrently, there is no fresh material before this Court on the basis whereof the High Court, in exercise of power of judicial review, would upset a finding of fact recorded by the Administrative authorities. The same argument is raised also with respect to 121 members.

20 In relation to induction of 278 members by the new governing body, counsel contends that induction of the said members was post 18.03.2012 by the governing body and that their induction was not a subject matter of challenge in any of the proceedings instituted by the petitioners herein. There is also no material as regards the other members not being eligible to be inducted as members of respondent No.5-Society. Hence, the authorities have rightly held that the said 278 members have been validly inducted as members of respondent No.5-Society.

21 Responding to the above, Mr. Kaushik has argued that it is incorrect that the relevant material had not been produced, rather the entire evidence was put up before the District Registrar of Societies and the same had been duly appreciated and it is on the basis of assessment and

evaluation of the said material that District Registrar of Societies had recorded a finding in favour of the petitioners herein.

22 Learned counsel contends that the receipts submitted by the petitioner along with the application have not been taken into consideration by the authorities solely on the ground that they were not produced within a period of 07 days. It is contended that the application form of the petitioners carried the specific receipt number as regards donations as was also stipulated in the bye-laws. There is no separate receipt to be issued in respect of a person who makes a donation for being inducted as a member and that the requirement under the bye-laws is only a donation of Rs.5100/- and not of any separate subscription fee for being inducted as a member.

23 It is stated that each of the petitioners had given a specific detail in the application form with respect to the receipt number, which fact is duly reflected in the cash book as well and corresponds to the receipt number countersigned by the respondent authorities at the bottom of the application forms submitted by the petitioners. Hence, it is not any different amount

24 No other argument has been raised.

25 I have heard learned counsel appearing for the respective parties and have also gone through the documents appended/available on record.

26 It is evident from a perusal of the order passed by the District Registrar of Societies, Jhajjar at Bahadurgarh, that while dealing with the said issues, the finding recorded is as under:-

- (i) *Whether the exclusion of 121 members was supported with sufficient documentary proof and circumstantial evidences. I have examined this issue in totality and studied the course of action adopted by the Governing Body while inducting them as members. I have found that my base of excluding these members from the list of membership at that time was taken as deficiency of the quorum. I had at that time considered the signatures of the President and the Secretary affixed below the resolution dated 28.06.2009 and did not consider the signatures of other Governing body members present which was annexed separately, this led to the conclusion that the members whose names and signatures appeared on a separate sheet were not a part of the meeting and its proceedings. In view of the arguments held on 17.05.2013 in Hon'ble Punjab and Haryana High Court separate attendance sheet may be considered as a material document. Moreover, 13 members (two members out of 15 who had attended the said meeting had been expired) have submitted their affidavits about attending the said meeting. 11 of the above 13 members appeared in person on dated 08.07.2013 and confirmed regarding their presence in the Governing Body meeting dated 28.06.2009 and passing of resolution granting membership to 121 persons. Whereas mandatory quorum is of 7 members of the Governing Body as per bye-laws of the society. After considering the fresh facts before me and on hearing the parties, I am of the opinion that my order dated 18.08.11 suffered from some deficiencies and accordingly, I order afresh that these 121 persons were validly inducted as members and are entitled to take part in all the proceedings of the Society as provided in the law including the elections.*

(ii) Whether the exclusion of 39 members was also supported with sufficient documentary proof and circumstantial evidence;

Membership of 39 persons granted vide resolution dated 29.05.2011 was held improper vide my order dated 18.08.2011 due to the non submission of receipts of membership subscription. Now, Sh. Jai Bhagwan Goyal on behalf of the Society (Petitioner of CWP No.17350/2011) has submitted subscription receipts of 34 persons. After considering the fresh facts before me and on hearing the parties I order afresh that these 34 persons out of 39 persons (excluding 5 persons namely, Manohar Lal, Maidhan, Joginder Kumar Singhal, R.P. Rajvansi and Mool Chand Aggarwal whose membership subscription receipts have not been produced before me) were validly inducted as members and are entitled to take part in all the proceedings of the Society as provided in the law including the elections.

(iii) Whether 278 members inducted on 17.06.12 & 02.12.12 by the incumbent Governing Body (elected on 18.03.2012) should be included the voter list if fresh election be held in lieu of 18.03.2012.

I have seen that these persons have been inducted as members by the bent committee during its tenure which commenced after 18.03.12. Whereas election dated 18.03.2012 was held on the interim order of Hon'ble High Court and subject to the final decision of CWP No.610 and 611 of 2012. Since, Hon'ble High Court has disposed of above CWPs for fresh consideration. Since, the result is in favour of petitioner of CWPs filed in the High Court and fresh election is to be held in lieu of election held on

18.03.2012 after including the 155 members in the voter list of dated 18.03.2012.

Therefore, 278 members inducted after 18.03.2012 cannot be included in the voter list of fresh election to be held in lieu of 18.03.2012.

The incumbent Society is also directed that they should make amendments in their byelaws so as to bring the provisions in conformity with the provisions of the Haryana Registration and Regulation of the Societies Act, 2012 and the rules made thereunder. They are also directed to form the necessary collegiums, as the membership of this Society exceeds 300 so as to hold the elections as per the latest provisions in this behalf as contained in the new Act.”

27 The above said order of District Registrar was challenged before the State Registrar of Societies. The said order was set aside by observing as under:-

“11. Having taken into consideration the orders of District Registrar, Bye-laws of the Society, provisions of the Haryana Registration & Regulation of Societies Act 2012, written statements/ oral submissions of appellants/respondents and documents placed on the record, the following observations are made:

a. As per clause 4 of Bye-laws of the society, applicant person can be enrolled as member of the society after approval of the Governing Body. As per clause 5 of the Bye-laws, the special trustee/member shall make donation of Rs. 5100/-, ordinary trustee/ member shall make donation of Rs. 1100/- or upto Rs. 5099/-. As per clause 11 of the bye-laws, the term of the Governing Body shall be for a period of three years. In case the elections are not

held on due date than outgoing Governing Body shall function for further maximum of three months.

- b. As per clause 15(1)(2) and (3) of Bye-laws of the Society, General Secretary of the Society shall obtain approval of President for fixing the schedule, date, time and place for holding the meeting of the Governing Body. He will inform to the members of the Governing body through a seven days notice. The quorum of the Governing Body shall be 33% of the members of the Governing Body.*
- c. As per clause 18(4) and (8) of Bye-laws of the Society, the President can authorize any office bearer for any type of work/duty. He will keep control over the activities of the society and extend guidance for the welfare of the society.*
- d. As per clause 20(1) of Bye-laws of the society, General Secretary will convene the meetings of Governing Body only after taking approval of the President of the Society.*
- e. While passing the order dated 18.08.2011, the District Registrar found that: "show cause notice dated 16-02-2011 was issued to the respondent for producing copy of receipts of membership fee besides other documents. But respondent failed to produce the same as per list of documents indicated in the order. The various resolutions had been written on different dates which have been signed by the alleged office bearers on the different dates other than the dates of their writing entering in the proceedings book. He found that all the resolutions have been passed in the absence of mandatory quorum required for holding a meeting of the Executive Body of the Trust as per Constitution of the Trust and only one or two office bearers of the Trust have signed all these resolutions. According to provisions of quorum in constitution of the*

Trust, a minimum of 33% (7 of 21) members of the Executive Body are necessary to be present in the meeting, but the proceedings register revealed that proceedings had been entered without proper quorum and only one or two office bearers i.e. the President and/or the Secretary of the Trust has/have signed all the resolutions. It was further found that vide resolution dated 28.06.2009 membership to 121 new members have been granted, but it had not been established that the said decision was taken in the presence of all members of Executive Body or in the presence of minimum quorum of the Executive Body of the Trust because the said resolution had been signed by one person Sh. Hari Niwas Garg on 09.08.2009, which is contrary to the constitution of the Trust and it does not hold good.

He further perused the resolution dated 29.05.2011 whereby membership to 39 members (19 General trustees 20 special trustees), have been shown to be granted. It was claimed by respondent that the membership fee was already received in between 1986 to 1994. He found that this act of the Executive Body of the Trust granting membership to 19 General Trustee was not valid because perusal of admission forms of the alleged 19 members revealed that subscription/donation of these 19 new members had been allegedly received since long ago, but the issue of their membership had been kept pending till indefinite period of time. The office bears of the Trust had failed to show the account books, receipt book as a proof of receipt of subscription/donation pertaining to these 19 general members. It seems that if the subscription/donation had been received by the trust even then the membership to these members ought to have been granted by the Executive Committee of that relevant time.

Further, the office bearers of the Trust have failed to give any proper reason to justify passing, of this resolution now at this belated stage in respect of these 39 new members and have further failed to properly explain as to why the membership of these 19 new members were not granted at the relevant time. He found that the action granting membership to these 19 new members at this belated stage was not proper.

Further, he found that the resolutions prior to 29-05-2011 had been passed by one or two office bearer of the trust which were not proper and valid for want of proper quorum whereas the resolution dated 29.05.2011 have been found to be signed by the seventeen office bearers which shows that the society/trust is not working democratically in the past as per provisions of their own constitution of the trust.

It was held that the membership granted to 121 members vide resolution dated 28-06-2009 are not proper and does not hold good. Since the resolution granting the membership had been passed by only one office bearer which was against the provisions of the constitution of the trust and Further, it was held that the membership granted to 19 general members and 20 special trustees vide resolution dated 29.05.2011 were also improper and not hold Rood since the office bearers of the trust have failed to show the receipt /-account of the trust regarding receipt of subscription/ donation from these members."

f. In CWP NO. 17350 of 2011, the counsel for the petitioner pleaded that District Registrar had neither noticed nor deal with a material document which is attendance sheet send by the 15 of the 21 members of the Executive

Committee of the petitioner society, who attended the meeting on 7.8.06.2009, in which 121 members were enrolled and admitted as members of the society with voting rights. The Counsel also submitted that if 160 members are to be excluded from voting, the result of election may be materially altered because total membership is 327. Wherein Hon'ble High Court vide order dated 17.05.2013 without expressing any opinion on the merits of the case, the court deems fit to quash the impugned order dated 18.08.2011 and remit the matter for fresh consideration of District Registrar on the two issues. Needless to add that if any other tribal incidental issue arises or are raised by the respective parties, the District Registrar would address those issues as well provided the same are material for the fresh exercise ordered and to avoid any miscarriage of justice. In case parties wish to lead any documentary evidence, they may submit their documents within 7 days of their appearance before the District Registrar. In case the result is in favour of the petitioner then District Registrar is directed to hold fresh elections in accordance with the law within next 60 days.

However, in the LPA no 1088 of 2013 vide order dated 31.05.2013, the Hon'ble High Court (double bench) modified the order dated 17.05.2013 to the extent that District Registrar shall not give effect to the final decision for a period of two weeks to enable the aggrieved party to seek redressal of its grievances before an appropriate forum.

- g. Further, while passing the order dated 22-07-2013, the District Registrar observed that, "the base of excluding 121 members from the list of membership at that time was taken as deficiency of the quorum. He had at that time*

considered the signatures of the President and Secretary affixed below the resolution dated 28.06.2009 and did not considered the signatures of other Governing Body Members present which was annexed separately. This had led to the conclusion that the members whose names and signatures appeared on a separate sheet were not a part of the meeting and its proceedings. However, in view of the arguments of counsel of petitioner in the Hon'ble Court held on 17.05.2013, separate attendance sheet was considered by him as a material document."

But there was no reference regarding loose attendance sheets in District Registrar order dater 18-08-2011. The issue in respect of receipt of donation/membership fee was also raised by the District Registrar in his order. It is clear that the District Registrar had reversed his order primarily on the basis of considering the loose attendance sheet, but the same is contrary to the decision of Hon'ble Supreme court for recording of minutes of the meeting in the following para no. h.

He further observed that the "Membership of 39 persons granted vide resolution dated 29.05.2011 was held improper due to the non submissions of receipts of membership subscription. Now Sh. Jai Bahgwan Goel, on behalf of the society had submitted the subscription receipts of 34 persons."

It was observed that on this ground the District Registrar had held the enrolment of 121+34 members (excluding 5 persons whose membership subscription receipt was not produced) valid. However, as per list of the documents mentioned n the order does not contain the membership fee receipt in respect of 121 members meaning thereby the

respondent could not produced such receipts before the District Registrar at the time of issuing the orders dated 18-08-2011 and 22-07-2013. In the both orders passed by the District Registrar, there is not mentioned regarding the production of membership register meaning thereby the names of 121 members were not entered in the membership register. The respondent had also not produced any documentary proof regarding depositing of membership fee amount in the bank account of the society. As regards to 34 members, the District Registrar has not recorded in his order whether the donation/membership fee of these persons was credited in the bank account.

h. The counsel of the appellant quoted the reference of Hon'ble Supreme Court of India in case titled as 1465 and 1,66 of 2000, Kerala State Electricity Board Vs. Hindustan Construction C), Ltd. and Others, which clearly speaks regarding recording of minutes of the meeting and the operative para is given as under:.....”

28 It was observed that if the original proceedings of 26.10.1986, the induction of the members was dealt with at item No.7 there was no mention as regards the number of persons who have applied for the membership. Further, as per the proceedings of the meeting held on 26.01.1993, at item No.11, there is mention only regarding 05 persons and the membership fee was not paid by these persons, rather, a donor had paid Rs.1,51,000/- sponsoring the membership which was stated to be against the bye-laws of the Society. It was also mentioned that there was no mention regarding the number of other persons and receipt of their membership fee

in the proceedings and despite receipt of the show-cause, the requisite documents had not been produced before the District Registrar.

29 It was also recorded that the proceedings in relation to the induction of 39 members in the meeting held on 26.10.1986 and 26.01.1993 were in violation to the statutory provisions and nothing was mentioned as regards the members who were present in the meeting. There was also no information as to whether the requisite quorum of 33% of the total 21 members of the governing body were available in meeting held there or not. As the governing body ratified the approval of the membership of the meeting held on 29.05.2011 at a belated stage, the confirmation of the meeting held on 29.05.2011, the receipt of donation was required, however, the Society could not produce the record before the District Registrar pertaining to the said persons. Hence, they were not treated as valid members. Similar explanation was also given with respect to the meeting of 28.06.2009 in relation to induction of 121 members of the Society. The said aspect has later been affirmed by Registrar General of Societies.

30 The entire dispute thus comes to failure on the part of the Society to produce the record pertaining to depositing the money as also with respect to the legality and validity of the meeting held. It is the specific case of the petitioners herein that the amount as prescribed under the bye-laws of the Society was duly deposited and a receipt was executed by the respondents which such receipt number was specifically mentioned by the officials of the respondent No.5-trust at the bottom of the application which was submitted by the petitioners for being inducted as members of the Society. A specific pleading in this regard has been responded to by the official respondents that by a mere mentioning that the receipt number was

specifically written at the bottom of application will not be taken into consideration since the requisite record was not produced within time as prescribed by this Court in its order dated 17.05.2013 passed in CWP-17350-2011. Thus, there is no specific denial with respect to the specific plea raised by the petitioners about having deposited the money against proper receipt which such receipt number was duly mentioned.

31 I would not be inclined to oust the claim of the petitioners solely on the ground of failure of respondent No.5-society to produce the record. The Society cannot be permitted to take benefit of its own lapse in not producing its own record in relation to the claim made by the petitioners. The exercise was required to be carried out in its entirety and the authorities concerned were required to return a proper finding as regards the validity of the receipts issued and the application form submitted by a particular person. The order passed by the State Registrar of Societies and as affirmed by the Registrar General of Societies, does not delve into the said issue and disregards the evidence adduced by the petitioners on a plaint finding that said record was not produced by the Society. The same, in my view, is not a valid ground to defeat the rights of any person or to disregard its evidence in entirety and to oust him from membership.

32 At this stage, counsel for respondent No.5 contends that even the said record is a photocopy and has to be verified.

33 So far as the aspect of ratification of 39 members vide resolution dated 29.05.11 is concerned, the findings recorded by the State Registrar and as affirmed by the Registrar General of Societies cannot be stated to be misconceived as no evidence has been brought on record by the

petitioners on the basis whereof such finding of fact concurrently recorded by both the authorities can be held to be faulted with.

34 The next question which arises for consideration of this Court is as to what could be the effect of induction of 278 members who were inducted by the governing body, vide resolution dated 16.06.2012 and 02.12.2012. Even though, learned counsel for the petitioners contends that the governing body which has elected the members was a governing body elected on 18.03.2012 and that the status of the said governing body was dependent on the final outcome of the decision as regards membership as per the order dated 17.05.2013 passed by the High Court in CWP No.17350 of 2011.

35 He thus submits that if a finding of the authorities as regards induction of 121 members is being set aside and the matter is remanded to the District Registrar of Societies to pass a fresh order after assessing the documents adduced by the said 121 members, the same shall have a bearing on the resolution passed by the governing body inducting 278 members in June and December 2012 respectively. He thus submits that induction of said members as members in respondent No.5-Society is thus illegal and has to be set aside as a necessary corollary.

36 Having considered the arguments advanced by the learned counsel for the petitioners, I find myself unable to accept the same for the following reasons:-

- (i) Firstly, that even though the election of the governing body held on 18.03.2012 may be subject to the outcome of the decision on the membership passed by the officials i.e. District Registrar of Societies and

Registrar General of Societies, however, at the same time, it is to be taken into consideration that induction of 278 persons as members of the Society was based as per the procedure and as per the bye-laws then governing induction of members of the Society;

(ii) Secondly, Section 80 of the Haryana Registration and Regulation of Societies Act, 2012, protects any such action that may have been taken in relation to the affairs/proceedings of the Society and that any such defect in the organization or in the decision making process would not vitiate the decisions so taken. Resultantly, unless any defect is pointed out at the outset as regards the eligibility of 278 members to be inducted as members or that they had not deposited the requisite charges or fulfill the eligibility conditions required under bye-laws, their induction cannot be said to be invalid merely on account of any subsequent defect as may be noticed in the election of the governing body that was held on 18.03.2012.

37 Consequently, the order passed by the State Registrar of Firms and Societies, Haryana as well as the Registrar General of Societies, Haryana, are set aside only to the extent of finding recorded with respect to the setting aside of the membership of 121 members who were inducted vide resolution dated 28.06.2009. The matter is remanded to the District Registrar of Societies to re-consider the documents/evidence adduced by the

said members with respect to their valid induction and fulfillment of the necessary eligibility conditions for being inducted- as members of the Society and to pass an appropriate order thereupon in accordance with law.

38 The three writ petitions i.e. **CWP-10227-2015; CWP-11499-2015 and CWP-12525-2015** are disposed of accordingly.

COCP-1947-2015

39 In view of the aforesaid decision, no further order is required to be passed in the present contempt petition.

40 Learned counsel for the petitioner does not press the present contempt petition.

41 The present contempt petition is accordingly disposed of as not pressed.

42 Pending, misc. application(s), if any shall also stand(s) disposed of accordingly.

April 25, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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