



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-22232-2024

Date of decision: 05.09.2024

HARSH KUMAR KHATTAR

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present: - Mr. Divyam Singh, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 06.02.2024 passed by Director General of Industries and Commerce-cum-Registrar General of Societies, Haryana as well as the order dated 30.11.2021 passed by the State Registrar of Societies. A further direction to uphold the order passed by the District Registrar Firms and Societies, Faridabad dated 27.02.2020 is also sought.

2. Learned Counsel appearing on behalf of the petitioner contends that the controversy in the present case is in relation to the Annual General Meeting of the Welfare Cultural and Recreational Association, which was attended by 106 persons out of a total of 201 members i.e. more than 40%, as per Section 2 of the Haryana Registration and Regulation of Societies Act, 2012 (hereinafter referred to "the Act of 2012") and the subsequent

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certificate of amendment of the Bye-laws issued by the District Registrar of Societies dated 27.02.2020. He contends that respondent No.5-complainant had also attended the said meeting and had no objection to the amendment in the bye laws at that point in time. It is argued that the Welfare Cultural and Recreational Association is a Society registered under the Act of 2012 vide Registration No. 01222 dated 25.11.2014 and the petitioner was the President of the Society at the relevant point of time. The disputed amendment in the bye laws was carried out during his tenure and the same was also approved by the District Registrar. The said approval/sanction granted by the District Registrar was challenged by respondent No.5 before the State Registrar of Societies by way of an appeal No. 880 of 2020. The State Registrar allowed the said appeal and set aside the order dated 27.02.2020 of the District Registrar on the ground that the due procedure had not been followed.

3. Aggrieved thereof, the petitioner preferred a further challenge before the Registrar General of Societies, Haryana. Vide order dated 06.02.2024, the said appeal was also dismissed and the order passed by the State Registrar of Societies was affirmed.

4. It is argued by the learned Counsel that the reasoning given by the State Registrar of Societies as well as the Registrar General of Societies is flawed and incorrect. He contends that the sanction granted to the amendment of the Bye-laws has been set aside on the ground that the mandatory procedure prescribed for passing a special resolution has not been

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followed. He contends that the Society had issued notice of the Annual General Meeting to be held on 21.07.2019 vide the public notice dated 28.06.2019. The following Agenda for meeting was circulated for information of all the members:-

“Agenda for the meeting is as under:

- 1. Welcome address by the President.*
- 2. Confirmation of the minutes of the last AGM held on Sunday.*
- 3. Presentation of the Annual Report of the Managing Committee by the Genl Secretary.*
- 4. Approval of Co-opted members against vacancy.*
- 5. Discussion on any points received from members.*
- 6. Approval of the audited Account for the year 2018-2019*
- 7. Appointment of the auditors for the year 2019-2020*
- 8. Any other business with permission of the Chair.*
- 9. Vote of thanks.*

(Emphasis Supplied)

5. It is contended that Agenda No. 5 dealt with the discussion on any point received from the members. Thereafter, one of the members submitted a request points for a new agenda which included carrying out certain amendments in the bye laws of the Society. The request by the member, made vide the aforesaid communication dated 10.07.2019 is extracted as under:-



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Subject: Points for New Agenda

It is to bring your kind attention please include the agenda points for the upcoming AGM held on July 21, 2019.

1. WCRA should have 3. patrons instead of one on the patron post so that more guidance is provided from time to time.

2. WCRA election should also be held on 3 posts only because to hold elections for 15 posts is practically not possible and only elected officials on these 3 posts nominate the remaining 12 members.

Thanking you,

Vinod Garg

H.No.-698/Sec-21-A

Faridabad

6. Consequent upon the receipt of the aforesaid request from the members, the same was circulated for the information of all other members vide public notice dated 15.07.2019 and a resolution was eventually passed on 21.07.2019. He thus contends that a clear cut notice of more than 14 days had already been issued, as is mandated under Section 31 of the Act of 2012 and that the findings recorded by the appellate as well as original authority are not based upon correct appreciation of the statutory provision.

7. I have heard learned Counsel appearing on behalf of the petitioner and have gone through the documents available on record.



8. Before proceeding further in the matter, it would be appropriate to refer to Section 26 and Section 31 of the Act of 2012. The same are extracted as under:-

26. Amendment of Memorandum and Bye-laws.

(1) A Society may, by a special resolution, amend the provisions of its Memorandum with respect to,

(i) change in the name of Society; or

(ii) change in the aims and objects of the Society, as permissible under the Act.

(2) A Society may amend its Bye-laws by a special resolution.

(3) Any special resolution passed under sub-section (1) or (2) shall be filed with the District Registrar within thirty days from the date of approval thereof and the District Registrar may, if he is satisfied that the same is in accordance with the provisions of the Act and the rules, register such change. Any such change shall have no effect until it has been so registered.

(4) If the District Registrar refuses to register a change in the Memorandum or the Bye-laws under sub-section (3), he shall communicate the reasons therefor in writing within a period of sixty days of filing of the special resolution by the Society, and the special resolution passed by the Society in that case shall have no effect. If the District Registrar fails to communicate the reasons within sixty days, the special resolution shall be deemed to have been registered by him.

**31. Meetings of General Body or Collegium.**

- (1) *An annual general meeting of the General Body or the Collegium, as the case may be, may be held as and when required. However, at least one meeting of the General Body or the Collegium, as the case may be, shall be held in every financial year in which the annual accounts of the Society, duly audited, shall be placed before the members for adoption.*
- (2) *A clear notice of fourteen days of every meeting shall be given to the members of the General Body or the Collegium, as the case may be, before the date appointed for the meeting. A copy of such notice alongwith the business to be transacted during the general meeting shall also be endorsed to the District Registrar.*
- (3) *The notice shall specify the date, time, place and the object of the meeting and in case any agenda item requiring a special resolution is proposed to be considered in such meeting, the notice shall contain a copy each of such agenda.*

[Emphasis Supplied]

9. It is evident from a perusal of the aforesaid provisions that an amendment in the bye-laws can be carried out only by way of a special resolution. It is further well established that a clear cut notice of 14 days for every meeting is required to be given to the members of the General Body or the Collegium.

10. The notice for convening an Annual General Meeting was issued on 28.06.2019. If the argument of the petitioner is considered in

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relation to the requirement for convening every meeting and the compliance in terms of Section 31 (2), it may be relevant. The same would however not apply to the present case since sub-section 3 of Section 31 has an additional requirement and as per the same, the notice is required to specify the date, time, place and object of the meeting and that in the event of any agenda item requiring a special resolution to be proposed, the notice is required to contain a copy of each such agenda. Significantly, the agenda in relation to amendment in the bye-laws of the Society, undisputedly mandates passing of a special resolution was served upon the members by public notice only on 15.07.2019. Prior thereto, the notice was only for a meeting and business to be transacted required a generic/ordinary resolution. The said agenda item was thus not with respect to any agenda that required a special resolution. It cannot be perceived that an agenda mandating a special resolution and a clear notice of 14 days for each agenda can be canvassed as any residuary agenda. The scope of Clause 5 is thus only with respect to the ordinary business to be transacted at such a meeting.

11. Once the requirement of the law, for discussion on an agenda requiring passing of a special resolution, is to supply each such agenda alongwith the notice, the petitioner cannot be permitted to contend that even though the specific notice in relation to a special resolution may not be specifically mentioned in the initial public notice informing about the Annual General Meeting, however, the same ought to be construed as having

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been circulated under any other residuary agenda that will be discussed on a request of a member.

12. I find that the aforesaid interpretation suggested by the Counsel for the petitioner is not in conformity to the object and intent of the statutory provision. The requirement prescribed under sub-section 3 of Section 31 cannot be made subject to the procedure prescribed for commencing ordinary businesses of the Society. Once the legislation mandates the need for circulation of each and every agenda requiring a special resolution, it could not have been kept covert and made known to the public/members at large only one week prior to the meeting being convened. The very fact that the petitioner submitted an intimation with respect to the suggestion by the members on 15.07.2019 clearly shows that he was aware and conscious of the necessity of communicating the special agenda to all the members but despite the same, he did not ensure that the statutory requirements be fulfilled. The Registrar General of Societies, while dealing with the appeal, recorded the following observations:-

I. Provisions for amendment of memorandum, and bye-laws of society have been specified in Section 26 of the HRRS Act, 2012 wherein, it is specifically mentioned that a society may amend its bye-laws by a special resolution.

II. Special resolution is defined in Section 2 (xxiv) which says that resolution passed in the meeting of General Body in which 40% of the members entitled to vote are present and resolution is approved by 3/5th of the members so present and voting.



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III. As per Section 31 (2) of the HRRS Act, 2012, a clear notice for 14 days for every General Body Meeting shall be given to the members of General Body Meeting before the date appointed for the meeting.

IV. Section 31 (3) of the HRRS Act, 2012 provides that in case agenda item requiring special resolution is proposed to be considered in Annual General Meeting, the notice shall contain a copy each of such agenda. Notice dated 28.06.2019 regarding Annual General Meeting dated 21.07.2019 was deceptively drafted wherein no agenda regarding amendment in bye-laws was mentioned. The notice dated 28.06.2019 is not in conformity with the said provision.

13. Learned Counsel for the petitioner is not in a position to rebut the mandate of statutory provision enshrined under Section 31 (3) of the Haryana Registration and Regulation of Societies Act, 2012 by referring to any argument as such or precedent/judgment on the said issue.
14. Under the given circumstances, I do not find that the order passed by the State Registrar of the Societies, as affirmed by the Registrar General of the Societies, Haryana suffers from any illegality, impropriety or misappreciation of the statutory provisions or the documents on record.
15. The present writ petition is accordingly dismissed in *limine*.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 05, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No