

2024:PHHC:121998



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

258+260

Date of Decision: 16.09.2024.

(1) CWP-27972-2023 (O&M).

KARAM CHAND KHURANA AND OTHERS

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

(2) CWP-28998-2023 (O&M).

MOHIT BATRA

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

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

Present: Mr. Parminder Singh, Advocate,
for the petitioner(s).

Mr. Pankaj Mulwani, DAG, Haryana,
for respondents No.1 to 3.

Dr. Pankaj Nanhra, Advocate and
Mr. Rahul Gautam, Advocate,
for respondent No.4.

VINOD S. BHARDWAJ, J. (ORAL)

Raising identical issues, both these petitions are being decided
by a single order.

Petitioner(s) have approached this Court challenging the order
dated 08.12.2023 (Annexure P-9) passed by respondent No.3-District
Registrar, Firms and Societies, Karnal, as well as the complaint dated
04.10.2023 (Annexure P-7) along with all consequential proceedings.

The matter came up for hearing before this Court on
13.12.2023, when the following order was passed:-

*“Learned counsel for the petitioners inter alia contends that
the petitioners are life members and their membership has
been illegally terminated by respondent No.3 i.e. District
Registrar, Firms and Societies, Karnal on a complaint filed by
the members of the Society notwithstanding the statutory
provisions under Section 22 of the Haryana Registration and
Regulation of Societies Act, 2012 as well as Bye-Law-8 and
without returning any finding as would render the petitioners
liable to cession of their memberships. He further contends that*

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the process of elections of the society is scheduled to be commenced w.e.f. 14.12.2023 for the post of Vice President, General Secretary, Treasurer and Executive Members only. Learned counsel further contends that petitioner No.1 – Karam Chand Khurana is keen to contest the election for the post of Vice President, however, in view of his membership having been terminated, he would not be permitted to file his nomination.

Notice of motion.

Mr. Vaibhav Narang, Advocate enters appearance and files his memo of appearance on behalf of respondent No.4. He submits that the petitioner has an alternative remedy of approaching not only before the State Registrar of the Societies but also before the Registrar General, Firms and Societies against the impugned order and that having not availed the aforesaid remedy under the Haryana Registration and Regulation of Societies Act, 2012, their approaching this Court by way of present petition is uncalled for.

However, taking into consideration that the termination of the memberships of the petitioners is prima facie not in consonance with Section 22 of the Haryana Registration and Regulation of Societies Act, 2012 and also that the election process is already scheduled to commence from 14.12.2023 as well as the fact that the petitioners are themselves desirous of contesting the elections, relegating the petitioners at this stage to avail the alternative remedies, without staying the election process would be a travesty of justice and would render the present petition as infructuous. Besides, it does not seem proper to stay the election to the Governing Body of the Society at this juncture.

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Hence, in the meanwhile and without prejudice to the rights of the respective parties, the petitioners shall be permitted to participate in the election process scheduled to commence from 14.12.2023. The declaration of result shall, however, be subject to final outcome of the present petition.

Adjourned to 12.04.2024.

Service upon remaining respondents be also got effected in the meanwhile.”

It is undisputed that elections have already been held thereafter.

Learned counsel appearing for respondent No.4 contends that the present writ petitions had been entertained considering the urgent nature since the election schedule had already been issued. The elections having already held and the petitioner(s) having been permitted to participate, the issue survives only with respect to the membership of the Society. Hence, it would rather be appropriate and in fitness of things that the statutory authorities under the Haryana Regulation and Registration of Societies Act, 2012, are directed to take a considered decision in the matter. He submits that the order dated 08.12.2023 is an appealable order before the State Registrar of Societies, Haryana, and that the petitioner(s) are required to first exhaust their statutory remedies before approaching this Court. Reliance is placed on the **order dated 22.04.2024** passed by the Hon'ble Supreme Court in **Civil Appeal No.5312 of 2024 (arising out of SLP (Civil) No.3148 of 2023 titled as Nawal Ray Vs. Umesh Kumar and others.**

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The submissions made on behalf of respondent No.4 appear to be reasonable and the same are accepted.

Accordingly, the present petitions are disposed of, at this stage, without commenting on the merits of the case, with liberty to the petitioners to file an appeal against the impugned order dated 08.12.2023 before the State Registrar of Societies, Haryana, under the Haryana Regulation and Registration of Societies Act, 2012. In the event of any such appeal being filed, the State Registrar of Societies, Haryana, is directed to take an appropriate decision on the same, in accordance with law, and after granting an opportunity of hearing to the respective parties. The result of the elections already held, however, shall remain subject to the final outcome of the said proceedings.

The period during which the present petitions have remained pending before this Court shall be taken into consideration in computing the period of limitation, if any, in approaching the State Registrar of Societies, Haryana.

September 16, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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