

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

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CWP-2675-2024 (O&M).
Date of Decision: 07.02.2024.

KIRPAL RUHANI SATSANG SOCIETY (REGD.)

... Petitioner(s)

Versus

THE REGISTRAR OF FIRMS AND SOCIETIES, U.T.
CHANDIGARH AND ANOTHER

... Respondent(s)

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

Present: Mr. Raja Bahadur Singh Jain, Advocate, for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 08.06.2022 passed by the Registrar of Firms and Societies, U.T. Chandigarh, whereby the application for cancellation of Registration Certificate of the “Kirpal Ruhani Satsang Society” submitted by the petitioner (Annexure P-5), has been dismissed. A further prayer has been made that the certificate of registration bearing No.360 of 1977-78 issued in favour of Kirpal Ruhani Satsang Society, Chandigarh on 29.09.1997 be also cancelled.

Learned counsel for the petitioner contends that the petitioner is a Charitable Society registered under the Societies Registration Act, 1860 with the Registrar of Societies, Delhi vide registration No.S/587 of 1952. It

was originally registered as Kirpal Ruhani Satsang Trust, however, its name was changed w.e.f. 17.12.1957 to Kirpal Ruhani Satsang Society and registration in this regard was also duly issued. The Society is engaged in dissemination of spiritual knowledge and was founded by Param Sant Kirpal Singh Ji Maharaj. It is contended that the said Society has been undertaking numerous activities for spreading brotherhood and spirituality. The Society has its presence at different places all over India. One such land that was allotted to the petitioner Society was House No.1039, Sector 27-B, by the Chandigarh Administration for holding Satsang and to enable the followers to attend the spiritual discourses. The duties were usually assigned by the petitioner, to hold Satsangs at the above said house No.1039, Sector 27-B, Chandigarh, to respondent No.2 under its supervision and control, however, the said followers of Param Sant Kirpal Singh Ji Maharaj at Chandigarh, formed a separate Society i.e. respondent No.2 by the same very name and got it registered with the Deputy Commissioner-cum-Registrar of Firms and Society, Union Territory, Chandigarh on 29.09.1977 vide Registration No.360 of 1977-78. It is contended that the above said Society was formed without informing and without the knowledge, consent or concurrence of the petitioner-Society, which continues and is entitled to exercise its administrative control over the activities of the Chandigarh Center. Further, the above said properties was purchased by the petitioner-Society from its own funds and would thus devolve upon the legal heirs of the Sant Kirpal Singh Ji Maharaj and cannot be claimed by respondent No.2-Society. It is contended that respondent

No.2-Society has been trying to take control of the Chandigarh Centre in an illegal manner and without having any right or title.

It is contended that on coming to know about the registration of the second Society by the respondent Chandigarh Administration, the petitioner questioned its registration and moved an application before the Registrar of Societies on 12.11.1990 for seeking cancellation of registration of respondent No.2 under the name and style of Kirpal Ruhani Satsang Society at the registered office at above said house. The said application remained pending and was not decided for a long duration by the respondents. However, after much follow up and efforts and after a delay of nearly 32 years, a cryptic and non-speaking order dated 08.06.2022 had been passed by respondent No.1 whereby instead of deciding the cancellation application by a reasoned order, it recorded as under:-

“To

1. Sh. Rajvinder Singh Jolly. (Advocate)

Kirpal Ruhani Satsang Society, R/o H.No. 1274, Sector 37B, Chandigarh.

2. Sh. Manpreet Singh Tejl, (Advocate)

Kirpal Ruhani Satsang Society, R/o H.No. 1274, Sector 378, Chandigarh.

Memo No. DC/RIA/2022/12341

Dated Chandigarh the 08.06.2022

Subject:- Regarding cancellation of "Kirpal Ruhani Satsang Society" Reg. No. 360 of 1977-78

Reference on the subject cited above.

It is advised that, if you want to dissolve the society, you have to submit documentation as per under section 13 & 14 of Society Registration Act, 1860. In case of any dispute amongst the members seek remedy from competent court of law.”

Sd/-

*for Registrar Firms & Societies
UT Chandigarh.”*

Aggrieved thereof, the petitioner preferred a review petition to the authorities concerned and the said representation for review of the said order is still pending and no decision has been taken thereupon.

The present writ petition has thus been filed before this Court.

During the course of arguments, on a specific query posed to the counsel for the petitioner as to whether any power of review is vested with the Registrar of Firms and Societies under the Societies Registration Act, 1860, he contends that he would not press the prayer so far as direction to decide the review, against the order dated 08.06.2022 is concerned, he, however, contends that the impugned order is however cryptic and non-speaking and the same ought to be set aside.

He refers to Section 3-A and 12-A of the Societies Registration Act, 1860, as per which there is a prohibition against registration of Societies with undesirable names and further under Section 12-A of the Societies Registration Act, 1860, the Registrar may refuse to register an undesirable name. The relevant Sections are extracted as under:-

“3A. Refusal of registration.—(1) The Registrar may, in his discretion, issue public notice or issue notice to such persons as he thinks fit inviting objections, if any, against the proposed registration and consider all objections that may be received by him before registering the society. (2) Notwithstanding anything contained in section 3, the Registrar shall refuse to register a society, if after giving it an opportunity of showing cause against such refusal, he is satisfied that— (a) the name

of the society is identical with that of any other society previously registered under this Act; (b) the name of the society sought to be registered uses any of the words, namely:-- 'Union', 'State', 'Land Mortgage', 'Land development', 'Co-operative', 'Gandhi', 'Reserve Bank' or any words expressing or implying the sanction. Approval or patronage of the Central or any State Government or any word which suggests or is calculated to suggest any connection with any local authority or any corporation or body constituted by or under any law for the time being in force or is such as is otherwise likely to deceive the public or the members of any other society previously registered under this Act; (c) anyone or more of the objects of the society sought to be registered is not an object mentioned in section 1 and 20; or (d) its objects are contrary to any other law for the time being in force or contrary to public policy.

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"12A. Registration of change of name.--(1) *Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar for registering the change of name. If the proposed change in the name is in his opinion undesirable for any of the reasons mentioned in Section 3A, the Registrar shall refuse to register the change of name.*

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case, and on the issue of such a certificate the change of name shall be complete.

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(4) If, through inadvertence or otherwise, a society is registered by a name which should not have been registered (due regard being had to the provisions of section 3A), the Registrar may, after hearing the party concerned direct the society to change the name; and the society shall change its name within a period of three months from the date of the direction in accordance with the provisions of this Act, or such longer period as the Registrar may think fit to allow.”

It is vehemently argued by the learned counsel for the petitioner that since the petitioner is an earlier registered society under the Society Registration Act, 1860, the registration of respondent No.2 under the same name is clearly an attempt to take over control of the property allotted to petitioner-Society by seeking registration under the same name. It is also submitted that the prayer made by the petitioner for seeking cancellation of the registration of the Society has also not been dealt with properly and rather, an uncalled for remark has been made that in the event the petitioner wants to dissolve the Society, an appropriate application along with the requisite documents has to be submitted as per Section 13 and 14 of the Societies Registration Act, 1860. It is contended that the Registrar of Firms and Societies has further passed the order that in case of any dispute amongst the members, the remedy ought to be availed before the Competent Court of law.

Learned counsel for the petitioner-Society contends that the said aspect was neither agitated nor raised before the Registrar of Societies, yet, he has proceeded to record an order which is beyond the contours of the dispute brought before him. He thus failed to consider the dispute submitted

and has passed the order in a ministerial manner. He submits that the order in dispute would be bad and liable to be set aside in exercise of a writ jurisdiction.

I have heard learned counsel appearing on behalf of the petitioner and have also gone through the pleadings and the provisions with his able assistance.

It has become essential for this Court to examine the statutory provisions and as to whether the said provision vests a power in the registrar to cancel the registration once issued.

In so far as the applicability of Section 12-A of the Societies Registration Act, 1860, to Chandigarh is concerned, vide Central Act No.31 of 1966, Section 12-A and 12-B, as introduced by the Maharashtra Amendment Act, have been extended. Section 12A (4) of the Maharashtra Amendment Act refers to Section 3-A of the Maharashtra Act No.11 of 1968, however, the Punjab and Haryana, Chandigarh amendment Act, does not envisage attracting Section 3-A to its territories. A specific query was thus posed to the learned counsel appearing for the petitioner as to whether in the absence of an amendment, which would attract Section 3-A also to the States of Punjab, Haryana and Chandigarh, as it was then, the said Section can be deemed enforceable or it would be inferred as a conscious elimination by the Legislature since only Section 12-A and 12-B are being attracted and Section 3-A has been left out. A query was also posed as to whether any such attempt at interpreting the above said substantive provision to be deemingly attracted, on account of Section 12-A being attracted, whether the Court would be exceeding its power of judicial

review and in the said process legislating instead of judicially interpreting, counsel for the petitioner fails to offer any satisfactory explanation.

Be that as it may, the contentions raised by the petitioner by assuming the applicability of Section 3-A, 12-A and 12-B have also been considered.

Section 3-A of the Societies Registration Act, 1860, deals with prohibition against registration of societies with undesirable names. The said provision imposes restrictions against the registrar for registering a Society with undesirable name or the name which nearly resemble the name by which any other existing society has been previously registered or is likely to deceive either the public or members of the Society. A reiteration of the above said clause has been made in Section 12-A where the said provision would come into play in case a re-registration of an existing society is sought with an undesirable name.

A query was again put to the learned counsel for the petitioner as to whether a power available to a Registrar at the stage of registration of a Society would also vest an authority on the Registrar to cancel a Society already registered by relying on Section 3-A.

Learned counsel for the petitioner has not been able to refer to any provision or the judicial precedent on the basis whereof, it can be construed that the power to issue registration should be treated to vest power of cancellation as well. It is well settled that an authority, which is a competent authority for doing an act may or may not be conferred power by the Legislature to hear appeals and/or to decide any further objection/petitions against the acts done. An authority may have been

conferred only a limited jurisdiction and power by the Legislature and it may tend to be *functus officio* having discharged such function. The powers vested under the Societies Registration Act, 1860, with the Registrar of Firms and Societies is only confined to registration or re-registration of an existing Society. Quasi judicial function of hearing appeals or seeking cancellation of an already registered Society is not conferred upon the Registrar by the Legislature on the Registrar of Firms and Societies. High Court, by any interpretation, cannot vest an authority with a power in law, which has not been conferred upon it by the Legislature or under a Statute. Validation of any such exercise of power would amount to legislating and conferring a jurisdiction on an authority, which the Legislature never intended to vest. It is equally well settled that the power of hearing appeals/petitions is a statutory power and has to arise from the Statute itself.

The matter may also be examined from the perspective of the General Clauses Act, and to claim that if an authority has a power to do a thing, it has a power to undo that thing. However, in the process of undoing, it exercises a power of review. In a case of an established fraud on an authority, such power, being a part of procedural review, would inhere in it, however, staking contesting claims is a power of substantive review and has to be conferred before the same can be exercised.

The dispute is also examined from the perspective that the same is in relation to taking control and seize the property allotted in favour of Kirpal Ruhani Satsang Society, being House No.1039, Sector 27-B, Chandigarh. The persons who are in possession thereof are stated by the

petitioner itself to have been authorized by the petitioner-Society and of having been put in possession of the same.

The application submitted by the petitioner for seeking cancellation has also been perused and it is evident from the pleadings that various people are alleged to have taken over control of assets of the Society and similar registration has taken place at different jurisdictions. It is also averred that after the death of the founder, some persons formed a parallel management. Surprisingly, there is no reference as to how and when the house was allotted to the petitioner. The said aspect was not raised in the petition and even date of allotment/purchase of the property is not mentioned.

It is thus evident that various questions require determination such as:-

- (i) Whether the respondent No.2-Society is a breakaway faction of the Society or it is the group which is now the successor of the original society?
- (ii) Who purchased the above property and the source of its funds?
- (iii) Whether there is an act of fraud by the respondent No.2 in seeking registration under similar name?
- (iv) Whether Section 3-A, which deals with registration of Societies with undesirable names would automatically extend to Chandigarh inherent to Section 12 (A) (4) or is required to be extended as a substantive provision?

(v) Whether registration once granted would give rise to a civil right and can only be set aside by a civil Court.

The Societies Registration Act, 1860 does not prohibit the jurisdiction of a Civil Court to agitate and to examine any such issues. The controversy brought before this Court would essentially require leading of evidence by the respective parties since disputed questions of fact are involved and such intricate disputed questions of fact cannot be gone into by a writ Court under its jurisdiction under Article 226 of the Constitution of India.

The present writ petition is accordingly dismissed, at this stage. Liberty, however, is granted to the petitioner-Society to approach the Civil Court for seeking redressal of its grievances by filing an appropriate suit/petition.

Needless to mention that the period during which the grievance of the petitioner remained pending before the Registrar as well as this Court, shall be taken into consideration for computing limitation for institution of the said suit.

February 07, 2024
raj arora

(VINOD S. BHARDWAJ
JUDGE

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