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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 687/2024, CM APPL. 3056/2024

MANOJ KUMAR DWIVEDI AND ORS. Petitioner

Through: Mr. Yadunandan Bansal, Mr. Deepak Tyagi, Mr. Maneesh Pathak, Mr. Syam Prabha Saraswati, Mr. Bhupesh Kumar Pathak, Mr. P. C. Patnaik, Mr. V. N. S. Tyagi, Advocates alongwith Mr. Manoj Kumar Dwivedi, Mr. Mannu Singh, Mr. Raju Sonekar, Mr. Pravin Kumar Kashyap, Mr. Ramnesh Kumar Sahu, Mr. Rajeev Kumar Ranjan, Ms. Pavitra Mohan Sharma, Mr. Abdul Gaffer and Mohd. Izhar Alam, Petitioners in person

versus

UNION OF INDIA AND ORS. Respondent

Through: Mr. Nishchal Kumar Neeraj and Mr. J.N. S. Tyagi, Advocates

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Date of Decision: 16th January, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T(ORAL)

CM APPL. 3056/2024 (for exemption)

Allowed subject to just exceptions.

Accordingly, this application is disposed of.

**W.P.(C) 687/2024**

1. This petition has been filed under Article 226 and 227 of the Constitution of India, seeking a direction to a Returning Officer ('RO') for changing the venue as regards elections of the Board of Directors of Supreme Court Bar Association Multi-State Cooperative Group Housing Society Ltd. ('SCBA MSCGHS' or 'Society') scheduled on 18.01.2024.
2. The RO vide its notification dated 28.12.2023 issued a fresh notification regarding the election programme and declared that the elections will be held on 18.01.2024 between 08:00 AM to 05:00 PM and the venue of the polling will be the Conference Hall, Disaster Management Centre, Humayun Road, New Delhi-110003 ('venue'). In the notification, it was stated that the said address will be the venue for the polling and also function as the office of the RO for the entire election process including nomination.
3. In accordance with the said notification all steps contemplated in the notification dated 28.12.2023, starting from 02.01.2024 have been conducted by the RO at the said venue. This includes issuance, filing, scrutiny and publication of valid nominations.
4. It is contended by the Petitioners that by way of this petition they are seeking a direction to the RO to hold the polling at Library-I, at Supreme Court ('proposed venue') on the ground of convenience of practicing members of the Bar.
5. The RO i.e., Respondent No. 3 has joined the hearing through video conferencing. He has expressed his inability to conduct elections at the proposed venue.



5.1 He states that initially when elections were scheduled in November, 2023, he made an endeavor to conduct the elections within Supreme Court. He states that registered office of this Society is located within the chamber block. He states however, that the Asst. Returning Officer and the staff during their visit to the said chamber block had been manhandled and threatened, by the lawyers.

5.2 He states that for the purpose of conducting the elections he had written to the office bearers of the Supreme Court Bar Association ('SCBA') and the person-in-charge of Library-I; however, he did not receive any response. He states that in fact, no cooperation was extended to the staff of the RO and they were not granted ready access to the existing office in the chamber block making it difficult to carry out the functions of holding elections.

5.3 He states that thereafter he independently approached the DCP Security at Supreme Court for assistance in conducting the elections at Supreme Court and seeking access to a venue at Supreme Court. He states however, he was informed by the said DCP that he would not be able to ensure access to the venue.

5.4 He states that he thereafter also contacted his Central Authority with a request to contact the concerned superior police officers for assistance, however, they as well-expressed regret that they cannot interfere within the precincts of Supreme Court.

5.5 He states that it was in these facts that he finally selected the present venue and has carried out the election process till date from the said venue.

5.6 He states that in the aforesaid hostile conditions towards the RO and his staff, he is of the opinion that he will be unable to conduct a free and fair



elections in Supreme Court. He states therefore, he has apprehensions and is unwilling to conduct the elections from Supreme Court. He states in any event notices publishing the venue and time for polling have been communicated to all the members and it is not possible for him to change polling arrangements at this eleventh hour.

6. In response, the Petitioners state that they have taken assurance from the office bearers of SCBA that they will cooperate in the conduct of the elections within Supreme Court and in this regard relies upon a communication dated 02.01.2024 issued by the Secretary of SCBA to the Returning Officer.

7. This Court has considered the submission of the parties and perused the record.

8. In the facts of this case prior to the current notification dated 28.12.2023, the RO had issued an election programme on 18.12.2023 scheduling the elections for 04.01.2024. In the said notification, the venue for polling was Conference Hall, Disaster Management Centre, Humayun Road, New Delhi-110003. The said notification was a subject matter of the W.P.(C) No. 16258/2023, wherein a challenge was raised with respect to issuance of a composite notification for all 15 posts of the Board of Directors. All the parties addressed their arguments and raised concerns with respect to the election process in the said writ petition and thereafter the Court passed appropriate directions for issuance of a fresh notification to the RO vide judgment dated 23.12.2023.

9. Pertinently, no objection was raised before the High Court in the aforesaid writ petition with respect to the venue of the polling being outside the Supreme Court. The RO in compliance with the Judgment dated



23.12.2023 published the impugned notification 28.12.2023, wherein a fresh election programme was published and the venue of polling remained the same as was mentioned in the earlier notification dated 18.12.2023.

10. There is no dispute that the election programme has been conducted as per the notification dated 28.12.2023 and the staff of the RO has been operating from the venue Humayun Road for the past couple of months. The present petition filed on 15.01.2024 with the elections scheduled on 18.01.2024 is highly belated. The RO has sufficiently explained the reasons which weighed with him for selecting the current venue at Humayun Road. The RO has also explained that he made earnest efforts to conduct the election within Supreme Court, however, at the relevant time no cooperation was forthcoming to him.

11. Therefore, in the facts and circumstances of this case, this Court is of the opinion that the present petition filed on the eve of the elections seeking change of venue cannot be entertained in view of the difficulties and apprehension expressed by the RO.

12. Accordingly, the present petition along with applications is dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 16, 2024/hp