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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 747/2024, CM APPL. 3277-3278/2024**

ARUN KUMAR MISHRA & ORS. Petitioner

Through: Mr. Shyamal Kumar, Ms. Priya Nagar, Ms. Mukta Sharma, Mr. Nagendra Singh and Mr. Arun Kr Mishra, Advocates

versus

UNION OF INDIA AND ORS. Respondent

Through: Respondent No. 7 and 8 in person

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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. 3078/2024 (for exemption)

Allowed subject to just exceptions.

Accordingly, this application is disposed of.

W.P.(C) 747/2024, CM APPL. 3277/2024

1. This petition has been filed challenging the order dated 13.01.2024 passed by Central Registrar of Cooperative Societies i.e., Respondent No. 2, holding that the 15 elected members of the outgoing Board of Supreme Court Bar Association Multi-State Cooperative Group-Housing Society Ltd.



i.e., Respondent No. 5 are not eligible for being elected as a member of the Board for a period of five (5) years from the date of this order.

2. The learned counsel for the Petitioners states that the said order is without jurisdiction and is contrary to the Multi-State Co-operative Societies Rules, 2002 ('MCS Rules'). He states that the Respondent No. 2 has no jurisdiction to pass the order and the power, if any, vests in the Returning Officer, i.e., Respondent No. 4 ('RO').

3. He states that the revised election programme was published on 28.12.2023 final list of candidates has been published by the RO on 11.01.2024. He states that the names of the Petitioners herein have been published in the said final list. He states after the publishing of the said final list the impugned order cannot be sustained. He states that the scrutiny of the nomination forms was duly undertaken by the RO and at that relevant stage no objection was raised. He states that after verification of the nomination forms, the final list was published and he further states that the Petitioners cannot be excluded on the eve of the elections.

4. He states that Petitioners herein dispute the allegations made by the complainants i.e., Respondent Nos. 7 to 9 and states that the Petitioners acted in the interest of the Society. He states that the complainants are contesting elections on the same post and therefore, have a vested interest in ousting the Petitioners.

5. Respondent Nos. 7 and 8 appears in person. It is stated that the impugned order of Respondent No. 2 has been passed in exercise of his jurisdiction under Section 43 (2) of the Multi-State Co-operative Societies Act, 2002 ('Act of 2002'). He states that he had filed his complaints in December 2023 and the delay in decision making is on account of the time



taken by the Petitioners. He states that finalisation of the list candidates on 11.01.2024 and its publication can have no bearing on the operation of the impugned order.

6. The RO i.e., Respondent No. 4 has joined the proceedings through video conferencing. He states that the election will be conducted as per the election programme published on 28.12.2023. He states that the final list of the contesting candidates has been published on 11.01.2024. He states that the Petitioners names are duly enlisted in the category of the contestants and elections will be held as per the list published on 11.01.2024. He states all the 41 candidates who have submitted their nominations for the 12 unreserved seats will be entitled to contest the elections.

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

8. It is a matter of record that the nominations were scrutinize by the RO and the final list was published on 11.01.2024. The impugned order passed by Respondent No. 2 being a declaration of disqualification after publication of final list of candidates on 11.01.2024 cannot affect the rights of the declared candidates, as the impugned order shall operate prospectively. In view of the statement of the RO i.e., Respondent No. 4, the present petition is disposed of directing that the elections will be conducted as per the final list of candidates published on 11.01.2024 and the Petitioners herein will not be excluded from contesting the scheduled elections.

9. We, however, reserve the right of the Petitioners as well as Respondent Nos. 7 to 9 to pursue to their statutory remedies with respect to the impugned order dated 13.01.2024 in accordance with the provisions of the Act of 2002.



10. With the aforesaid directions, the present petition along with applications stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 16, 2024/hp/MG