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

+ W.P.(C) 4350/2024 & CM APPL. 17842/2024

DP SINGH

.....Petitioner

Through: Appearance not given.

versus

GANGA APARTMENTS VASANT KUNJ, RESIDENTIAL
WELFARE ASSOCIATION AND ANR

.....Respondents

Through: Mr. Rajeev Saxena, Ms. Megha
Saxena and Ms. Shreya Bhatnagar,
Advocates for R-1.

Mr. Anuj Aggarwal, ASC with Mr.
Yash Upadhyay and Mr. Siddhant
Dutt, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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26.11.2024

1. The present writ petition filed under Article 226 of the Constitution, concerns elections to the respondent No. 1-Ganga Apartments Vasant Kunj, Residential Welfare Association of which the petitioner is a member. Respondent No. 1 is a society registered under the Societies Registration Act, 1860 ["the Act"]. Respondent No. 2 is the Registrar of Societies.

2. The reliefs sought by the petitioner are as follows:

"a) Issue a writ of certiorari or any other appropriate writ, order or direction thereby quashing and setting aside the election result of the Respondent No.1 dated 22.02.2024;

b) Issue a writ of certiorari or any other appropriate writ, order or



direction thereby quashing and setting aside the minutes of the meeting dated 11.02.2024 as passed by the erstwhile governing body of the Respondent No.1;

c) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing fresh elections to be held for the governing body of Respondent No.1;

d) Issue an appropriate writ, order or direction thereby appointing a Returning officer to conduct the fresh elections of the Respondent No.1 at a reasonable cost; and

e) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing Respondent No.2 to provide a clarification as to whether resolutions passed in a general body meeting will supersede the Rules and Regulations of the society;

f) Pass any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.”

3. By order dated 15.07.2024, the Court required learned counsel for the petitioner to satisfy it, with regard to entertaining a writ petition in respect of the election of a society registered under the Act.

4. I have heard learned counsel for the parties on this question.

5. Three judgments of a coordinate Bench of this Court have been cited before me, which indicate that the writ Court ordinarily ought not to exercise jurisdiction in respect of elections to a registered society. In *Sumir Dhir And Anr. v. Union of India And Ors.*¹, the Court examined the objectives of the society in question, and came to the conclusion that they neither partake of the character of public duty, nor demonstrate deep and perversive control of the Government in running the society. Relying upon the judgments of the Supreme Court *inter alia* in *Ramakrishna Mission v. Kago Kunya*² and *K.K. Saksena v. International Commission on Irrigation & Drainage*³, as well as various judgments of this Court, the

¹ W.P.(C) 4671/2024, decided on 29.07.2024.

² (2019) 16 SCC 303.

³ (2015) 4 SCC 670.



Court declined to entertain the writ petition. *Sumir Dhir*⁴ was followed in a subsequent judgments of this Court in *Imran Hafeez v. Union of India And Ors.*⁵, and in *Balwan Singh And Anr. v. The Registrar of Societies And Ors.*⁶. As in the present case, the judgment in *Balwan Singh*⁷ concerned a Resident Welfare Association.

6. As against these judgments, learned counsel for the petitioner relies upon a judgment of this Court in *Pondicherry Basketball Association v. Union of India*⁸. He submits that the association in question in the said case [Basketball Federation of India] was also a society registered under the Act, but the Court entertained the writ petition in respect of election to the said society.

7. The distinction, in my view, turns on the special characteristics of National Sports Federations [“NSFs”], which are imbued with public duties. In paragraph 69 of *Pondicherry Basketball Association*⁹, the Court has specifically noted that NSFs have been declared as public authorities by the Government of India, and are thus amenable to the writ jurisdiction of the Court. The case of Residents Welfare Association is dissimilar, and is covered by the line of judgments discussed above in *Sumir Dhir*¹⁰, *Imran Hafeez*¹¹ and *Balwan Singh*¹².

8. Learned counsel for the petitioner also submitted that the reliefs sought in the present case are against respondent No. 2-Registrar of

⁴ Supra (note 1).

⁵ W.P.(C) 11086/2024, decided on 09.08.2024.

⁶ W.P.(C) 10326/2019, decided on 09.09.2024.

⁷ Ibid.

⁸ W.P.(C) 1731/2023, decided on 02.05.2023.

⁹ Ibid.

¹⁰ Supra (note 1).

¹¹ Supra (note 5).



Societies. However, a perusal of the prayers, extracted in paragraph 2 hereinabove, clearly shows that the substantive reliefs sought by the petitioner are in respect of the elections to respondent No. 1-Society. Prayer (e), although, couched in terms of a direction against respondent No. 2, is really an ancillary or subsidiary prayer. I am unable to accept that the inclusion of such a prayer would entitle the petitioner to agitate his grievances by way of a remedy which is otherwise unavailable to him.

9. The writ petition is therefore dismissed, alongwith the pending application.

10. It is open to the petitioner to take appropriate alternative remedies, as available to him, in accordance with law.

PRATEEK JALAN, J

NOVEMBER 26, 2024/MR/AD/

¹² Supra (note 6).