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

\+ W.P.(C) 5386/2023

HIMANSHU SAINI .....Petitioner

Through: Mr. Sanjeev Panda, Advocate.

versus

INCOME TAX EMPLOYEES FEDERATION & ORS. .....Respondents

Through: Mr. Ramit Malhotra, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **03.12.2024**

1. The petitioner has filed this writ petition with regard to election to the Central Secretariat of respondent No.1 - Income Tax Employees Federation ["Federation"].

2. Respondent No.1 is a service association of Group 'C' and Group 'D' employees working in the Income Tax Department. The petitioner is also an employee of the Income Tax Department in Group 'C'. He wished to stand for the post of Vice President in the elections held at the XXXI All India Delegates Conference, Hyderabad of respondent No.1 in December 2021. He is aggrieved by the rejection of his nomination, and has filed this writ petition for the following reliefs:

"(i) Call for the records of this case;

(ii) Quash and set aside the results of the election to the Central Secretariat of ITEF-CHQ which was held in the All India Delegates Conference of ITEF, at Hyderabad in December 2021;

(iii) Declare Note (iii) to the Article- IX - A (i) of ITEF Constitution and Rule-1 of Election Rules, to the extent it authorizes nomination of retired employees of Income Tax Department & former members of ITEF as CEC and members of Election Commission of ITEF as illegal and quash the same.;

(iv) Direct the respondents to hold fresh elections to the Secretariat of ITEF-CHQ, after giving proper notice to all concerned stake holders.

(v) Direct the respondents to pay the cost of litigation to the applicants;

(vi) Pass any other order or direction which this Hon'ble Court thinks fit and proper on the facts and circumstances of the case."

3. Learned counsel for respondent No.1 states, at the outset, that the tenure of the candidate elected in the impugned election has lapsed, and a fresh election has been held in September 2024. He, therefore, submits that the reliefs sought in the present writ petition have been rendered infructuous.

4. Learned counsel for the petitioner, however, points out that the challenge in prayer (iii) is to a provision of the Constitution of the Federation, and a rule which is part of its election Rules. He submits that prayer (iii) survives the lapse of the term of the candidates elected in 2021.

5. By order dated 10.07.2024, learned counsel for the petitioner was granted time to satisfy the Court as to how these reliefs would be amenable to the writ jurisdiction, as the same essentially pertains to a dispute relating to the elections to a society.

6. Learned counsel for the petitioner submits that the challenge to the Constitution and Rules articulated in prayer (iii), is based upon a notification of the Union of India-Department of Personnel & Training dated 05.11.1993, by which the Central Civil Services (Recognition of

Service Associations) Rules, 1993, were notified.

7. I am of the view that the said argument does not take the petitioner's case much further. The question of maintainability of a writ petition cannot be established on the basis of an allegation that a notification of the Central Government has been breached by the respondent. The Union of India is not party to the writ petition, and the said notification is not under challenge. The question is whether the respondent, and the disputes sought to be adjudicated by the petitioner, are amenable to the writ jurisdiction of the Court.

8. The judgments of this Court in *Sumir Dhir and Anr. v. Union of India and Ors.* [W.P.(C) 4671/2024, decided on 29.07.2024][1], *Imran Hafeez v. Union of India and Ors.* [W.P.(C) 11086/2024, decided on 09.08.2024], and in *Balwan Singh and Anr. v. The Registrar of Societies and Ors.* [W.P.(C) 10326/2019, decided on 09.09.2024], have clearly established that the writ jurisdiction is not ordinarily available to challenge elections of a registered society, which does not discharge functions of a public character. The functions of a society are required to be examined to determine whether the public law remedies are appropriate for adjudication of these grievances.

9. In the present case, respondent No.1 is a federation of associations of employees of the Income Tax Department. It does not, by itself, discharge duties of a public character, although its members may be Government servants in their individual capacity. Respondent No.1 retains its character as a society registered under the Societies

[1] The Court relied upon the judgments of the Supreme Court *inter alia* in *Ramakrishna Mission v. Kago Kunya* [2019 16 SCC 303] and *K.K. Saksena v. International Commission on Irrigation & Drainage*

Registration Act, 1860 and is amenable to the jurisdiction of the civil court.

10. The writ petition is, therefore, disposed of, with liberty to the petitioner to approach the civil court in respect of his subsisting grievances, if any.

PRATEEK JALAN, J

DECEMBER 3, 2024
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[2015 4 SCC 670], while declining to entertain the writ petition.