



2024:DHC:10117



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 24.12.2024***+ **W.P.(C) 8604/2020 & CM Appl.27725/2020****HUA SENG CHEW**

.....Petitioner

Through: Ms. Pritha Srikumar and Ms. Saumya
Sinha, Advs.

versus

**REGISTRAR OF SOCIETIES AND FIRMS NEW DELHI
DISTRICT**

.....Respondent

Through: Ms. Hetu Arora Sethi, ASC with Mr.
O.P. Pandey, SDM, Chanakyapuri.
Ms. Bani Dikshit and Mr. Uddhav
Khanna, Advs. for Intervenor.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM Appl.76446/2024[Seeking early hearing]**

1. This is an Application filed on behalf of the Petitioner seeking early hearing in the matter.
2. The matter was substantially heard by the Court and was adjourned on 02.12.2024 on account of non-compliance of the orders dated 02.02.2021 and 05.04.2021.
3. Learned Counsel for the Respondent submits that the affidavit has since been filed by the Respondent.
4. Issue Notice. Learned Counsel for Respondent accepts Notice and submits that they have no objection if the prayer made in the present Application is allowed.



5. Learned Counsel for the Intervener objects to the preponement of the date in the present Petition on the ground that the Impugned Letter dated 01.12.2016 has been stayed and that there is no urgency in the matter.
6. For the reasons as stated in the Application, the same is allowed.
7. The matter is taken up for hearing today.

W.P.(C) 8604/2020 & CM Appl.27725/2020/Stay]

8. The present Petition has been filed *inter alia* seeking the following prayers:

“A. Issue a writ, order or direction in the nature of certiorari quashing the impugned letter dated 1st December 2016 [ANNEXURE P-1] issued by Respondent No. 1;

B. Award costs of this Petition;”

- 8.1 By an order dated 05.04.2021, this Court had on a *prima facie* finding that the Impugned Letter has grave consequences for the Petitioner against whom complaints are made, had stayed the operation of the Impugned Letter dated 01.12.2016 till the next date of hearing. This order has continued since then.

9. The facts briefly are that a joint venture agreement was entered into between Raffles Education Corporation Limited of which the Petitioner is the chairperson [hereinafter referred to as “Raffles”] and Educomp Solutions Limited [hereinafter referred to as “Educomp”] which is the Intervenor. The joint venture resulted in an education society being called Jai Radha Raman Education Society [hereinafter referred to as “JRRES”].

10. The JRRES was registered in Delhi and was jointly managed by the



nominees of both the Raffles and Educomp.

11. Various disputes arose between the two entities which led to litigation *inter-se* between the parties including in matters captioned ***Pramod Thatoi V. Doris Chung Gim Lian & Ors. and other connected matters*** in FAO (OS) 14/2023, 22/2023 and 23/2023 which are presently pending adjudication before the Division Bench of this Court.

12. The disputes between the parties were also subject matter of an arbitration before the Singapore International Arbitration Centre and the Arbitral Tribunal passed its final award on 31.03.2017 [hereinafter referred to as “Arbitral Award”] awarding damages in favour of Raffles. Thus, from the narration of the above, it is seen that there were various disputes *inter-se* between the Petitioner and the Intervenor.

13. The grievance of the Petitioner stems from a letter dated 01.12.2016 [hereinafter referred to as “Impugned Letter”] issued by the office of the Registrar of Societies and Firms/Respondent which is stated to be based on a representation along with detailed documents received from the Intervenor, Mr. Shantanu Prakash. It is the case of the Petitioner that same contentions were raised by the Intervenor before Singapore International Arbitration Centre as well.

14. Learned Counsel for the Petitioner also submits that the Respondent has no authority in law to issue the Impugned Letter. It is submitted that it is well settled that the Respondent does not have disciplinary or supervisory jurisdiction over a society and any dispute in relation to a society under the



Societies Registration Act, 1860 [hereinafter referred to as “SRA”] including its management and membership, would necessarily lie before a Civil Court. He seeks to rely upon the judgment in the case of ***Dinesh Kumar & Anr. v. The Registrar of Societies & Ors.***¹ in this regard.

14.1 Learned Counsel for the Petitioner further contended that the Impugned Letter was an administrative order hence, the principles of natural justice were required to be followed and the Petitioner was to be given a hearing before passing of an order against him.

14.2 Lastly, it is contended by the learned Counsel for the Petitioner that although, this Court had stayed the effect of the Impugned Letter, the Intervenor is using the Impugned Letter in various judicial fora to prejudice the Petitioner and to further his cause to the detriment of the Petitioner.

15. Learned Standing Counsel for Respondent has filed its Affidavit dated 16.12.2024. She fairly does concede to the legal position that the Respondent does not have any authority to adjudicate disputes pending *inter-se* members and management of the Society and the disputes pertaining to a registered society must be resolved through the Courts.

15.1 Pursuant to the orders dated 02.02.2021 and 02.12.2024 passed by this Court, the Respondent has filed an affidavit dated 16.12.2024. It is apposite to extract paragraphs 3, 4 and 5 of the said affidavit which are reproduced below:

“3. The deponent submits that an affidavit of the then Registrar of

¹ 2011 SCC OnLine Del 2814



*Societies was filed on 01.04.2021. This Hon'ble Court by order dated 02.02.2021 **in para 8 specifically directed Registrar of Society to explain the manner in which the impugned letter dated 01.12.2016 has been issued without even hearing the Petitioner.***

4. The deponent submits that as per records no notice of hearing was issued to the Petitioner.

*5. The then Registrar of Societies in affidavit dated 01.04.2021 stated that the consequent to the Complaint received from the office of LG to examine the factual report sent by Mr. Shantanu Prakash, the then Registrar of Societies **after perusal of the official records and documents submitted by the Complainant along with the Complaint passed the observations** which only contains necessary directions regarding compliance and guidelines of provisions of Societies Registrations Act.”*

[Emphasis Supplied]

16. This Court, on 01.10.2024 and 02.12.2024, has recorded that the main bone of contention of the Petitioner is that under Societies Registration Act, 1860, the Registrar of Societies has no authority to adjudicate disputes arising between the members and the management of a society. The relevant extract of Order dated 01.10.2024 reads as follows:

“1. The present Petition arises out of a communication dated 01.12.2016 passed by the Respondent [hereinafter referred to as the “Impugned Communication”].

*2. The record shows that **the Impugned Communication has been issued on behalf of the Respondent, however, as has been observed by the Court previously, it appears to be a reproduction of the complaints and allegations made by a third party.** In addition, the observations made by the Respondent in paragraphs 1 to 9 in the Impugned Communication include the fact that societies have engaged various platforms to seek reprieve in the form of commercial interests, which is totally unjustified and in violation of the provisions set forth in the Society Registration Act, 1860.*

3. This Court had stayed the Impugned Communication by its order dated 05.04.2021.



4. Learned Counsel for the Petitioner seeks to rely upon two judgments passed by a Coordinate Bench of this Court titled as *Dinesh Kumar v. Registrar of Societies*; 2011 SCC OnLine Del 2814 and *Supreme Court Bar Association v. Registrar of Societies*; 2012 SCC OnLine Del 6415 to submit that the Societies Registration Act, 1860 does not convey upon the Registrar of Societies the authority to adjudicate disputes arising between the members and the management of a society. The role of the Registrar is limited to that of a registering authority, without the power to address any irregularities within the society. Consequently, any disputes pertaining to a registered society must be resolved through the appropriate civil court.

5. *Learned Counsel for the Respondent requests for some time to examine the judgments and make submissions.*”

[Emphasis Supplied]

17. The SRA is a statute which governs the registration of societies. The SRA provides for formation of societies, their registration and for dissolution of societies and adjustment of their affairs. The Preamble to the SRA states that the provisions have been made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge or for charitable purposes. The relevant extract of the Preamble to the SRA reads as follows:-

“Whereas it is expedient the provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, the diffusion of political education, or for charitable purposes;”

17.1 Unlike the Co-Operative Societies Act 1912, there is no provision in the SRA to adjudicate civil disputes *inter-se* between two societies or between the registered society and its members. In these circumstances, for



Registrar to have proceeded to examine a complaint based on *inter-se* disputes between two parties was erroneous, especially when these disputes were also subject matter of adjudication before the Court.

18. This Court finds support in the decisions of Co-ordinate Bench judgements in *Dinesh Kumar* case, and *Supreme Court Bar Association v. The Registrar of Societies & Ors.*². In *Dinesh Kumar* case, it was held that Registrar of Societies does not have jurisdiction or authority to resolve disputes between members and management. The relevant extract of *Dinesh Kumar* case is as follows:

“4. The counsel for the respondent No. 1 Registrar of Societies appearing on advance notice states that the Registrar under the Societies Registration Act has no power in the matter and is not in a position to decide the inter se disputes between the Members and the Management of the Society. It is stated that the Registrar is only a registering authority and is not empowered to approve or disapprove any amendment or to take any action with respect to any irregularities.

5. The counsel for the petitioner has also not been able to show any duty or obligation under the law upon the Registrar of Societies to take any action and which it may be failing to perform or take. Without the petitioners showing that there is any denial to perform the obligation or duty required to be performed in law, no mandamus can be claimed.

6. Besides the aspect of delay, which has not been satisfactorily explained, I am also of the view that the writ petition qua the inter se disputes of Members and the Management of the Society does not lie. The earlier writ petition preferred for the same relief though by others was also withdrawn with liberty to seek appropriate relief. The rejection of the plaint in the suit preferred thereafter was as barred by limitation. If the plaintiffs in the suit are aggrieved from the said finding, they are to seek remedies against the said judgment and cannot again maintain a writ petition. I may also notice that the challenge to the amendment is inter alia on the ground that the notice preceding the meeting in which the amendments were carried out was defective. The said plea raises a disputed question of fact which in any case cannot be adjudicated in writ

² 2012 SCC OnLine Del 6415



jurisdiction.”

[Emphasis Supplied]

19. As stated above, the affidavit clearly sets out that prior to passing of the Impugned Letter, no notice of hearing was given to the Petitioner. Thus, the principles of natural justice have not been complied with by the Respondent. In any event, it is settled law that matters *inter-se* parties which involve disputed questions of fact cannot be adjudicated by the Court in a petition under Article 226 of the Constitution of India, 1950. The adjudication of civil disputes between the parties has to be undertaken before the appropriate Civil Court.

20. Learned Counsel for the Intervenor does not dispute the fact that there are various Petitions pending *inter-se* between the parties. Thus, the Intervenor is already taking appropriate remedies in accordance with law with respect to his grievance.

21. In the ***Supreme Court Bar Association*** case, this Court has held if the reply submitted by concerned party is not considered by the Registrar before passing an Order against the concerned party, it would violate the principles of natural justice, and such Order will be liable to set aside. The relevant extract of ***Supreme Court Bar Association*** case reads as follows:

*“18. There is yet another aspect which needs to be considered. Once the Act provides a procedure for dissolution of the society registered under the Act, it is only that procedure which can be invoked, and no other procedure can be adopted. If a thing is prescribed to be done in a particular way, it can be done in only that way, and by no other way. (See Patna Improvement Trust v. Smt. Lakshmi Devi, 812 SCR [1963] Supp. and State of Bihar v. J.A.C. Saldanha, (1980) 1 SCC 554). Therefore, the ROS cannot invent other methods or reasons to suspend or dissolve a society registered under the Act. 19. **The impugned order is***



also liable to be set aside as it breaches the principles of natural justice. Admittedly, the replies given by the petitioner have not been taken into consideration, even though they had been duly submitted in the office of respondent no. 1. If respondent no. 1 did not receive the said replies in his hand, as claimed by him, before passing the impugned order, the petitioner cannot be made to suffer, as the said replies had been submitted well before the passing of the impugned order and at the correct address. The petitioner had specifically placed reliance on the aforesaid decision in Indian National Congress (supra) in their replies, which has been ignored by respondent no. 1.”

[Emphasis Supplied]

22. In view of the foregoing discussions, the Petition is allowed. The Impugned Letter dated 01.12.2016 is set aside. Pending Application stands disposed of.

23. It is however made clear the Court has not undertaken an examination of the disputes *inter-se* the Petitioner and the Intervenor.

24. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

DECEMBER 24, 2024/r/jn

[Click here to check corrigendum, if any](#)