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

Date of Decision: 22nd October, 2024.

+ W.P.(C) 12450/2023, CM APPL. 49047/2023

EMPLOYEES WELFARE FORUM & ORS.Petitioners

Through: Mr. Dishant Vashist and Mr. Shrey
Dhingra, Advocates for P-1.
Mr. Rakesh Munjal, Senior Advocate
with Mr. Paritosh Budhiraja,
Ms. Divya Singh and Ms. Humaira
Chaudhary, Advocates for P-2.

versus

REGISTRAR OF SOCIETIES CENTRAL & ORS.Respondents

Through: Mr. Jawahar Raja, ASC (Civil)
GNCTD with Ms. Anjesh Dahiya and
Ms. Puhimi Aditya, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present petition assails order dated 1st November, 2018,¹ passed by the Registrar of Societies² relating to the amendments made to the Memorandum of Association³ of the Petitioner No. 2, Jawaharlal Nehru National Youth Centre,⁴ – a society registered under the Societies Registration Act, 1860.⁵

2. A brief background leading to the filing of the present petition is as

¹ “the impugned order”

² “the Registrar”

³ “MoA”

⁴ “JNNYC”

⁵ “the Act”/ “the Societies Registration Act”



follows:

2.1. JNNYC was registered as a society under the Societies Registration Act, 1860 on 17th January, 1968. The Petitioner contends that in 2009, certain amendments were unlawfully made to the MoA of JNNYC by Ms. Indira Mayaram (now deceased), who held the position of General Secretary and Vice President of the society at the time. It is alleged that these amendments were implemented without adhering to the mandatory procedure prescribed under Section 12 of the Act, particularly the failure to seek prior approval from the Department of Land and Development, Ministry of Urban Affairs, which was a prerequisite for making any amendments to the MoA. In this regard, Mr. Purushottam Goyel, the founder signatory of JNNYC, filed a complaint dated 28th July, 2014 to the Registrar of Societies, highlighting the illegal amendments carried out in the MoA. The Registrar, through order dated 15th February, 2016, observed the amendments to the MoA are violative of Section 12 of the Act and hence, declared the same to be *void ab initio* and *non est*. This ruling by the Registrar set in motion a series of legal disputes, culminating in the filing of the present petition before this Court.

2.2. The afore-noted order was challenged by late Ms. Indira Mayaram before this Court in W.P.(C) 7821/2016 which was finally adjudicated through order dated 6th February, 2018 to the following effect:

- “1. There are three petitioners in the captioned petition. Petitioner No. 1 is the society, whereas petitioner No. 2 and 3 are two individuals. Petitioner No. 2 claims to be the General Secretary of Petitioner No. 1 Society, while petitioner No. 3 claims to be the Vice President of Petitioner No. 1 Society. The petitioners together have assailed the order dated 15.2.2016, passed by the first respondent i.e., Registrar of Societies.*
- 2. By virtue of the impugned order dated 15.2.2016, the first respondent i.e., Registrar of Societies had declared that the amendments*



made in the memorandum of association of petitioner no. 1 society which were approved and certified on 30.9.2009 were void ab initio and non-est. The petitioners being aggrieved have approached this Court by way of instant writ petition. In the writ petition the petitioners have inter alia articulated that since no show cause notice was issued, the impugned order deserved to be set aside.

2.1 It was in this context that notice was issued to the respondents which included the first respondent. The first respondent on return of notice has filed a counter affidavit in the matter. Along with the counter affidavit annexure A-1 has been appended which is a show cause notice dated 15.9.2016. The show cause notice adverts to the fact that vide a impugned order dated 15.2.2016 the first respondent (i.e., Registrar of Societies) had rejected/ struck down the amendments made by the society in 2009 and declared the same to be void and/ or non-est.

2.2 The show cause notice also adverts to the proceedings of this Court dated 5.9.2016, wherein, the petitioners stand that no show cause notice had been issued before passing the impugned order was recorded.

3. Accordingly, it appears that the show cause notice dated 15.9.2016 has been issued. The first respondent (i.e., Registrar of Societies) via this show cause notice has also asked for certain information which is adverted to against s.no. 1 and 8 of the very same notice.

4. Mr. Kaushik, who appears for the petitioners says that if a fresh order is passed by the respondent No. 1 (i.e., Registrar of Societies), he has instructions to convey to the court that the petitioners would want to withdraw the petition provided the principles of natural justice are followed.

5. Having regard to the fact that a show cause notice has now been issued by respondent No. 1 (i.e., Registrar of Societies), it is quite evident that a fresh order will have to be passed based on the response of the petitioner No. 1 society. Accordingly, the impugned order is set aside.

6. The first respondent (i.e., Registrar of Societies) is directed to pass a fresh order after hearing the authorised representatives of petitioner No. 1 society.

6.1 The reason that I used the expression authorised representative is: that appears to be a tussle with regard to who is in control and management of the petitioner no. 1 society. An application for impleadment has been filed by another faction which numbered as: CM. 44510/2016. This faction wishes to press this interlocutory application via Mr. Shiv Bhatt.

6.2 Mr. Kaushik and Mr. Shiv Bhatt, concede before me that a civil suit No. 57975/2016 is pending in respect of the inter se disputes of the two factions in the Court of Praveen Kumar, Additional District Judge, Patiala House, New Delhi.

7. Accordingly, the petition is dismissed as withdrawn, as prayed. The first respondent i.e., (Registrar of Societies) is directed to pass a fresh order in line with the directions issued above. It is made clear that this Court is not so to say, affixing its seal of approval to the status claimed by petitioner



No. 2 and 3 which is, of General Secretary and Vice President of Petitioner No. 1 Society. Needless to say that the aforesaid observations cannot impact the merits of the case and that the first respondent (i.e, Registrar of Societies) will pass an order based on the merits of the matter without being burdened by the observations made herein above. This is a digitally signed order. The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

8. *Accordingly, the pending applications are also disposed of.*
9. *Dasti."*

2.3. The review petition against the afore-noted was dismissed through order dated 9th March, 2018. Subsequently, two separate Letter Patent Appeals were preferred, [LPA No. 235/2018 and LPA No. 236/2018] against the orders dated 6th February, 2018 and 9th March, 2018 by Mr. Praveen Singh Aron and Mr. Purushottam Goyel. These appeals were disposed of through a common order on 26th April, 2018 which reads to the following effect:

"These two appeals are in respect of an order of the learned Single Judge dated 06.02.2018 disposing of the main writ petition and 09.03.2018 rejecting the appellant's review petition. The Single Judge in the original order of 06.02.2018, had quashed and set aside an order of the Registrar of Societies declaring certain amendments carried out in the Memorandum of Association of the Jawaharlal Nehru Youth Centre as null and void. The present appellants contend that the order was made without a proper hearing of the General Director of the Society who was specifically authorized to institute and defend legal proceedings and who therefore sought impleadment in the proceedings. It was contended that the Single Judge's observations with respect to the invalidity of the order impugned by the writ petitioners (an order of the Registrar dated 15.02.2016) declaring the amended Memorandum of Association and Rules of the Society – submitted to that office on 17.08.2009, to be void, is untenable. The Single Judge held that no show-cause notice or a proper opportunity preceded that order.

The appellant's counsel points out that the Single Judge's observations are prejudicial and also inaccurate because a showcause notice, in fact, was issued on 30.10.2014 and that having regard to the totality of facts and circumstances, the Registrar was justified in holding the amendments to be void and non est. It was, at the same time, submitted that the Society has two warring factions of its members who are attempting to gain control of the management and that a Civil Suit No.57975/2016 is



pending on the file of the Additional District Judge, New Delhi Courts.

This Court is of the opinion that no interference with the orders of the learned Single Judge is called for in the circumstances. The appellant, no doubt, is correct when he points to the fact that a show-cause notice did precede the impugned order. At the same time, the Court also notices that the order nowhere records that opportunity was ever accorded to the parties before the finding of the amendments having been made contrary to the provisions of the Societies Registration Act, 1860, was rendered. At the same time, having regard to the further circumstance that a civil suit is pending on the same issue, the Court is of the opinion that no finality should be attached to the observations of the learned Single Judge, with regard to the legality or correctness of the impugned order. All rights and contentions with respect to the correctness of the procedure adopted by the parties who are carrying out the amendment are kept open.

The appeals are disposed of in the above terms. The pending applications too are disposed of.”

2.4. In compliance with the Court's directions issued on 6th February, 2018, the Registrar of Societies reconsidered the complaints and disposed of the same through an order dated 1st November, 2018. This time, the Registrar took a different view. It was held that the amendments to the MoA, as certified on 30th September, 2009, were in accordance with the provisions of the Act. Consequently, the complaint dated 28th July, 2014, challenging the legality of these amendments, was dismissed.

3. In this background, Mr. Rakesh Munjal, Senior Counsel for Petitioner No. 2 raises several grounds challenging the impugned order. He argues that the impugned order is unreasonable and arbitrary and has been passed in violation of the directions issued by the Division Bench through order dated 26th April, 2018. He emphasizes that no proper hearing was given to the Petitioners before the passing of the impugned order and there is a gross violation of principles of natural justice and the fundamental rights guaranteed under the Constitution of India, 1950. It is further argued that the order dated 6th February, 2018 specifically directed the Registrar of Societies



to pass a fresh order after hearing the authorised representative of Petitioner No. 2, which has not been complied with.

4. During the course of the submissions, the Court's attention was drawn to a communication dated 9th June, 2016 which was addressed to late Mr. P. Govardhan Reddy and to late Ms. Indira Mayaram. The said communication reads as follows:

**“GOVT.OF NATIONAL CAPITAL TERRITORY OF DELHI
OFFICE OF THE REGISTRAR OF SOCIETIES (CENTRAL)
14, DARYA GANJ, NEW DELHI-112**

F.No.SDM (HQ)/ S-3580/2016/810-811

DATED: 9/6/16

To

1. *P. Govardhan Reddy
Jawaharlal Nehru National Youth Centre,
219, Deen Dayal Upadhyay Marg,
New Delhi-110002.*
2. *Ms. Indra Mayaram
Jawaharlal Nehru National Youth Centre.
219, Deen Dayal Upadhyay Marg,
New Delhi-110002.*

SUB: Regarding representation dated 12.04.2016.

Sir/Madam,

With reference to your letter No. N11, dated 12.04.2016, received in this office on 25.04.2016, diary No.5605 this is to inform you that from perusal of the same, it clearly appears that there is dispute among the Governing Body of the society 'Jawaharlal Nehru National Youth Centre'. As per Section 13 of the Registration of Societies Act, 1860, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situated. It is pertinent to mention that as per section 13 of the Societies Registration Act, 1860 applicable in Delhi, Registrar of societies does not have power to call for information, for enquiry and settlement of Disputes, Investigation into the Affairs of the Society.



(P.R. GUPTA
REGISTRAR OF SOCIETIES
(CENTRAL DISTRICT”

5. The communication referenced above clearly indicates that the Registrar of Societies recognized its lack of jurisdiction to adjudicate disputes between the governing body or members of the society. In view of this, the Court had directed counsel for the parties to address this specific issue. Today, Mr. Jawahar Raja, Additional Standing Counsel for GNCTD, has unequivocally stated, on instructions, that the Registrar of Societies is not empowered to examine the legality of amendments made under Section 12 of the Societies Registration Act, 1860. Such matters lie beyond the scope of the Registrar’s powers.

6. The stand taken by the Registrar of Societies is in consonance with the view taken by this Court in several decisions. In ***Maheshwari Mandal (Delhi) v. The State of Delhi & Ors.***⁶ after examining the scheme of the Societies Registration Act, the Court conclusively held that on a plain reading of Sections 12, 12A, 12B and 12C of the Societies Registration (Delhi Amendment) Act, 1954,⁷ in conjunction with Section 3 of the Societies Registration Act, does not empower the Registrar of Societies to adjudicate any issues with regard to the amendment of any purpose or object of the society. The relevant portion of the said judgment is as follows:

“7. It is apparent from the plain reading of the sections 12, 12A, 12B and 12C of the Act read with section 3 of the Act that the Registrar does not have any power to adjudicate any issues with regard to the amendment of any purpose or object of the society. However, in terms of Section 12A of the Act, the Registrar has the power to review registration of the change in name of a society if in its opinion the same resembles or is identical to the name of any existing society.

⁶ W.P.(C) 2029/2016 decided on 3rd January, 2018

⁷ Delhi Act of 1954



8. *At this stage it is also relevant to mention that a Division Bench of this Court in Dushyant Sharma v. Haryana Wrestling Association & Ors: LPA No. 18/2012, decided on 10.01.2012 had observed that section 12 of the Act enabled a society to alter or amend its objects and purpose and did not extend to registering any amendment in Rules and Regulations of the society.*

9. *The learned counsel appearing for the respondent was also unable to point out any provision in the Act which empowers the Registrar to perform any adjudicatory function in respect of the disputes raised by the petitioner.*

10. *Mr Abhinav Vasisht, learned Senior Advocate appearing for the petitioner also pointed out that where ever the State Legislatures intended the Registrar to perform any adjudicatory function, the State Legislatures had enacted express provisions in that regard. He referred to the provisions of Section 12D of the Act as applicable in the State of Uttar Pradesh. The said section reads as under:-*

“12D. Registrar's power to cancel registration in certain circumstances.-(1) Notwithstanding anything contained in this Act, the Registrar may, by order in writing, cancel the registration of any society on any of the following grounds:-

(a) that the registration of the society or of its name or change of name is contrary to the provisions of this Act or of any other law for the time being in force;

(b) that its activities or proposed activities have been or are or will be subversive or the objects of the society or opposed to public policy;

(c) that the registration or the certificate of renewal has been obtained by misrepresentation of fraud:”

11. *This Court finds much merit in the aforesaid contentions advanced on behalf of the petitioner. Plainly, the Act as applicable to Delhi does not include any provision which entitles the Registrar to cancel a registration once the same has been granted. As stated above, there is also no provision which empowers the Registrar to examine and adjudicate any dispute with regard to any alleged irregularity in the procedure adopted by the society to amend its Rules and Regulations.”*

7. Having regard to the scheme of the Societies Registration Act, this Court concurs with the legal position set out in the afore-noted decision. Significantly, this pertinent issue was not brought to the notice of the Court at the first instance. No doubt, the impugned order was passed in compliance with the directions issued by this Court, nonetheless, it still suffers a jurisdictional error. Further, though the present petition does not specifically



challenge the order dated 15th February, 2016, it is evident that the said order also delves into the issue of the validity of amendments—an adjudication that falls beyond the jurisdictional competence of the Registrar. Therefore, both the impugned order and the previous order dated 15th February, 2016, are vitiated by a jurisdictional error and are consequently liable to be set aside.

8. In light of the foregoing, this Court is of the considered view that the appropriate remedy for the two factions of the governing body of JNNYC, who are vying for control of its management, by questioning the amendments to MoA, lies with the Civil Court of competent jurisdiction. The Registrar of Societies could not have rendered any opinion as he lacked jurisdiction.

9. Accordingly, the present petition is disposed of with the following directions:

a) The order dated 15th February, 2016 as well as the impugned order dated 1st November, 2018 are declared as *non est*.

b) The consequent action of certifying the amendment to the MoA, annexed as Annexure P-14, shall also cease to have any legal effect.

10. The parties are at liberty to initiate civil proceedings for the adjudication of their disputes concerning the amendments made to the Memorandum of Association of Petitioner No. 2–Society. Any decision rendered by the Civil Court in this regard shall be duly given effect by the Registrar of Societies.

11. It is clarified that the Court has not commented on the validity of the amendments carried out in the MoA. All rights and contentions of the parties to that extent are left open.



12. With the above directions, the petition, along with pending application, is disposed of.

SANJEEV NARULA, J

OCTOBER 22, 2024
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