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

+ **W.P.(C) 10069/2024, CM APPL. 41219-41220/2024**

RESIDENT WELFARE ASSOCIATION ROHINI HIG 29

.....Petitioner

Through: Mr. Praveen Rao, Mr. Charanlal Sahu, Mr. Sameer Sharma, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Subhash Tanwar, CGSC with Mr. Sandeep Mishra, Mr. Ashish Choudhary, Advocates for R-1.
Mr. Mohit Bhardwaj, Advocate for R-2 & R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

23.08.2024

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1. The present petition assails order dated 08th July, 2024,¹ passed by the Registrar of Societies (North)/ Respondent No. 3 suspending Petitioner's registration under the Societies Registration Act, 1860.²

2. The Petitioner, having its registered office at Flat No. 709, DDA HIG flats, 7th floor, Block-A, Type - E, Pocket GH-4, Phase-2, Sector 29, Rohini, Delhi, was granted registration as a society under the Act on 10th April, 2024. Prior to this, in 2014, a society namely "Rohini Heights Residential

¹ "the impugned order"

² "the Act"/ "Societies Registration Act"



Welfare Association” was registered under the Act with its office at Flat No. B-521, 5th Floor, Block GH, Pocket-4, Sector-29, Rohini, Delhi.

3. On 28th June, 2024, a notice of cancellation of Petitioner’s registration was issued by Respondent No. 3 on complaints of fraud and corruption made by Rohini Heights Residential Welfare Association against the Petitioner. Subsequently, on 08th July, 2024, a suspension order against Petitioner’s registration was passed by Respondent No. 3, highlighting the similarity in names of the two societies. The impugned order to this effect reads as under:

“Whereas a complaint has been filed against society named “Residents Welfare Association Rohini HIG 29” at Flat No. 709, DDA HIG Flats, 7th Floor, Block-A, Type-E, Pocket GH-4, Phase 2, Sector 29, Rohini, Delhi-110042 and wherein it has been alleged in the complaint that a society already exists with similar name used by you for applying to ROS, North.

And whereas you have declared on oath through “Affidavit” that no society exists for the welfare of residents of the housing urea “Rohini Heights” and whereas a notice vide no. 150-151 dated 28.06.2024 which has not been replied by you till date.

And whereas prime facie it appears that you have made a false declaration on oath which amount to perjury which is punishable offence as per law.

Now, therefore, undersigned with regard to the irregularity committed by you, by applying to the ROS on false declaration and non receipt of your reply thereon, hereby places the registration granted under the society Registration Act 1860 to “Residents Welfare Association Rohini HIG 29” under suspension till further notice.

The case is also covered in the civil suit no. SCJ/572/2024 filed in the Rohini, District Court and as such further decision of ROS in the matter is kept in abeyance till the final outcome of the court case.”

4. The impugned order is based on the fact that another society under the



name of Rohini Heights Residential Welfare Association was registered in 2014. In such circumstances, the Registrar of Societies observed that Petitioner's declaration on affidavit that no other society exists with the similar name, at the time of seeking registration, is false. Notably, there is a civil suit pending before the Rohini District Courts, in relation to the disputes between the Petitioner and the Rohini Heights Residential Welfare Association wherein the latter is the Plaintiff and Petitioner herein is the Defendant. This aspect has also been noted in the impugned order.

5. The short question before the Court is whether the Registrar of Societies has the power to suspend registration of societies. On this issue, counsel for the Petitioner submits that Registrar of Societies does not have the jurisdiction to suspend or cancel a society's registration under the Act.

6. At this juncture, it must be noted that Mr. Praveen Rao, counsel appearing on behalf of Residents Welfare Association Rohini HIG 29, has highlighted the ongoing disputes between the two societies. He states that the existence of two societies with a similar name will lead to confusion amongst the residents as to which society is the recognized society.

7. Although in the instant case, the impugned order does not cancel, but only suspends Petitioner's registration, however, the source of such a direction is not found under the framework of the Societies Registration Act. The Societies Registration (Delhi Amendment) Act, 1954, added Sections 12A, 12B and 12C to the Societies Registration Act which read as follows:

"Sections 12A and 12B Delhi — After section 12, insert following sections, namely.

"12A. Registration of change of name.—(1) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and



confirmed shall be forwarded to the Registrar for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to register the change the name.

(2) Save as provided in sub-section (1), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(3) The Registrar shall charge for any copy of a certificate issue under sub-section (2) a fee of rupee one or such large fee and exceeding rupees five as the State Government may, from time to time, direct; and all fees so paid shall form part of the Consolidated Fund of India.

12B. Effect of change of name.-The change in the name of a society shall not affect any rights or obligations of the society or render defective and legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by the former name may be continued or commenced by or against it by the new name.

*12C. Registration of change of names effected before coming into force of Delhi Act 9 of 1954.-If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Delhi Amendment) Act, 1954, intimated to the Registrar * * the change of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (3) of section 12A. register the change of such name and issue a certificate to the society under sub-section (2) of the said section 12A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12A.”*

8. Under the afore-noted provisions, the Registrar of Societies has the power to examine if there is any other society already existing having an identical or nearly resembling name that may cause deception amongst the



public, however, there is no provision which empowers the Registrar to suspend the registration of a society on this premise. This issue was also addressed by this Court in *The Indian Veterinary Association v. Government of NCT Delhi*,³ wherein it was observed that Section 12A inserted by the Delhi State Amendment does not confer any power on the Registrar of Societies to cancel or withdraw the registration of a society under the Act. In such circumstances, the Court finds merit in the contention of counsel for the Petitioner that in absence of any express provision for suspension of the registration of the society, the impugned order is not tenable in law.

9. The dispute between the parties (the competing societies) in this respect is being adjudicated before the Rohini District Court in civil suit No. SCJ/572/2024. Therefore, the question as to which society would be competent to take decisions for the welfare of the society, is already being deliberated by the Court of competent jurisdiction and, thus, this Court refrains from interfering on this issue.

10. In light of the above, the impugned order dated 08th July, 2024 is set aside as the Registrar of Societies, *ex-facie*, exercised jurisdiction that is not vested in it under law.

11. The Court has not commented on the merits of the dispute between the Petitioner and Rohini Heights Residential Welfare Association.

12. The above order shall not prejudice any rights and contentions of the Petitioner or Rohini Heights Residential Welfare Association in the pending suit.

³ 2021:DHC:4074.



13. With the above directions, the present petition, along with pending application(s), if any, is disposed of.

SANJEEV NARULA, J

AUGUST 23, 2024/ab