



259

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-26069-2024

Date of Decision:08.07.2025

PUNIT SETHI AND OTHERS

-PETITIONERS

V/S

UNION OF INDIA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rishabh Gupta , Advocate,
for the petitioners.

Mr. P.S.Hundal, Sr. Panel Counsel
for respondent no.1.

Mr. Vibhu Agnihotri, Advocate and
Mr. Rohit Arora, Advocate,
for respondent no.2 (through V.C.)

Mr. Naveen R. Naik, Sr. Advocate with
Mr. Nitin Thatai, Advocate and
Ms. Monika Thatai, Advocate
for respondent no.3.

KULDEEP TIWARI, J.(ORAL)

1. Through the instant petition, filed under Article 226 of the Constitution of India, a challenge is thrown to the notification dated 24.08.2024 (Annexure P-28), issued by the Ministry of Education (Department of Higher Education) under Section 6 of the Architects Act, 1972 (hereinafter referred to as the 'Act of 1972'), appointing 5 Architects, as regional representatives to the Council of Architecture (for



short 'COA'), who have been elected by the Indian Institute of Architects (for short 'IIA'), from amongst its members.

2. They also seek quashing of election result dated 30.12.2023 (Annexure P-3), wherethrough, the above 5 Architects were elected.

3. Further, a prayer is made for issuance of a direction upon the respondents, to refer the dispute/grievance relating the elections in question for electing aforesaid 5 Architects/representatives to COA, to the statutory tribunal, as mandated under Section 5 of the Act of 1972.

4. Finally, a *mandamus* upon the respondents has been sought to conduct elections afresh through some authorised agency of Government of India.

FACTUAL MATRIX

5. The petitioners are Architects, within the meaning of Section 2(a) of the Act of 1972, and are duly registered in the register of Architects.

6. Before this Court gauge the legality of the impugned notification, and election results, it is imperative to have a glimpse upon the relevant facts *qua* which there is no wrangle between the parties concerned, and are essential for adjudication of the instant *lis*.

7. The Indian Institute of Architects (IIA), invited nominations vide notification dated 29.11.2023, for the elections of 5 IIA regional representatives to the Council of Architects (COA), for 3 years term (2023-2026). The elections for 5 regional representatives of IIA on COA, was to be conducted, to elect one representative from each of the five



geographical regions. Petitioner no.1, and respondent no.5, being eligible, submitted their nominations for the representative from northern region, to the COA, and contested the elections. The said elections were conducted through the mode of E-Ballot, as available in member's profile page, on the IIA Website, and as per schedule and the process notified by IIA. The E-voting opened on dated 28.12.2023 at 6:00 a.m., and was closed on dated 29.12.2023 at 11:00 p.m. Thereupon, the counting of E-votes was held on 30.12.2023 and the result thereof, was declared on the same day itself, wherein, from northern region Sh. Kamal Kant Asthana (respondent no.5) was declared elected with 962 votes, and petitioner no.1 remain unsuccessful, as he was able to secure only 228 votes.

SUBMISSIONS MADE BY LEARNED COUNSEL FOR THE PETITIONERS

8. Learned counsel for the petitioners made lengthy submissions, wherethrough, he attempted to throw challenge to the impugned election result (Annexure P-3), and its notification (Annexure P-28). He submits that the E-voting session was supposed to be started at 10:30, but the same was delayed due to some technical glitch. Subsequently, when the results were being declared, the voters had access to view the results in real time, but somehow, the folders containing results did not open, even after repeated attempts, indicating an obvious problem with the system. Therefore, the vote-counting session had to be temporarily stopped, and was thereafter resumed, which effectively means that the entire process depends upon E-voting module, and has an



inherent effect, rendering the results a *fait accompli*. He further submits that the said allegations are duly substantiated, as the entire counting proceeding were videographed.

9. While continuing with his arguments, he submits that immediately, one day after the declaration of the result, i.e. on 31.12.2023, the Haryana Chapter of the IIA, unanimously addressed a letter (Annexure P-4) to the President, IIA, Mumbai, requesting suspension of election results of the northern region on the ground of erroneous voting system, and on the same day itself, an e-mail (Annexure P-5) was also sent to the respondents requesting the chapter-wise breakup of the votes polled alongwith result. Thereupon, the said details were provided to petitioner no.1 on dated 05.01.2024 (Annexure P-6). Thereafter, immediately, petitioner no.1, on dated 05.01.2024, itself, filed a complaint *via* e-mail to the respondents-President, IIA, Mumbai, the Ministry of Education, as well as the Council of Architecture, and Scrutineers of the Elections, requesting an investigation into the election results, however, the said request was not accepted.

10. He also submits that petitioner no.1, kept on writing to different authorities for initiation of an inquiry into the entire election process, however, he remained unsuccessful in fetching any result, and finally, petitioner no.1 wrote another application on dated 03.02.2024 (Annexure P-12), with a request, to the Secretary/Registrar, Council of Architecture (respondent no.3), to set up a tribunal to probe the dispute/complaint as per under Sub-section 2 of Section 5 of the Act of



1972, and under Section 26 of the Council of Architecture Rules, 1973, which was rejected by the COA vide order/reply dated 26.02.2024 (Annexure P-14), on the ground that the same is time barred.

11. He, in addition, submits that the aforesaid order of declining the request to refer the dispute/complaint to the election tribunal is a clear violation of Section 5 of the Act of 1972, as the authority (*supra*), is under legal obligation to refer the election dispute to the tribunal to be appointed by Central Government by notification in the official gazette, in this regard.

12. He next submits that since dated 05.01.2024, petitioner no.1 has been, continuously, approaching different authorities, therefore, his complaint *qua* elections was well within the time, and not sending such complaint to the election tribunal caused grievance and propelled him to file the instant writ petition.

13. He, finally, set up his arguments to establish that the entire election process suffers from various irregularities, on account of malfunction of software, as well as illegality committed by the agency concerned, in conducting the elections through electronic mode. However, this Court is not dealing with all these issues, as these can only be adjudicated by the apt tribunal, which was to be established by the Central Government, on the recommendations of COA, therefore, this argument, as raised by learned counsel for the petitioners is not being noted in the instant judgment.

SUBMISSIONS MADE BY LEARNED COUNSEL FOR THE

**RESPONDENTS.**

14. Learned counsel for the respondents made collective submissions, led by Mr. Naveen R. Naik, Sr. Advocate, and while opening his arguments, he challenged the maintainability of the instant petition for want of jurisdiction. He further submits that the impugned notification dated 24.08.2024, has been notified by both, respondent no.1-UOI, and respondent no.2-COA, which are situated at New Delhi, therefore, no cause of action arises within the jurisdiction of this Court.

15. The second issue *qua* the maintainability, as raised by learned senior counsel, is on the ground of non-impleadment of necessary parties to the instant *lis*. There were five persons, who were elected through the impugned election results, and the same were duly notified through impugned notification, by the Government of India, however, except one member, i.e. Mr. Kamal Kant Asthana, no other member has been arrayed as a respondent in the instant *lis*.

16. While continuing his arguments, he submits that rule 26 of the Rules of 1973, mandates that such election dispute, can only be adjudicated by the election tribunal, constituted under the provisions of the Act of 1972, and the request/application/complaint for such reference to the election tribunal, has to be made through COA, within 30 days of the declaration of the result, and in the instant case, request/application of petitioner no.1, to make such reference to the election tribunal, is admittedly beyond the period of 30 days. Therefore, such request/application of petitioner no.1, has been rightly denied by COA.



17. He, over and above, submits that the COA, only acts as a post office, which has to accept the decision taken by IIA (respondent no.2), and thereafter, get it published through the Central Government, in accordance with rules 3 and 4 of the Rules of 1973. The COA has no power to decide/modify/interfere with, or influence the election of respondent no.2-IIA, in any manner.

18. Finally, he submits that the order dated 26.02.2024, passed by the COA, where through, the request of the petitioner no.1, to refer the dispute to the election tribunal, was declined, has never been challenged by him. Therefore, the instant petition is not maintainable in the instant form.

ANALYSIS

19. After hearing learned counsel for the parties concerned, this Court is of the considered opinion that, at this stage, the only issue which requires to be adjudicated, **“as to whether, petitioner no.1, has made a request/application for reference to the election tribunal, within the statutory period of 30 days of declaration of the result or not?”**

20. Before this Court, delves into the aforesaid question for its adjudication, let's have glimpse upon some statutory provisions of the Act of 1972, and Rules of 1973. To provide for registration of Architects, and for matters connected therewith, the Parliament has enacted the Architects Act, 1972.

21. For better appreciation the relevant provisions are extracted hereinafter:-



Section 2(b): “Council” means the Council of Architecture constituted under Section 3.

Section 3 (3): The Council shall consist of the following members, namely:-

- (a) five architects possessing recognised qualifications elected by the Indian Institute of Architects from among its members;
- (b). two persons nominated by the All India Council for Technical Education established by the Resolution of the Government of India in the late Ministry of Education No. F. 16-10/44-E. III, dated the 30th November, 1945;
- (c) five persons elected from among themselves by heads of architectural institutions in India imparting full time instruction for recognised qualifications;
- (d) the Chief Architects in the Ministries of the Central Government to which the Government business relating to defence and railways has been allocated and the head of the Architectural Organisation in the Central Public Works Department, ex officio;
- (e) one person nominated by the Central Government,
- (f) an architect from each State nominated by the Government of that State;
- (g) two persons nominated by the Institution of Engineers (India) from among its members; and
- (h) one person nominated by the Institution of Surveyors of India from among its members.

Explanation - For the purposes of this sub-section, -

(a) "Institution of Engineers (India)" means the Institution of Engineers (India) first registered in 1920 under the Indian Companies Act, 1913 and subsequently incorporated by a Royal charter in 1935.

(b) "Institution of Surveyors of India" means the Institution of Surveyors registered under the Societies Registration Act, 1860.

Section 5. (1) Elections under this Chapter shall be conducted in such manner as may be prescribed by rules.

(2) Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the Central Government by notification in the Official Gazette in this behalf, and the decision of the Tribunal shall be final

Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.

(3) The expenses of the Tribunal shall be borne by the Council.

22. Section 3 of Act of 1972, clearly prescribes the Constitution of Council of Architects. As per sub section (1) of Section 3, the Central



Government, shall notify a council in its official gazette, to be known as Council of Architects, and the same shall be a corporate body, having perpetual succession, and a common seal, with a power to acquire, hold and dispose of property; both movable and immovable, and to contract, and may by that name sue or be sued, and sub section 3 of Section 3 thereof, speaks about the persons who would be members of the Council, in which only five architects are to be elected by the IIA from amongst its members.

23. Sub section (1) of Section 5 prescribes that the elections under this chapter shall be conducted in such a manner, as prescribes under the Rules of 1973. Further, Sub section (2) of Section 5 clearly postulates that in case any dispute arises with regard to any elections, the matter shall be referred by the Council to the Tribunal, as appointed by the Central Government by notification in its official gazette in this regard, and the decision, so take by the tribunal shall be considered as final. The proviso attached to sub clause (2) imposes a restriction upon the Council, not to send any election reference, except, on an application made to it by an aggrieved party within a period of 30 days from the date of declaration of result of the election.

24. Furthermore, it is also relevant to have a glimpse upon rule 26 of Rules of 1973, which provides that if a party is aggrieved with the result of elections of COA, he/she can make an application within a period of 30 days from the date of declaration of result of the said election, to the Secretary to the COA. The relevant is extracted



hereinafter:-

26. Tribunal- When any dispute arises as a result of the election to the council, the aggrieved party shall, within thirty days from the date of declaration of the result of the election, make an application giving full particulars of the facts supported by documentary evidence, if any, to the Secretary of the Council, who shall refer the matter to the Tribunal appointed by the Central Government under sub-section 2) of Section 5.

25. On the anvil of the above extracted legal provisions, let's examine, as to whether, the petitioner no.1 had raised any dispute with regard to the instant elections before the COA, within 30 days from the date of declaration of the result of the said elections.

26. The study survey of the entire record, as produced before this Court by filing the instant petition, reflects that though petitioner no.1, made numerous representations/letters/complaints to various authorities, including, the President, IIA, and Joint Secretary, Ministry of Education, Government of India, immediately after the elections, however, his first letter/representation, raising the election dispute under Section 5(2) of Act of 1972, read with Section 26 of Rules of 1973, was to the Secretary/Registrar, Council of Architects on dated 03.02.2024 (Annexure P-12).

27. Though learned counsel for the petitioners tried to convince this Court that the complaint dated 05.01.2024 (Annexure P-7), was made to the President, IIA, and copy thereof was also sent to the COA, therefore, the COA ought to have referred the matter to Central Government, for transferring the matter to the election tribunal to decide the elections dispute, however, this Court does not find merits in the said



submissions, firstly, for the reason that the representations/complaints were never made to the authority as prescribed under Section 5(2) of the Act of 1972, and even, a perusal of those representations/complaints filed prior to the application dated 03.02.2024 (Annexure P-12), in none of the representations/complaints/letters, there was request by petitioner no.1 to set up a tribunal, and thereupon, to probe the dispute/complaint *qua* the elections. Therefore, the first representation/complaint/letter (Annexure P-12), as made by petitioner no.1, to the Secretary/Registrar, COA, with a request for setting up of a tribunal under Section 2(5) of Act of 1972, was only on dated 03.02.2024, which is admittedly, beyond the statutory time period.

28. Further, the second reason for declining the submission of the learned counsel for the petitioners, is that petitioner no.1, cannot claim ignorance with regard to the statutory period of limitation, and the authority, which is competent to be approached, *qua* the election dispute. This fact is very much clear from Annexure P-12.

29. This Court is in consonance with the argument raised by learned counsel for the respondents that as per sub section (2) of Section 5, the COA, only acts as a post office, which after receipt of an application/complaint with regard to the election dispute within a period of 30 days from the date of declaration of result, has to refer the matter to the Central Government, for the latter to establish a tribunal for adjudication of dispute arising out of an election process. Further, proviso, attached thereto, clearly impose restrictions upon the COA, for



not making any reference to Central Government, beyond 30 days statutory period.

30. Further, the instant petition is also liable to be dismissed on account of the fact that the order/letter dated 26.02.2024 (Annexure P-14), through which COA has declined the request for referring the election dispute to the election tribunal, has not been challenged by petitioner no.1. In that eventuality, the order (Annexure P-14) remains intact and final, and asked for relief cannot be granted to the petitioners.

31. The other issue *qua* legality of the election need not be gone into by this Court, as this issue only required to be adjudicated by the election tribunal.

FINAL ORDER

32. *In suma*, in view of the above detailed discussion, this Court does not find any merit in the instant petition, therefore, it ordered to be **dismissed**.

33. All pending application(s), if any, also stand **disposed** of accordingly.

July 08, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No