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

+ **W.P.(C) 2992/2025**

HARI SHANKAR SINGH

.....Petitioner

Through: Mr. Satish Kumar Panchaal and Mr.
Karan Panchal, Advocates

versus

THE REGISTRAR OF COOPERATIVE SOCIETIES & ANR.

.....Respondent

Through: Mr. Sameer Vashisht, Standing
Counsel (Civil), GNCTD with Ms.
Harshita Nathrani, Advocate for R-1
Mr. Vivek Tandon and Mr. Harish
Kumar Mehra, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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10.03.2025

CRL.M.A.14160/2025 (for exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 2992/2025 & CM APPL.14161/2025 (for stay)

1. The instant petition under Article 226 of Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“a) quash the impugned List of 122 members dated 05.02.2025 of 122 members prepared by Respondent No.2 after illegally deleting the name of 76 members without any reason;

b) appoint a Retired District Judge as an Administrator of



Society for conducting the election of Respondent Society after preparing the final list of members/voters as the Respondent No.1 failed to take any action on the representation/complaints of the Petitioner/members as he have collusion with Mr. Sanjeev Rajpal who is resident of Respondent Society, also an Advocate/Retainer of the Respondent Society for the last 18 years as well as Legal Advisor in the office of Respondent No.1;

c) meanwhile stay the process of election;

d) direct the Respondent No.2 to disposed the various complaints filed against the Managing Committee expeditiously;

e) Pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. Learned counsel appearing on behalf of the petitioner submitted that the respondent no.2/society had prepared a list dated 5th February, 2025 (hereinafter “impugned list”), wherein it has named 122 members as registered members of the society by deleting the names of 76 members, including the petitioner herein. It is submitted that the impugned list was prepared without following the prescribed legal procedure as no appropriate notice was provided to the petitioner as mandated by the requisite statutory provisions.

3. It is submitted that prior to the impugned list, the Managing Committee of the society had named 198 members vide list dated 1st September, 2024, wherein, the petitioner’s name was mentioned. Thereafter, the Managing Committee of the society held an Annual General Body Meeting (hereinafter “AGM”) on 22nd September, 2024. On the query made



by this Court, learned counsel for the petitioner clarified that the petitioner received the notice of AGM, however, did not participate in the same due to lack of clarity as to the date, time and place of the said AGM.

4. It is further submitted that Managing Committee of the Society has failed to comply with Schedule II of Article 1(i) of the Delhi Co-operative Societies Rules, 2007 (hereinafter “DCS Rules”) which necessitates determination of a particular date, time and place of AGM at least 60 days before the expiration of the Managing Committee’s term. However, no particular date, time or place was determined for conducting the AGM in the present case.

5. It is submitted that the elections of the Society should be conducted before 20th March, 2025, however, no notification or notice has been issued, thereby keeping all the members of the Society in dark.

6. It is submitted that in the impugned list, the names of 76 members, which were earlier mentioned in the list dated 1st September, 2024, have been deleted erroneously, without giving an opportunity to be heard or assigning any reasons for such deletion as membership can only be removed as per the procedure laid down in Section 41 of the DCS Act, which reads as follows –

“Cessation of membership of Co-operative Society.-

..41. (1) Notwithstanding anything contained in this Act, a person shall cease to be a member of a cooperative society –

- (a) on his resignation from such membership; or*
- (b) on his death, if there is no claim by the nominee or legal heirs within three hundred sixty five days; or*
- (c) on transfer of the whole of his share or interest in that cooperative society; or*
- (d) on his expulsion or incurring any disqualification for being a member of that cooperative society.*



(2) If any question as to whether a member has incurred any of the disqualifications mentioned in sub-section (1), it shall be referred to the Registrar for his decision, whose decision shall be final and binding.

(3) The Registrar may of his own motion, if satisfied that any member has incurred any of the disqualification under sub-section (1) declare through an order in writing that such member is disqualified to be a member : Provided that no such order shall be passed without affording opportunity of being heard to such member as prescribed.”

7. It is further submitted that several complaints and representations against the impugned list have been made by the petitioner before respondent no. 1 i.e., the Registrar of Cooperative Societies on three occasions, i.e., on 20th February, 2025, 23rd February, 2025 and 28th February, 2025, however, no action to any effect has been taken by respondent no. 1. Therefore, in light of the foregoing submissions, it is prayed that the instant writ petition may be allowed.

8. Issue notice. Mr. Sameer Vashisht, learned standing counsel for respondent no. 1 and Mr. Vivek Tandon, learned counsel for respondent no. 2, appearing on advance notice, accepted notice.

9. *Per Contra*, Mr. Vashisht, learned standing counsel appearing on behalf of the respondent no. 1 vehemently opposed the instant petition and submitted that the same is nothing but a gross misuse of the process of law. It is further submitted that the instant writ petition is not maintainable as the election process of the Society has already commenced.

10. It is submitted that it is an admitted fact that the notice for the said AGM was given to the petitioner and that he failed to participate in the same. As per the terms of the said notice, the Society had passed a



resolution dated 22nd September, 2024, wherein, the following was observed:

“With the permission of the chair, the Hony’ Secretary informed the general house that in terms of the notice issued for update of members register, as of now about 60 members have submitted their requisite information as required by Rule 28 of the DCS Rules, 2007. The members who have not submitted their requisite information till now need to submit it immediately which need to check, verify & register about 2 month before expiry of the term of present Managing Committee, else they will not be eligible to cast their votes or contest the elections for the next managing committee of the society. It was resolved that next election scheduled to be held in March 2025 as per Sec 35 of DCS Act 2003 will be process as per Schedule II of Rule 53 of DCS Rules 2007 by the Managing Committee.”

11. It is submitted that as per the aforesaid resolution, the removed members have not furnished any information and therefore, their removal in the impugned list is in accordance with the said resolution as well as the law.

12. It is further submitted that in case of any grievance, the petitioner has the opportunity to approach the Returning Officer regarding the disputes pertaining to the elections after the completion of the electoral procedure in accordance with Section 70(4)(a)(iv) of the DCS Act.

13. Therefore, in view of the foregoing submissions, it is prayed that the instant writ petition may be dismissed by granting liberty to the petitioner to approach the Returning Officer after the conclusion of the election process.

14. Heard learned counsel for the parties and perused the record.

15. Before adverting to the instant case, it is pertinent to mention that it is a settled position of law that the elections ought to be conducted in a timely



manner as per the prescribed schedule without any interference and the disputes pertaining to the said election be taken up after the completion of the electoral procedure. The objective behind the same is to ensure that the elections are conducted in a free and fair manner, without infringing with the underlying authenticity and integrity of the same. The said position of law is also encapsulated in the case ***Union Territory of Ladakh & Ors. vs. Jammu and Kashmir National Conference & Anr.***, 2023 SCC OnLine SC 1140, wherein, the Hon'ble Supreme Court observed as follows:

“37. We would indicate that the restraint, self-imposed, by the Courts as a general principle, laid out in some detail in some of the decisions supra, in election matters to the extent that once a notification is issued and the election process starts, the Constitutional Courts, under normal circumstances are loath to interfere, is not a contentious issue. But where issues crop up, indicating unjust executive action or an attempt to disturb a level-playing field between candidates and/or political parties with no justifiable or intelligible basis, the Constitutional Courts are required, nay they are duty-bound, to step in. The reason that the Courts have usually maintained a hands-off approach is with the sole salutary objective of ensuring that the elections, which are a manifestation of the will of the people, are taken to their logical conclusion, without delay or dilution thereof. In the context of providing appropriate succour to the aggrieved litigant at the appropriate time, the learned Single Judge acted rightly. In all fairness, we must note that the learned ASG, during the course of arguments, did not contest the power per se of the High Court to issue the directions it did, except that the same amounted to denying the Appellants their discretion. As stated hereinbefore, we are satisfied that in view of the 1968 Order, the Appellants' discretion was not unbridled, and rather, it was guided by the 1968 Order.”

16. In the present case, the names of the 76 members were deleted in the impugned list, which was prepared by the Society, however, it is the



contention of the petitioner that the removal of the said names impact the conduct of the elections. Therefore, it is observed there exists a dispute pertaining to the elections of the Society.

17. It is also observed that, as contended on behalf of the respondents, the aforesaid dispute may be taken up before the Returning Officer after the completion of the election process in accordance with the prescribed position laid down under Section 70(4)(a)(iv) of DCS Act.

18. It may also be observed that the petitioner admittedly had received notice of the AGM but chose not to participate in the meeting; and has approached this Court about 10 days before the date on which elections are scheduled.

19. Therefore, keeping in view the law laid down by the Hon'ble Supreme Court in the case of *Union Territory of Ladakh & Ors. vs. Jammu and Kashmir National Conference & Anr. (Supra)*, submissions advanced by the learned counsel for the parties and the contents made in the petition, the instant petition is, hereby, dismissed by granting liberty to the petitioner to challenge the impugned list dated 5th February, 2025 before the Returning Officer after the completion of the election process.

20. Pending applications, if any, are disposed of.

CHANDRA DHARI SINGH, J

ANUP JAIRAM BHAMBHANI, J

MARCH 10, 2025

Rt/mk/ryp

Click here to check corrigendum, if any