

(2022-1)205 PLR 287

PUNJAB AND HARYANA HIGH COURT

Before: Mrs. Justice Lisa Gill.

VISHNU KUMAR MITTAL and others – Petitioners,

versus

STATE OF HARYANA and others – Respondents.

CWP No.18586 of 2021 (O&M)

Haryana Registration and Regulation of Societies Act, 2012 (11 of 2012) (HRRS Act) - Model by Laws of the governing body Registrar General of society, Haryana - Specifically observed that the Ad-hoc Committee is empowered to manage only day to day affairs of the Society and insofar as verification of life members for the purpose of including their names in the voting list is concerned, the same falls in the category of managing day to day affairs of the society and routine work - It is categorically stated that “Ad-hoc Committee is not empowered to induct new members in society neither as per the bye-laws of the Society.

[Para 11]

Mr. Vaibhav Narang, for the petitioners. Mr. Sharan Sethi, Addl.AG., Haryana.

Lisa Gill, J. (Oral) - (17th September, 2021) - This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

2. Petitioners seek quashing of order dated 07.09.2021, Annexure P-5, passed by respondent no.2-Director General of Industries and Commerce-cum- Registrar General of Societies, Haryana, order dated 07.04.2021, Annexure P-4, passed by respondent no.3-State Registrar of Societies, Haryana and order dated 15.02.2021, Annexure P-3, passed by respondent no.4-District Registrar of Societies, Rohtak.

3. Brief facts necessary for adjudication of the matter are that twelve (12) petitions were filed before the District Registrar of Societies, Rohtak, whereby petitioners challenged the exclusion/deletion/striking down of their names from the list of eligible voters, while claiming to have been legally inducted as members of Vaish Education Society (Regd.), Rohtak (for short ‘Society’) by the Ad-hoc Committee (Ex. Governing Body).

4. Petitioners claimed to have applied for the membership of the society before 31.03.2020 along with membership fees and requisite documents. Receipts thereof are stated to have been given to them. It is stated that petitioners name/s figured in the voters list published on 15.12.2020. However, it is claimed that respondent no.5, who was appointed as the Returning Officer, put up a notice outside the office of the society that members who were

not enrolled up to 31.03.2020 were not entitled to be included in the list and shall not be eligible to cast their vote in the upcoming election as a member.

5. Aggrieved therefrom, twelve (12) petitions were filed before the District Registrar of Firms and Societies, Rohtak, with all the petitioners therein claiming to be life members of the society. It is stated that they were admitted as life members by passing of resolution dated 27.11.2020 by the Ad-hoc Committee. Thus, in case, any order adverse to their interest, had to be passed it could only be after issuance of notice to them. District Registrar of Societies, Rohtak, vide order dated 15.02.2021, dismissed all the petitions, being devoid of merits.

6. Appeal preferred by the petitioners under Section 79 of the Haryana Registration and Regulation of Societies Act, 2012 (for short 'HRRS Act, 2012'), was dismissed by the State Registrar of Societies, Haryana, vide order dated 07.01.2021. Specific reference was made by the State Registrar to Clause 4 (5) (i) and (iv) of the model bye-laws which provide that admission of a person as member of the society, shall be decided by its governing body from time to time and in the present case, petitioners were enrolled as members of the society in the meeting held by the Ad-hoc Committee on 07.11.2020, which was not as per the bye-laws of the society. Further, appeal preferred by the petitioners before the Registrar General of Societies, Haryana, was also dismissed vide order dated 07.09.2021. Relevant portion of order dated 07.09.2021 reads as under:-

"4. That from the perusal of the record available in the office file, after hearing the arguments and submissions made by the parties from the perusal of the byelaws of the society, the following observations have been made:-

(i) That the previous election of the Society was held on 14.07.2017 which was approved by the District Registrar, Rohtak on 18.07.2017. The State Government vide order dated 30.07.2020 appointed the Municipal Commissioner, Rohtak as Administrator of Vaish Education Society, Rohtak for managing the affairs of the society (except enrolment of new members/ removal of existing members of the Society) and to take necessary steps for holding the elections of the Governing Body of the Society as per provisions of the HRRS Act, 2012.

(ii) That the Society challenged the order dated 30.07.2021 by way of filing the Civil Writ Petition No. 11766 of 2020 before the Hon'ble High Punjab and Haryana High Court. In compliance of the order dated 01.10.2020 passed by the Hon'ble High Court in said CWP, the order for appointment of Administrator was withdrawn by the State Government vide its order dated 05.10.2020. Further, as per order dated 08.07.2020 issued by this office, the tenure of Governing Body if expired after 15.03.2020 or during lockdown period, the last Governing Body is allowed to function as adhoc committee of the society till the lockdown period is over to manage day to day affairs of the society. In view of said order dated 08.07.2020, the elected Governing Body whose tenure was expired on dated 13.07.2020, was allowed to continue in compliance of letter dated 08.07.2020 issued by this office.

(iii) That in the present case, the tenure of the Governing Body was upto 13.07.2017 and

the meeting of the Ad-hoc Committee-Ex-Governing Body was held on 27.11.2020. The Ad-hoc Committee has not followed the due procedure. These members were enrolled by the Ad-hoc Committee (Ex-Governing Body) and not by the Governing Body. As per Clause 4(5)(i) and (iv) of the Bye-Laws of the Society the approval of the Governing Body is must for enrollment as life members of the Society.

(iv) That letter dated 08.07.2020 issued by this office itself is also self speaking and defiance the limitation of Ad-hoc Committee wherein it is specifically mention in para 3 (i) that the last Governing Body will be allowed to function as Ad-hoc Committee of the society till the lockdwon period is over to manage day to day affairs of the society. Ad-hoc Committee is not empowered to induct new members in society neither as per the byelaws of the society nor as per the letter dated 08.07.2020 issued by this office.

In view of the above, I uphold the order dated 07.04.2021 (bearing appeal No. 947 of 2021) passed by the State Registrar of Societies, Haryana, on the ground that membership of the appellatant has not been approved by the Governing Body of the Society which is in contravetntion of the Bye-Laws of the Society and Model Bye-Laws of the HRRS Act, 2012. The present appeal is hereby dismissed accordingly”

7. Director General of Industries and Commerce-cum-Registrar General of Societies, Haryana, thus upheld order dated 07.04.2021 passed by the State Registrar of Societies specifically on the ground that petitioners membership was not approved by the Governing Body of the Society in accordance with the Bye-Laws of the Society and Model Bye-Laws under the HRRS Act, 2012.

8. Learned counsel for the petitioner has primarily argued that membership forms of all the petitioners were submitted well before 31.03.2020. Election of the Society became due on 30.07.2020 on expiry of tenure of the previous Governing Body. Thereafter, due to outbreak of the Pandemic COVID-19, notification dated 08.07.2020, was issued, whereby existing Governing Body was permitted to act as an Ad-hoc Committee.

9. Accordingly, Ad-hoc Committee in exercise of its functions in terms of notification dated 08.07.2020 held a meeting on 27.11.2020 and membership of the petitioners, was approved. It is further submitted that in separate proceedings initiated by the Ad-hoc Committee, learned Registrar General of Societies, Haryana, has held that meeting dated 27.11.2020 cannot be declared as null and void in toto. The Returning Officer, appointed by the District Registrar of Societies, has been directed to be changed and District Registrar, Rohtak, has been asked to appoint Returning Officer as per Rule 27 of the HRRS Act, 2012. Therefore, once meeting dated 27.11.2020 is held to be valid, all decisions taken in the said meeting have to be considered valid and correct. However, I do not find any merit whatsoever in this argument for the reasons as delineated hereunder.

10. It is an admitted position that as per Clause 4, 5 (i) and (iv) of the Model Bye-laws of Society, approval of the Governing Body is required for enrollment as life members of the society. The same are read as under:-

“4. Kinds/types/categories of Members:

There will be only one kind of membership i.e., Life Member.

5. *Admission procedure:*

(i) The admission of a person as a member of the Society shall be decided by its Governing Body from time to time.

Xxxxx

(iv) The Governing Body may accept or reject the application and the decision of the Governing Body in this regard shall be final. However no application shall be rejected arbitrarily without assigning any proper reason and without giving any opportunity to the applicant.

xxx.”

11. It is a matter of record that no such approval by the Governing Body was forthcoming. Reference to orders regarding meeting held by the Ad-hoc Committee on 27.11.2020, is clearly misplaced. As per order dated 07.09.2021, passed by the Registrar General of Industries and Commerce-Registrar General of Societies, Haryana, in Appeal No. 425 of 2021, it is specifically observed that the Ad-hoc Committee is empowered manage only day to day affairs of the Society and insofar as verification of life members for the purpose of including their names in the voting list is concerned, the same falls in the category of managing day to day affairs of the society and routine work. It is categorically stated that “Ad-hoc Committee is not empowered to induct new members in society neither as per the bye-laws of the society nor as per the letter dated 08.07.2020 issued by this office.” This order can by no stretch of imagination be interpreted to mean that induction of fresh members to the society is a day to day management or merely routine work of the society which the Ad-hoc Committee could carry on.

12. Learned counsel for the petitioners is unable to point out any illegality, irregularity or perversity in the impugned orders dated 07.09.2021, Annexure P-5, 07.04.2021, Annexure P-4 and 15.02.2021, Annexure P-3, passed consistently by the all three Authorities.

No other argument has been raised.

Writ petition is accordingly dismissed with no order as to cost.

R.M.S.

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Petition dismissed.