
(2000) 01 DEL CK 0064

In the Delhi High Court

Case No : C.W.P. No. 1415 of 1999 and C.M. No. 242 of 2000

Shafiq-UR-Rehman Kidwal

APPELLANT

Vs

Registrar and Others

RESPONDENT

Date of Decision : 24-01-2000

Acts Referred:

Citation : (2000) 56 DRJ 466

Hon'ble Judges : Dr. M.K. Sharma, J

Bench : Single Bench

Advocate : V. Shankar Arora, J.P.S. Kataria, Rakesh Munjal, for the Appellant;
Rajiv Nayyar and R.K. Gupta and K.L. Budhiraja, for the Respondent

Judgement

Dr. M.K. Sharma, J.—This writ petition has been preferred by the petitioner challenging the order passed by the respondent No. 1 u/s 32 of the Delhi Cooperative Societies Act appointing Sh. J.P.S. Kataria, Assistant Registrar with the direction to hold the elections. The said order was upheld by the Appellate Authority, namely, the Financial Commissioner, which is also under challenge in this writ petition.

2. This Court issued notice on the writ petition. I am informed by the Counsel appearing for the parties that this Court by order dated 10th March, 1999 stayed the operation of the impugned order dated 13th January, 1999 and, Therefore, the Election Officer could not proceed with and comply with the directions issued in the impugned . order. During the pendency of the present writ petition in this Court, the petitioner and respondent No. 3, who represent parallel Executive Committees, settled all the disputes in between themselves and held an election for the office bearers. In the said election, office bearers were elected and their names are set out in para 4 of the application which is registered as C.M. No. 242/2000, It is stated that by the Counsel appearing for the petitioner as also by the Counsel appearing for the respondent No. 3 that the said Managing Committee elected by the members of the Society should be allowed to manage the affairs of the Society and necessary directions in that regard should be issued

by this Court after setting aside the order passed by the respondent No. 1.

3. I have heard the learned Counsel appearing for the Registrar, Cooperative Societies. In my considered opinion, when the matter was sub-judice in this Court, the petitioner and respondent No. 3 could not have held an election amongst themselves without any notice and intimation to the Registrar, Cooperative Societies and without permission from this Court. Accordingly, I hold that the said election held as set out in the application filed in this Court is illegal and, Therefore, the said election is set aside.

4. After hearing the learned Counsel appearing for the parties and on consideration of the records, I am inclined to issue an order that fresh election for electing the members of the Managing Committee of the Society shall be held by Mr. J.P. Kataria, Assistant Registrar, who would act as the Election Officer to conduct the aforesaid election which, I hereby do. Mr. Kataria is also present in Court. He is allowed to scrutinise, the list of members within three weeks from today and thereafter he shall issue notice to all the members of the Society intimating them the agenda for holding of the fresh, elections for electing the members of the Managing Committee of the Society. The list of members for his scrutiny would be Annexure X-1 to the aforesaid application. He shall allow such members to take part in the election who fulfill the requirements in accordance with the law. The process of the election shall be completed by the Election Officer within 60 days. For the purpose of scrutiny of the names of the members and for holding the aforesaid elections, all assistance including handing over records of the Society shall be rendered by the petitioner and the respondent No. 3 to the Election Officer. On completion of the aforesaid process of election and on declaration of the results, the new Managing Committee so elected by the members of the Society shall be allowed to take over the discharge the functions and responsibilities of the Managing Committee who shall also be handed over all the records of the Managing Committee.

5. The Election Officer shall be entitled to reimbursement from the Society all the expenses which are to be actually incurred in holding the elections. No other amount shall be charged by the Election Officer from the Society. In terms of the aforesaid order, the writ petition stands disposed of.

Let a copy of this order be given duly to the Counsel appearing for the parties.