

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

105

2023:PHHC:131435-DB

CACP-11-2023

Date of Decision: 10.102023

Krishan Chand Gupta

.....Appellant(s)

Versus

Surender Kumar Gupta and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Vikas Bali, Advocate,
for the appellant.

Mr. Aayush Gupta, Advocate,
for respondent No.1.

Mr. V.G. Jauhar, Addl. A.G., Punjab.

Ms. Jasleen Kaur Bhullar, Sub Divisional Magistrate,
Payal, Ludhiana

Mr. D.V. Sharma, Sr. Advocate,
with Mr. Manbir Singh, Advocate,
for respondent No.2.

G.S.SANDHAWALIA, J. (Oral)

1. The present appeal is directed against the order of the Single Judge dated 13.07.2023 passed in COCP-3776-2018 whereby, while dealing with the violation of the order dated 30.11.2017 passed by Civil Judge (Jr. Divn.), Ludhiana in Civil Suit No.197 dated 23.08.2017 titled Ram Kumar Gupta vs. Shree Raghunath Hospital Society, Ludhiana, the Single Judge came to the conclusion that the members of the charitable institution were fighting tooth and nail to serve their own personal purpose to keep the management with them. Resultantly, Deputy Commissioner was appointed as an Administrator, who was further to constitute a team of three persons to conduct the elections and the team was to assist the Deputy Commissioner in

day-to-day working of the hospital. The management of the Society was, thus, taken over by the team of the Administrator under her supervision. Further directions were given that the election of the society had to take place within six months from the said date and till that date, the Administrator/Committee would manage the administration of the defendant-Hospital. The relevant part of the order reads thus:-

“In the meantime, Deputy Commissioner, Ludhiana is appointed as an Administrator, who will constitute a team of three persons including Chief Medical Officer/Civil Surgeon or any other officer of equivalent rank, a senior officer from the office of Registrar of Societies, who has to conduct the elections and third Administrator to which the Deputy Commissioner deem it appropriate. The team will assist the Deputy Commissioner in day to day working of hospital.

The management of the society will be taken over by the team of the Administrator, under the supervision of Deputy Commissioner, Ludhiana.

The Administrator will make sure that elections of the society must take place within a period of six months from today and till that time, Administrator/Committee will manage the administration of Shree Raghunath Hospital Society, Ludhiana.”

2. It is a matter of fact that there are other civil litigations also *inter se* pending at Ludhiana regarding the membership and as per the appellant, there are as many as 11 such litigations. On 04.08.2023, we noticed that the last election was held on 04.09.2017 and, therefore, a period of 5 years had also expired and the dispute as such was regarding the induction of fresh members with subscription amount of membership which was Rs.11,000/-, raised to Rs.31,000/- and then to Rs.1,00,000/-. It was also noticed that the

order of the learned Single Judge had been implemented and the Committee had taken over the records of the Society and the State was directed to file an affidavit as to on what basis the election is proposed to be conducted and who are the members who are eligible so that appropriate directions can be issued, if so required.

3. In pursuance of the said directions, affidavit dated 22.09.2023 of Ms. Surabhi Malik, District Magistrate-cum-Deputy Commissioner, Ludhiana has been filed. Ms. Jasleen Kaur Bhullar, SDM, Payal, Ludhiana is also present in Court to assist the State counsel. The various conclusions were arrived at after perusal of the objections and response of the Committee regarding the validity of Members of the Society admitted at various points of time and justification as such has been given regarding the validity of some members and invalidity of some. The appellant has also filed a counter affidavit objecting to the reasoning which has been arrived at.

4. Mr. D.V. Sharma, Sr. Advocate alongwith Mr. Manbir Singh, Advocate has put in appearance on behalf of Hemraj Goel-respondent No.2, who is stated to have filed an application under Order 1 Rule 10 and had been represented as respondent No.3. Mr. Sharma's suggestion is that the matter should be examined by an independent person, well versed in law to verify the eligibility of the members so that the dispute can be resolved before the elections take place, as directed by the Single Judge on the basis of the list of the validly constituted members of the Society.

5. Counsel for respondent No.1, the person who had approached the Contempt Court, also has no objection to the proposed line of action and so is the statement of counsel for the appellant.

6. Resultantly, we are of the considered opinion that Mr. B.S.

Sandhu, District and Sessions Judge (Retd.), presently Chairperson of the Permanent Lok Adalat stationed at Ludhiana would be an appropriate person to go into the validity of the membership of Shree Raghunath Hospital Society.

7. Accordingly, we issue directions that the record of the case will be handed over to Mr. B.S. Sandhu by the authorities, who will examine the records and come to conclusion as to which of the members were validly appointed keeping in view the resolutions passed by the Society and thereafter prepare an electoral roll of the said Society. The necessary exercise be conducted within a period of 2 months. After the needful is done, the elections will thereafter be conducted under his supervision with the help of Deputy Commissioner, Ludhiana, who will grant all assistance to the said Officer. It is open to all persons aggrieved to file appropriate applications before the said Officer for redressal of their grievances. Ms. Bhullar will ensure that a sum of Rs.75,000/- from the funds of the Hospital is paid to Mr. B.S. Sandhu for conducting the necessary exercise within a month from today.

8. The present appeal stands disposed of in the above terms. Since the institute in issue is a charitable hospital, it would also be appropriate to modify the order of the Single Judge to that extent and that the day-to-day management and running should be conducted under the supervision of Civil Surgeon, Ludhiana till the elections take place.

(G.S. SANDHAWALIA)
JUDGE

10.10.2023

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Whether reasoned/speaking

Whether reportable

(HARPREET KAUR JEEWAN)
JUDGE

Yes

No