

Shri Mool Chand vs Union Of India Ministry Of Home Affairs on 27 August, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

\$~18 (2021 Cause List)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9173/2021

SHRI MOOL CHAND

Through:

.....
Mr. Rajeev Saxena, Mr. Rajeev
Ms. Megha Saxena & Ms. Manya
Saxena, Advocates.
versus

UNION OF INDIA

MINISTRY OF HOME AFFAIRS

..... Respondent

Through: Mr. Ajay Digpaul CGSC with Mr. Kamal
R Digpaul, Adv. for R1
Mr. Naushad Ahmed Khan, ASC with
Mr. Zahid & Ms. Manisha Chauhan,
Advocates for R-2 & 3.
Mr. Rakesh Munjal, Sr Adv. with Mr.
Maneesh Goyal, Adv. for R-4,6,7,8.
Mr. Nitesh Jain & Mr. Shubham
Mahajan, Advs. for R-5 & 9.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN
ORDER

% 27.08.2021 The proceedings in the matter have been conducted through video conferencing.

CM APPL. 28571/2021 (exemption) Exemption allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 9173/2021 & CM APPL. 28570/2021 (appointment of administrator)

1. The Union of India ["UOI"] has been impleaded as respondent no. 1 in the writ petition. Mr. Ajay Digpaul, learned counsel, who appears on behalf of UOI on advance notice, states that the UOI is neither a necessary nor a proper party to the present litigation as it has nothing to do with the administration of the respondent no. 4-Society. Mr. Rajeev Saxena, learned counsel for the petitioner, submits that the UOI has been impleaded, as the petitioner is invoking the provisions of a Central legislation being the Societies Registration Act, 1860. This submission is entirely misconceived. Just because a Central Act is invoked, the UOI is not required to be made a party to the writ petition. At Mr. Saxena's request, respondent no. 1-UOI is deleted from the array of parties.

Amended memo of parties be filed within three days.

2. Issue notice. Mr. Naushad Ahmed Khan, learned counsel, accepts notice on behalf of respondent nos. 2 and 3. Mr. Maneesh Goyal, learned counsel, accepts notice on behalf of respondent nos. 4, 6, 7 & 8. Mr. Nitesh Jain, learned counsel, accepts notice on behalf of respondent nos. 5 & 9.

3. Mr. Rakesh Munjal, learned Senior Counsel, who appears on behalf of respondent no.4-Society, disputes the maintainability of the writ petition. Without prejudice thereto, he submits that the Society proposes to hold elections very shortly, under the supervision of an independent Returning Officer. He seeks time to take definite instructions on this aspect.

4. The respondents may file affidavits in response to the petition within two weeks, without prejudice to their contentions on maintainability. Rejoinders thereto, if any, may be filed within one week thereafter.

5. One of the contentions raised is that the present office bearers of the Society, who have been in office for approximately 8 years, seek to perpetuate their position, by holding a membership drive in anticipation of the election. This issue will be considered after the affidavits are filed. By way of interim relief, the Society is directed to maintain separate records as to the number of members inducted from today onwards, and the amount received from them, which will be subject to further orders to be passed in the writ petition.

6. List on 04.10.2021.

PRATEEK JALAN, J AUGUST 27, 2021 'hkaur'