



§~63

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

+ LPA 99/2025 & CM APPL. 7957/2025

INDER MOHAN NAGPAL ...Appellant

Through: Mr. Rajesh Tyagi, Advocate.

versus

GOVT OF NCT & ORS ...Respondents

Through: Mr. Tushar Sannu and Ms. Ayushi
Mishra, Advocate for GNCTD.Ms. Sonia A. Menon, Advocate for
R-3.

%

*Date of Decision: 11th February, 2025***CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G E M E N T****TUSHAR RAO GEDELA, J.: (ORAL)**

1. Present appeal has been preferred assailing the impugned judgement dated 05.12.2024 passed by the learned Single Judge dismissing the W.P.(C) 5109/2017 filed by the appellant seeking (i) to quash the notification dated 03.09.2014 passed by the respondent no.2/Development Commissioner, GNCTD appointing the Managing Committee of the Delhi Society for Prevention of Cruelty of Animals (hereafter referred as 'DSPCA'); and (ii) a direction to respondent no.1 to restore the DSPCA, alongwith all records, assets and establishment to its members.

2. It is stated that the DSPCA, a voluntary association/NGO, was founded in the year 1915 by the concerned citizens of Delhi with avowed objective to prevent cruelty upon animals and birds at the hands of



humans, amongst other objectives. The appellant herein claims to be a life member of the DSPCA. It is stated that the DSPCA got registered in the year 1928 with the Registrar of Societies. Subsequently, the Parliament passed the Prevention of Cruelty to Animals Act, 1960, making such cruelty punishable under law and providing machinery to redress the same. It is claimed that the DSPCA, like many other such voluntary associations, got recognition and powers under the provisions of the said Act and also the grant-in-aid in the year 1976.

3. It is the case of the appellant that the Government of NCT of Delhi *vide* its order dated 09.01.1990, illegally and without any authority in law, on false pretext of mismanagement, suppressed the elected Managing Committee and appointed an Administrator to look after the management of the DSPCA for one year. The said arrangement continued for more than six years with yearly extension of the tenure of Administrator. It is further stated that even after six years, instead of handing over the administration of the DSPCA back to the elected body, a Board was appointed on 04.05.1995 that again continued illegally and without authority of law with frequent extensions.

4. It is stated that the appellant, being one of the 11 surviving life members of the DSPCA, was forced to file a writ petition being W.P.(C) No. 6276/2010 on 16.08.2010 challenging the illegal usurpation of the DSPCA by the respondents. However, the said writ petition was withdrawn on 16.09.2010 with liberty to seek appropriate remedies, i.e. to approach the concerned authorities first.

5. It is further stated that in the meanwhile, this Court, in another writ petition being W.P.(C) No.6971/2005, *vide* its judgement dated



21.09.2011, examined the issue of appointment of the Board and found the same to be in contravention and devoid of any authority in law. Later, in the appeal being LPA No. 825/2011 filed by the respondents, the Division Bench of this Court, *vide* its judgement dated 27.11.2015, while upholding the judgement of learned Single Judge in favour of the employee, left the question as to legality of the Board open, finding it not relevant to the controversy therein. It is stated that the respondent no.1 stealthily appointed another Committee of the DSPCA on 03.09.2014, this time couching the same under the title of Managing Committee instead of the Board, which continued for three years, i.e. till 03.09.2017 illegally and without any authority of the law usurping the powers and assets of the DSPCA.

6. The appellant submitted a written representation to the respondents on 13.02.2017 and a reminder on 07.03.2017 calling upon them to take corrective measures and handover the Society to its lawful members, but to no avail, constraining the appellant to file the underlying writ petition. *Vide* impugned judgment dated 05.12.2024, the learned Single Judge declined to interfere in the matter on three grounds, (a) the appellant had no locus to file the writ petition; (b) the writ petition involved disputed questions of fact and; (c) the appellant had withdrawn prayer clause (i) which sought quashing of the notification dated 03.09.2014 passed by the respondent no.2 appointing the Managing Committee of the DSPCA.

7. Mr. Rajesh Tyagi, learned counsel for the appellant at the outset fairly states that so far as prayer (i) of the underlying writ petition is concerned, the same was withdrawn as not pressed and recorded in the order dated 11.07.2024 by the learned Single Judge. He submits that only



prayer (ii) was sought in the underlying writ petition. He thus, submits that his arguments would be restricted only to the said prayer.

8. Learned counsel emphasizes that the appellant being one of the eleven life members of the DSPCA was entitled to file the underlying writ petition. He states that the writ petition was dismissed by the learned Single Judge on an erroneous assumption that the same was not maintainable by the appellant as he had no locus to institute the underlying writ petition. He states that there is no bar against a life member of a society registered under the Societies Registration Act, 1860 from filing a writ petition. Additionally, he contends that the respondent/State had illegally taken over the Society by appointing an Administrator in the year 1990. He contends that not only the appointment of Administrator was contrary to the law but under the garb of such action, the respondent GNCTD had also taken over the assets of the DSPCA which did not belong to the State. He further states that the tenure of the Administrator continued till six years whereafter, a Board was duly constituted by the respondent who had been managing the affairs of the DSPCA from time to time. On and from the year 2014, the respondent GNCTD constituted a Managing Committee to manage the affairs of DSPCA. He claims that the tenure of the Managing Committee expired in year 2017 and since then, there is no duly constituted Managing Committee controlling or managing the affairs of DSPCA. It is in that context, learned counsel for the appellant submits that prayer (ii) may be allowed and the DSPCA be restored alongwith all records, assets and establishment to its members.

9. On the basis of the aforesaid submission, learned counsel submits that the petitioner being one of the life members has the locus not only to



file the underlying writ petition but also represent the DSPCA and seek return of all assets belonging to DSPCA. Additionally, he submits that the requirement of an authorisation of the DSPCA in his favour is not required since he is competent to represent its interest being one of its life members.

10. Having heard Mr. Rajesh Tyagi, learned counsel for the appellant, examining the impugned order and records of the case, we are not persuaded to issue notice in the present appeal.

11. Though the appellant claims himself to be one of the life members of the erstwhile DSPCA Society, he cannot, in an individual capacity that too, without a specific and express authorisation by the society, represent its interest in a Court of law. The appellant has not filed any document evidencing proper authorisation in accordance with law executed by the Competent Authority of the society whose grievances he claims to espouse. In the absence of such specific requirement of law, learned Single Judge has rightly doubted the locus of the appellant and also to the maintainability of the underlying writ petition. We are fortified in our view by the judgement of the Supreme Court in ***P. Nazeer etc. vs. Salafi Trust & Anr., 2022 SCC OnLine SC 382***, relevant paragraph of which is extracted hereunder :-

“15. The aforesaid finding is completely contrary to law. A society registered under the Societies Registration Act is entitled to sue and be sued, only in terms of its bye-laws. The bye-laws may authorise the President or Secretary or any other office bearer to institute or defend a suit for and on behalf of the society. Under section 6 of the Societies Registration Act, 1860, “every society registered under the Act may sue or be sued in the name of President, Chairman, or Principal Secretary, or trustees, as shall be determined by the rules and regulations of the society and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion”. Even the



Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, which is applicable to parts of Kerala carries a similar provision in section 9. Therefore, unless the plaintiff in a suit which claims to be a society, demonstrates that it is a registered entity and that the person who signed and verified the pleadings was authorised by the bye-laws to do so, the suit cannot be entertained. The fact that the plaintiff in a suit happens to be a local unit or a Sakha unit of a registered society is of no consequence, unless the bye-laws support the institution of such a suit.”

[Emphasis supplied]

In the present case, neither the authorization letter nor the bye-laws of the Society have been filed in the underlying writ petition. In the absence whereof, we are constrained to hold that the appellant has no locus to institute the underlying writ petition.

12. Though the appellant admits having knowledge of the order dated 09.01.1990 whereby an Administrator was appointed to manage the DSPCA, he has not been able to establish from the records that the said order ever got set aside in a Court of law. While the appellant claims that he had filed a writ petition, at the same time, he admits that the said writ petition was withdrawn with liberty to seek appropriate remedies, i.e., to approach the concerned authorities first. The appellant also claims to have pursued various authorities in the interregnum, which did not bear any fruitful result, constraining him to approach this Court. It is clear from the said narrative that the appellant has not been able to successfully dislodge the order dated 09.01.1990 and the consequent actions taken by the respondent/GNCTD from time to time to manage the DSPCA. Thus, it appears that those actions may have become final to that extent.

13. The learned Single Judge dismissed the writ petition on the ground that the appellant had no locus to file the writ petition; that the writ petition involved disputed questions of facts and; that the appellant had



withdrawn prayer clause (i), yet a liberty was granted to the appellant to approach Civil Court in accordance with law.

14. Having regard to the fact that the appellant had filed no authorisation before the learned Single Judge, coupled with the fact that the appellant is seeking restoration of DSPCA alongwith all records, assets and establishment to its members, it appears to us that these will surely involve highly complex issues and disputed questions of facts which a Court exercising jurisdiction under Article 226 of the Constitution of India would not have the wherewithal to adjudicate. That apart, apparently, the original grievance of the appellant appears to stem from the order dated 09.01.1990, thus the underlying writ petition appears to be fraught with insurmountable delay and laches. For this reason too, we are of the opinion that the writ petition would not be maintainable. Thus, the impugned judgment dated 05.12.2024 is upheld and the liberty granted to the appellant is reiterated by this Court.

15. In view of the above, the appeal is unmerited and thus dismissed alongwith pending applications, without any order as to costs.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 11, 2025/rl