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**CWP-PIL-48-2024 (O&M)**

Keerti Sandhu and another  
Vs  
State of Punjab and others

Present:- Mr. Jatin Bansal, Advocate,  
Mr. Harshit Kakani, Advocate,  
for the petitioners.

Mr. Gurminder Singh, Advocate General, Punjab,  
with Mr. J.S. Gill, Deputy Advocate General, Punjab.

Mr. Satya Pal Jain, Additional Solicitor General of India,  
with Mr. Shobit Phutela, Advocate,  
for respondent No. 5 – Union of India.

Mr. Prateek Gupta, Advocate,  
for respondent No. 6.

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1. *Inter-alia* contends that the Real Estate Regulatory Authority (RERA), Punjab, has been superseded by the impugned order dated 12.03.2024 for a period of four months or till the quorum is complete under Section 82 of the Real Estate (Regulation and Development) Act, 2016 (in short the Act). The ground as such for supersession apparently in the said order (Annexure P-4) is that one of the Members had retired on 05.01.2024 and the Chairman resigned on 07.02.2024. The only Member left Shri Rakesh Kumar Goyal, respondent No. 7 was stated to be on leave from 10.03.2024 to 06.06.2024 which apparently had been duly approved by the competent authority. The said Member is also stated to have given his no objection on 11.03.2024 in response to the notice dated 09.03.2024 (Annexure P-2) under Section 82 of the Act.

2. The counsel has brought to our notice the intention of the Act as such that the appropriate government under Section 20 has to within a period

of one year from the date of coming into the force establish an Authority to be known as the Real Estate Regulatory Authority. The composition of the Authority, apparently, under Section 21 of the Act is to be of a Chairperson and not less than two whole time Members. The Chairperson and other Members are to be appointed by the appropriate authority on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee. The urgency as such is also further provided under Section 24(3) where any vacancy caused to the office of the Chairperson or any other Member has to be filled-up within a period of three months from the date on which such vacancy occurs. Section 81 provides the delegation as such which can be done to any member, officer of the Authority subject to such conditions. Reference is made to the earlier order dated 07.10.2022 (Annexure P-1), whereby a single Member of the Authority was authorized to dispose of the pendency of registration, extension of registration and revision of registration of the real estate projects which was done on an earlier occasion.

3. Reference is also made to Section 82, whereby the power of the appropriate government to supersede the Authority is provided which is by issuing any such notification and giving a reasonable opportunity to the Authority to make representations against the proposed supersession and also consider the representations, if any, of the Authority. Section 82(2)(a) further provides that the Chairperson and other Members shall from the date of supersession, vacate their offices. Sub-section (3) further provides a protection to the person who has vacated his office, if the appropriate government re-constitutes the Authority by a fresh appointment to the extent that he shall not be deemed to be disqualified for re-appointment.

4. It has also been brought to our notice by the learned Advocate General that in view of the impending superannuation of Shri Ajay Pal Singh, one of the Members on 05.01.2024, the process was initiated for selection of the Member in September, 2023 and resultantly the Chief Justice of this Court was asked to constitute a Selection Committee. It is not disputed that the said process is underway and even the Scrutiny Committee was formed and the next meeting is fixed for 18.03.2024 to appoint the Member. It is also a matter of record that vide letter dated 12.02.2024 after the resignation of the Chairperson on 07.02.2024, the State Government had requested the Registrar General of this Court to take action for the purposes of appointment of the Chairperson and nominate an Hon'ble Judge of this Court under Section 22 of the Act which had been duly done and intimation had been given on 22.02.2024. We have also gone through the paper-book as such and it has been brought to our notice that the notice under Section 82 had been issued on 09.03.2024 which is a Saturday and the only Member is stated to have gone on leave on 10.03.2024 which is a Sunday. Apparently, he had to reply by 11.03.2024, a Monday, by 1.00 P.M. and he also gave his no objection by that time. The resultant order was passed immediately on 12.03.2024. The order, however, never appointed any person or persons as the case may be to exercise the powers in discharge of the functions to fill up the gap under Section 82(3). A subsequent order dated 13.03.2024 has been passed now, photocopy of which has been placed on record, whereby Shri M.S. Jaggi, IAS has been appointed as the Authority for a period of four months or till the quorum is complete.

5. Today, during the course of proceedings, we have also been informed that today i.e. 14.03.2024 he has also taken charge being the

Secretary, Department of Housing and Urban Development, Punjab. Part of the record is available with the learned Advocate General, Punjab, but the record pertaining to the leave of respondent No. 6 and also his consent as such is not available.

6. Notice of motion.

7. Mr. Gurminder Singh, learned Advocate General, Punjab assisted by Mr. J.S. Gill, learned Deputy Advocate General, Punjab, accepts notice on behalf of respondents No. 1 to 4; Mr. Satya Pal Jain, learned Additional Solicitor General of India assisted by Mr. Shobit Phutela, learned counsel, accepts notice on behalf of respondents No. 5 – Union of India and Mr. Prateek Gupta, learned counsel, accepts notice on behalf of respondent No. 6.

8. Learned Advocate General, Punjab, has vehemently defended the order on the grounds that as per the averments made in the writ petition itself, the apprehension as such was on account of the Model Code of Conduct coming into force due to the impending Lok Sabha Elections and large number of pending cases and regulatory applications before RERA. It has further been contended that the proper procedure has been followed by issuing the requisite notice to the concerned and it is only due to the exigency of the situation and after considering the reply of respondent No. 7 that the order has been passed. Learned Advocate General has also objected as such to the locus of the petitioners as well as the maintainability of the writ petition itself in a form of Public Interest Litigation.

9. Keeping in view the larger interest, especially, keeping in view the fact that the Authority has to exercise a very sensitive function as such of permissions to be given to builders and dealing with complaints against the

builders, we are of the considered opinion that it would not be in the interest of justice if the supersession is allowed at this point of time. Accordingly, we stay the order dated 12.03.2024 and all consequential orders passed thereafter. Needless to say, the order passed herein will not preclude the selection process which is already undergoing and efforts will be made to complete it at the earliest.

10. List on 18.04.2024.

11. Let copy of the order be furnished to learned counsel for the parties under signatures of the Bench Secretary.

**(G.S. SANDHAWALIA)**  
**ACTING CHIEF JUSTICE**

**(LAPITA BANERJI)**  
**JUDGE**

**14.03.2024**  
Amodh Sharma