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IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE RAVI MALIMATH,  
CHIEF JUSTICE  
&  
HON'BLE SHRI JUSTICE DINESH KUMAR PALIWAL  
ON THE 28<sup>th</sup> OF FEBRUARY, 2022  
**WRIT APPEAL No. 182 of 2022**

**Between:-**

**VIKAS TIWARI S/O SHRI SHRINIWAS TIWARI,  
AGED ABOUT 36 YEARS, OCCUPATION:  
CHAIRMAN/INCHARGE MANAGER ACCOUNT R/O  
VILLAGE AND POST TEONI TEHSIL MANGAWAN  
DISTT. REWA (MADHYA PRADESH)**

**.....APPELLANT**

**(BY SHRI ANIL LALA- ADVOCATE)**

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH THE  
SECRETARY CO- OPERATIVE DEPARTMENT  
MANTRALAYA VALLABH BHAWAN, BHOPAL  
(MADHYA PRADESH)**
- 2. REGISTRAR CO-OPERATIVE SOCIETIES DISTRICT-  
BHOPAL (MADHYA PRADESH)**
- 3. RAMESH KUMAR MISHRA S/O RAM JI MISHRA,  
AGED ABOUT 45 YEARS, R/O VILLAGE-KATANGI,  
TEHSIL-JAWA, DISTRICT-REWA (MADHYA  
PRADESH)**
- 4. SHANTI TIWARI W/O VINOD SHANKAR TIWARI,  
AGED ABOUT 53 YEARS, R/O VILLAGE-KUIYA,  
POST-PADARIYA, TEHSIL-RAYPUR KARCHULIYAN,  
DISTRICT-REWA (MADHYA PRADESH)**

**.....RESPONDENTS**

**(SHRI SUYASH THAKUR- GOVERNMENT ADVOCATE FOR THE  
RESPONDENTS NO.1 AND 2 AND SHRI SANJAY K. AGRAWAL-  
ADVOCATE FOR THE RESPONDENT NOS.3 AND 4)**

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*This appeal coming on for admission this day, Hon'ble Shri Justice Ravi  
Malimath, Chief Justice passed the following:*

**ORDER**

Aggrieved by the order dated 15.02.2022 passed by the learned Single Judge  
in dismissing the Writ Petition No. 3295 of 2022, the petitioner is in appeal.

The case of the petitioner is that the respondents had filed an election  
dispute before the Registrar Co-operative Society, Bhopal challenging their election

to the Board of Directors. During the pendency of the dispute, an application was filed by the respondents therein under Order VII Rule 11 read with section 151 of the Code of Civil Procedure seeking dismissal of the petition. While considering the said application, an interim direction was issued by the Registrar Co-operative Society, Bhopal to the effect that new members will not be admitted. That they will not allot plot to any new members and they will not take any policy decision. Questioning the same, instant writ petition was filed.

The learned Single Judge came to the view that such direction issued by the Registrar Co-operative Society will not prejudice the petitioner or the respondents. That the same has been done in order to serve the interest of the society in preserving the property. Therefore, the petition was dismissed.

Heard the learned counsel for the petitioner as well as Government Advocate and counsel for the respondents no. 3 and 4.

Primarily, it could be seen that the dispute pending before the Registrar is with regard to the election of the writ petitioner and others to the Board of Directors. Therefore, the Registrar is concerned only with the election dispute. It is needless to say that in an election petition no such interim direction of any nature could have been issued by the concerned authority. Whether it prejudices anybody or it is in the interest of the society or not, the power cannot be exercised by the concerned authority in an election petition. However, this does not mean that none of the members has any right to seek for any relief against the contesting respondents. However, such an application would have to be made to the concerned authority in a manner known to law. Primarily, we are of the view that the Registrar who is trying the election dispute is exercising the power of the election tribunal. Therefore, he could not have passed orders even though it is in the interest of society. Therefore, we deem it just and necessary that the said order be set aside. However, liberty is always reserved to the respondents to make requisite application before the concerned authority for necessary relief in order to protect the members, the property or for any other issue of the like nature.

For the aforesaid reasons, the writ appeal is allowed. The order dated 15.02.2022 passed by the learned Single Judge in W.P. No. 3295 of 2022 is set aside. The impugned order in the writ petition dated 27.01.2022 (Annexure P/4) is

also set aside. However, liberty is reserved to the respondents to file requisite application seeking appropriate relief before the appropriate authority.

Pending interlocutory application is also disposed off.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

MSP

**(DINESH KUMAR PALIWAL)**  
**JUDGE**

