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

+ W.P.(C) 5586/2021

INDIAN INSTITUTE OF INSURANCE
SURVEYORS AND LOSS ASSESSORS

..... Petitioner

Through: Mr. Ashish Dholakia, Senior
Advocate with Mr. Ankit Mangla,
Advocate.

versus

INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY OF INDIA
AND OTHERS

..... Respondents

Through: Mr. Abhishek Gola, Advocate for
R-1 and R-2.
Mr. Ashish Mohan, Mr. Kushal
Kumar, Mr. Harsh Ahuja, Mr.
Akash Deep Gupta and Mr. Aditya
Kapoor, Advocates for R-4 to R-7.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **28.05.2021**

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

CM APPL. 17381/2021 (for exemption)

Exemption allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(C) 5586/2021 and CM APPL. 17380/2021 (for stay)

1. Issue notice. Mr. Abhishek Gola, learned counsel, accepts notice

on behalf of respondent nos. 1 and 2. Mr. Ashish Mohan, learned counsel, accepts notice on behalf of respondent nos. 4 to 7. Learned counsel for the appearing parties consent to the writ petition being taken up for disposal.

2. Notice is not required to be issued to respondent no.3 in view of the order I propose to pass.

3. The petitioner, Indian Institute of Insurance Surveyors and Loss Assessors [“the Institute”], assails an order dated 19.05.2021 passed by the respondent No.1/Insurance Regulatory and Development Authority of India [“the IRDA”].

4. The proceedings emanate out of an election conducted in January 2021 for four seats on the Council of the Institute. The Election Officer declared the result of the election on 25.01.2021 (Annexure P-6 to the writ petition). The matter was carried to this Court by one of the unsuccessful candidates in W.P.(C) 1866/2021 [*Kulbhushan Manchanda vs. Insurance Regulatory and Development Authority of India & Ors.*]. The writ petition was disposed of by an order dated 11.02.2021, recording that the Rules and Regulations of the Institute contained a dispute resolution clause in the following terms: -

“5. *Disputes*

(a) *If any dispute arises regarding the interpretation of the provisions of these regulations or regarding the validity of any election held under these regulations, it shall be referred to the council of the Institute who shall endeavour to resolve the same on an early date, depending upon the exigency.*

(b) *If anybody is aggrieved by the decision of the Council, he may appeal to the IRDA within 7 days from date of its notification, setting forth his grievance and points of*

disagreement and that the decision of the IRDA there on shall be final and binding on all concerned.”

5. In view of the aforesaid clause, the Institute was directed to consider Mr. Manchanda's representation and pass an order as expeditiously as possible, leaving it open to any party aggrieved thereby to approach the IRDA under Clause 5(b) extracted above.

6. It appears that the Institute passed a resolution dated 03.03.2021, by which the election was set aside, and it was directed that the election process would be conducted once again.

7. Against the aforesaid resolution, one of the elected candidates, Mr. Naishadh Jayantilal Desai (respondent No.7 herein) filed an appeal before the IRDA. The IRDA has passed the impugned order in the appeal, by which the resolution of the Institute dated 03.03.2021 was set aside, and the Institute has been directed to convene a meeting of newly elected members within 15 days from the date of receipt of the order.

8. Mr. Ashish Dholakia, learned Senior Counsel for the Institute, submits that the impugned order has been passed by the IRDA on the appeal of respondent No.7 without notice to any of the affected parties. The impugned order itself shows that, in addition to the appeal and the order of this Court, the IRDA has only considered the report of the Election Officer and reached its decision. Mr. Gola has also taken instructions and confirmed this position.

9. In view of the aforesaid position, after some hearing, learned counsel for the parties agree that the petition be disposed of with the following directions: -

- a) The impugned order dated 19.05.2021 passed by IRDA is set aside.
- b) The matter is remanded to IRDA for fresh consideration, after

giving notice of the appeal to all the stakeholders including *inter alia* the complainants before the Institute, and the candidates who stood for election. It will be open to the IRDA to give notice to any other party that it considers necessary.

c) The records of the Institute pursuant to which the resolution dated 03.03.2021 was passed will also be placed before IRDA by the Institute.

d) The stakeholders will be given an opportunity of at least seven days to file their responses to the appeal.

e) The IRDA will then convene a hearing of all the stakeholders by video-conferencing, and dispose of the appeal filed by respondent No.7 after hearing the parties, as expeditiously as possible, and preferably within two weeks thereafter.

10. It is made clear that this Court has not made any observations, even *prima facie*, on the merits of the dispute between the parties. It is open to IRDA, after considering the submissions of all stakeholders, to pass such order as it considers appropriate, including to reiterate the directions given in the impugned order.

11. The writ petition is disposed of with these directions.

PRATEEK JALAN, J

MAY 28, 2021

'vp'