

SUPREME COURT - STATE OF NEW YORK
DUTCHESS COUNTY

Present:

Hon. JAMES V. BRANDS

Justice.

SUPREME COURT: DUTCHESS COUNTY

x

THOMAS J. MARTINO, MICHAEL ATHANAS,
JAMES MONKS, MICHAEL TAYLOR, ROBERT
CLEARWATER AND JAMES WHALEY,

Petitioners,

DECISION, ORDER
And JUDGMENT
Index No: 3598/11

For Judgment Pursuant to Article 16 of the
Elections Law and Article 78 of the Civil
Practice Law & Rules

-against-

THE TOWN OF HYDE PARK REPUBLICAN
COMMITTEE, JEAN McARTHUR, ANNE BOEHM,
ALFRED J. VILLARBALE, SARAH MURRAY,
JOANNE DEVENS, DONNA MCGROGAN, HARRY
RICHARDSON, MARK SERINO, MARY PERDOMO,
JILL LINE, KEVIN POST, ERIN REVERRI, STEVE
REVERRI, DONALDVERTH, JUSTIN VERUZZO,
YANCY McARTHUR and KEN TOWERS,

Respondents.

x

This is an application wherein petitioners challenge the existence of the Town of Hyde Park Republican Committee (HPRC) and further certain procedural matters undertaken by it. Petitioners include the present Town of Hyde Park Republican Supervisor, registered republican voters of the town, and several members of the Dutchess County Republican Committee from Hyde Park.

Respondents include the HPRC, its officers and various committee members.

At a conference held on June 30, 2011, it was agreed by counsel that this matter could be decided on the papers submitted to the court without the necessity of testimony and further respondents withdrew their "Sixth" defense, that the Dutchess County Republican Party had not been named as a necessary party. Respondents also withdrew a defense raised at the first appearance to the effect that all respondents had not been properly served and acknowledged that service had been effectuated.

The underlying premise of the petition is that a town political committee such as the one before this court, as a creature of statute owes its existence to proper enactment which is lacking in this instance and said committee is therefore a nullity. Nevertheless, should this court determine that the HPRC was properly comprised and authorized, certain actions taken by it were improper. For reasons set forth in this decision, this court determines that there is sufficient basis for establishment of this town committee.

Pursuant to New York State Election Law 2-104, the Dutchess County Republican Committee (DCRC) was established. In turn, that organization has promulgated its own rules and regulations. Those directives detail party organization, membership and the like.

Respondents point to a long and uninterrupted existence of the HPRC. Indeed, petitioner, Supervisor of the Town of Hyde Park, had successfully sought support from this committee in the past. While these facts are not dispositive of the matter before this court, they are factors to be considered when viewing the history of the relationship between the DCRC and the towns within the County of Dutchess.

There is scant legal precedent in this area due most likely to the esoteric nature of this type of intra-party dispute together with a reluctance in general to the court system meddling with internal party politics. Likewise, the New York State Election Law provides general guidance. However, much is left to the state or county leaders of the individual parties.

While it is true that a town committee's existence is dependent on "...proof that the County Committee had duly authorized the creation of such a town party committee..." (Francisco v. Borden, 153 AD2d 786), the question remains as to what constitutes "authorization" and whether it need be explicit or may be implicit.

This court recently had an opportunity to address a question of authority as between the Dutchess County Conservative Committee and a subordinate entity, the Conservative Committee for the Town of Beekman, (Matter of Potanovic, et al. v. French, et al., Dutchess County Index No. 5890/09, aff'd 65 AD3d 650). In that instance, certain authority was specifically granted to the town committee while the county committee in its claim of sovereignty retained others. The granting of specific rights and retention of others may be one approach. However, each organization has the right to attend to their political affairs as they deem advisable.

In this instance, the DCRC specifically recognizes and authorizes the existence of Town Republican Committees throughout the county by granting the chair of each such committee a seat at the executive round table. (See Section 7A. (1) Rules and Regulations of the Republican Committee of Dutchess County, New York). Apparently for a period in excess of 50 years, the DCRC has found it unnecessary to meddle further in how each town committee conducts its affairs, nor does it set forth express directives.

It is thus apparent that republican committees have been authorized and allowed to exist in towns throughout the county over a significant period of time in a manner with which the county leadership has felt comfortable.

Indeed, this fact is substantiated by an affidavit submitted to this court by Michael McCormack, Chairman of the Dutchess County Republican Committee, dated June 8, 2011, affirming the existence of the HPRC.

Notwithstanding the authority to establish the HPRC, however, that committee nevertheless must conform to the New York State Election Law and any other applicable statutes and ordinances. In this regard, the court would note that having found the HPRC was duly authorized, it did not comply with Election Law 2-114 (2) in providing proper notification to town committee members of an amendment to the rules of said committee. Those amendments are therefore void without prejudice to proper notification and enactment.

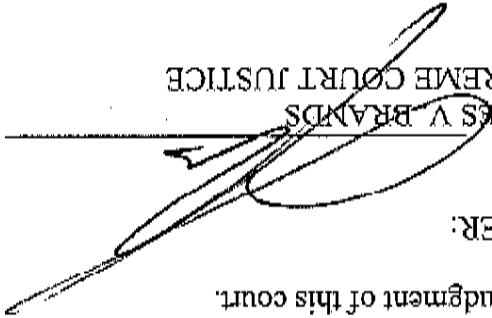
The remaining causes of action complained of are matters which are more appropriately to be determined by the governing body for the county, the Dutchess County Republican Committee, should a request for intervention be made by any of the parties to this lawsuit. It is therefore

ORDERED, ADJUDGED and DECREED that the petition is sustained to the extent of the sixth cause of action. The amendment of the committee rules on April 26, 2011 is void. It is further

ORDERED, ADJUDGED and DECREED that in all other regards the petition is dismissed.

The foregoing constitutes the decision, order and judgment of this court.

ENTER:


JAMES E. WALSH
SUPREME COURT JUSTICE

Dated: July 1, 2011
Poughkeepsie, New York

Michael F.X. Ryan, Esq.
3005 East Main Street
Corlandt Manor NY 10567
James E. Walsh, Esq.
514 State Street
Schenectady NY 12305

Pursuant to CPLR Section 5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.