
(2009) 04 AHC CK 0680
In the Allahabad High Court

Adesh Seth

APPELLANT

Vs

Registrar, Societies, Chits and Funds and others

RESPONDENT

Date of Decision : 10-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0680

Hon'ble Judges : Bala Krishna Narayana, J

Final Decision : Dismissed

Judgement

B.K. Narayana, J.

Heard Sri Sudeep Seth, learned counsel for the petitioner and Sri Umesh Chandra, Senior Advocate, assisted by Sri Anil Tiwari, learned counsel for the opposite parties No.3 and 4.

The instant application for interim relief has been filed by the petitioner in this writ petition praying that the effect and operation of the letters dated 04.04.2009 issued by the opposite party No.4 may be stayed and the opposite party No.3 be restrained from convening extraordinary general meeting to consider the expulsion of the petitioner and Mr. Prashant Chandra from the membership of the Lucknow Golf Club, hereinafter referred to as "the club" during the pendency of the above noted writ petition. The said application is supported by an affidavit of the petitioner. A counter affidavit has been filed on behalf of the opposite parties No.3 and 4 today.

This application has been filed by the petitioner alleging that the elections of the Committee of Management of Lucknow Golf Club held on 05.06.2005 was held to be illegal by the Prescribed Authority vide order dated 10.03.2008 and as a consequence, the subsequent election of the Committee of Management held on 27.05.2007 was also illegal. After passing of the order dated 10.03.2008 by the Prescribed Authority, the Deputy Registrar issued the election schedule on 12.05.2008 for holding elections on 15.06.2008 for electing a new Management Committee of the Club. Whereafter, the opposite party No.4 submitted objections

to the provisional voter list before the Deputy Registrar requesting him to remove names of four members from the voter list on the ground that they were under suspension. Similar objections were preferred by the petitioner and other members also against the provisional voter list for including the names of the members enrolled after 31.03.2005. Vide order dated 02.06.2008, the Deputy Registrar rejected the objection of the petitioner and the opposite party No.4 in respect of the exclusion of four suspended members from the provisional voter list.

The part of the order dated 02.06.2008 whereby the petitioner's objection in respect of members eligible to participate in the election has been rejected the petitioner filed the instant writ petition. The other part of the order dated 02.06.2008, whereby the opposite party No.1 held that the proceeding of suspension of the petitioner and two other members of the Lucknow Golf Club by its Managing Committee was illegal as the Managing Committee had no power to suspend the members of the club, has been challenged by the Lucknow Golf Club before this Court in Writ Petition No.2768 (M/S) of 2008. Thereafter, the three suspended members submitted the representation before the Deputy Registrar on 07.06.2008 alleging violation by the Committee of Management of the Lucknow Golf Club of the order dated 27.04.2007 passed by the Prescribed Authority and requested the Deputy Registrar to ensure compliance of the aforesaid order. Vide order dated 11.06.2008, the Deputy Registrar postponed the election which was scheduled to take place on 15.06.2008. The order dated 11.06.2008 was challenged by one Anil Agarwal in Writ Petition No.2941 (M/S) of 2008, Anil Agarwal Vs. Dy Registrar, before this Court and following interim order was passed by this Court in the above noted writ petition on 19.06.2008:

" A mention on behalf of the Sri Prashant Chandra has been made by Sri Piyush Kumar Agrawal, Advocate that Sri Chandra will appear and argue the case on 23.06.2008.

Attention has been drawn towards judgment dated 22nd November, 2006 delivered by this Court in Writ Petition No.4201 (M/S) of 2005 and it has been submitted that the special appeal filed against the said judgment has already been dismissed by the Division Bench of this Court on 8th March, 2007.

In view of mention made on behalf of Sri Prashant Chandra, list/put on 23.06.2008.

Till then statusquo shall be maintained by the parties."

The hearing of the present writ petition as well as the other connected writ petitions is in progress and 15th April, 2009 is the next date fixed for hearing and the status quo order passed by this Court in Writ Petition No.2941 (M/S) of 2008 is still operative. The opposite party No.4 vide letter dated 04.04.2009 directed the petitioner and Mr. Prashant Chandra to submit their representation by 10.04.2009 for showing cause as to why they should not be expelled from the membership of the club on the allegations mentioned against them in the said

letters.

It has been submitted by the learned counsel for the petitioner that issuing of the notices by the opposite party No.4 against the petitioner and Mr. Prashant Chandra is not only motivated by malafide but it is also contemptuous being in the teeth of the status quo order which is operative in the connected writ petition No.2941 (M/S) of 2008. He has further submitted that interest of justice requires that the opposite party No.4 be restrained from proceeding any further in pursuance of the letters dated 04.04.2009. Learned counsel for the petitioner has also challenged the competency of the opposite party No.4 to issue the letters in question on the ground that the election of the opposite party No.2 is totally illegal and is under challenge in various writ petitions.

The prayer made by the petitioner has been vehemently opposed by the learned counsel for the opposite parties No.3 and 4, who has submitted that the prayer sought by the petitioner in the present application is clearly beyond the scope of the writ petition and the remedy, if any, against the letters dated 04.04.2009 lies before the Civil Court. The opposite party No.4 has issued the letters in question in exercise of its power conferred upon it by Article 45 of the byelaws of the Lucknow Golf Club and if any order is passed by this Court restraining the opposite party No.4 from proceeding against the petitioner and Mr. Prashant Chandra, the same shall be in violation of Clause of proviso to Rule 2 (ii) as applicable in Uttar Pradesh of Order 39 Rule 2 C.P.C. which clearly provides that no injunction shall be granted to effect the internal management of affairs of any educational institution including a university or a society. He further submitted that the status quo order passed in Writ Petition No.2941 (M/S) of 2008 is confined only to the consequences flowing from the order dated 11.06.2008 which is impugned in the aforesaid writ petition and which cannot be invoked in respect of other contingencies.

Learned counsel for the opposite parties No.3 and 4 lastly submitted that since no statutory or legal right of the petitioner has been violated or infringed by the letters in question, the interim relief claimed by the petitioner in the present writ petition cannot be granted as the relationship between the members of the club is a contractual relationship and is not governed by any statutory proviso.

I have carefully examined the submissions made by the learned counsel for the parties and have perused the record.

A perusal of the letters dated 04.04.2009, copies whereof have been annexed as Annexure Nos.S4 & S5 to the affidavit accompanying the interim relief application, shows that by the said letters the petitioner and Mr. Prashant Chandra have been requested to submit their representation by 10.04.2009 in reply to the allegations made against them in the said letters on the basis of which some of the members of the club have sought their expulsion from the membership of the club. The letters further do not indicate that any date has been fixed for convening extraordinary general meeting for considering the

matter regarding expulsion of the petitioner and Mr. Prashant Chandra after receipt of their reply.

Keeping in view the fact that the hearing of the instant writ petition as well as the other connected writ petitions is under way and 15.04.2009 is the next date fixed for hearing of all the matters and also the fact that status quo order is operative in Writ Petition No.2941 (M/S) of 2008 and no date has been fixed for convening extraordinary general meeting for considering the matter regarding expulsion of the petitioner and others from the membership of the club, without going into the merits of the respective contentions of the parties, at this stage, it is provided in the interest of justice that that till the next date of listing no extraordinary general meeting shall be convened by the opposite party No.3 for considering the matter regarding expulsion of the petitioner and other members from the membership of the Lucknow Golf Club.

Put up this application for further hearing on 15.04.2009.