

(2011) 12 AHC CK 0060

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 69358 of 2011

Akhil Bhartiya Kshatriya Mahasabha and Another APPELLANT
Vs

Prescribed Authority/Sub-Divisional Manager, Badalapur and Others RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Societies Registration Act, 1860 — Section 25(1), 4A

Citation : (2012) 2 ADJ 388 : (2012) 3 AWC 3105

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Hon''ble Arun Tandon, J.—From the records of the present writ petition it is apparently clear that the Assistant Registrar, Firms, Societies and Chits, Varanasi in his order dated 8.7.2010 has recorded that the last elections of the office bearers of the registered Society namely Akhil Bhartiya Kshatriya Mahasabha, Singramau. Jaunpur were held on 15.7.2007. Terms of the elected office bearers was expired. Fresh elections were due on 15.7.2010. For the reasons recorded he proceeded to hold that the election pleaded by the present petitioner were not in accordance with the registered bye laws of the Society, therefore, list of elected office bearers forwarded by the petitioner with reference to the elections held on 12.5.2010 cannot be registered. This order has admittedly been challenged by the present petition by means of Civil Misc. Writ Petition No-41605 of 2010. No interim order has been granted in his favour till date.

2. It appears that the petitioner made an application objecting to the elections set up respondent No. 3 claiming to have been elected as the President. This application of the petitioner has been rejected under the order impugned. It has been observed that the elections pleaded by the petitioner dated 12.5.2010 have already been held to be illegal, therefore, there is no question of any review being made in that regard. It has then been recorded that the petitioner cannot

object to the agenda which had been published by the General Secretary for holding of fresh elections. His objections have, therefore, been turned down under the order dated 11.11.2011. It is against this order that the present writ petition has been filed.

3. According to the petitioner legality of the elections pleaded by him as well as of the order dated 12.5.2010 has to be examined in his writ petition No. 41605 of 2010. However, he submits that merely because his elections have been held to be invalid, it will not mean that the elections set up by respondent No. 3 are to be treated as invalid. He submits that the elections pleaded by respondent No. 3 have also to be judged with reference to the registered bye laws of the Society. Before any list of office bearers u/s 4-A of the Societies Registration Act can be registered, the requirement of said section have to be satisfied. He submits that either the list of newly elected office bearers has been countersigned by out going office bearers or the Assistant Registrar has invited objections before registering the list of office bearers.

4. Shri Shailendra, counsel for respondent No. 3 submits that proceedings u/s 4-A have not been initiated by the Assistant Registrars till date, therefore, the claims set up by the petitioner is pre-mature. However, it is submitted that the earlier writ petition filed by the petitioner was got dismissed as withdrawn without any liberty to file a civil suit. It is also submitted that petitioner is no more a member of the registered Society.

5. Be that it may, this Court is not inclined to enter into any of the issues raised. The issues can always be agitated before the appropriate Forum at appropriate stage.

6. Suffice is to record that u/s 4-A of the Societies Registration Act, the list of newly elected office bearers must be countersigned by the out going office bearers or else the objections are to be invited by the Assistant Registrar before proceeding to register the list of newly elected office bearers. This Court may clarify that if the Assistant Registrar finds that there exist a bona fide dispute in respect of the elections of the office bearers, he is duty bound to refer the same to the Prescribed Authority u/s 25(1) of the Societies Registration Act.

7. All issues are left to be examined by the Assistant Registrar in accordance with law as and when he considers the list of newly elected officers as per Section 4-A of the Societies Registration Act.

8. Writ petition is disposed of.