

(2012) 05 AHC CK 0113

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 25980 of 2012

Devendra Kumar Ojha And Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-05-2012

Acts Referred:

Societies Registration Act, 1860 — Section 4

Citation : (2012) 10 ADJ 186

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Radha Kant Ojha and Akhilesh Kumar Singh, for the Appellant; A.K. Mishra, Jitendra Kumar and C.S.C., for the Respondent

Judgement

Hon''ble Arun Tandon, J.—After the matter was argued at some length, learned counsel for the parties have agreed that the present writ petition may be disposed of at this stage itself without calling for any further affidavits specifically in view of the order proposed to be passed today. Sri Shah Lal Chand Jain Bal Vikas Samiti, Chirgaon, Jhansi is a society registered under the Societies Registration Act. Petitioners before this Court seek quashing of the order of the Assistant Registrar dated 11.5.2012 whereunder he has directed that the list of Office Bearers submitted by Jinendra Kumar Jai respondent No. 5 be registered u/s 4 of the Societies Registration Act. The order is challenged on the ground that the Assistant Registrar has no jurisdiction to enter into the disputed issues pertaining to the elections of the Office Bearers of the society. Bona fide disputes are necessarily to be referred to the Prescribed Authority u/s 25(I) of the Societies Registration Act.

2. Facts as are born out from the order impugned itself are as follows.

Last elections of the Office Bearers had taken place on 27.4.2005. Fresh elections set up dated 24.4.2011 were not approved by the Assistant Registrar as per order dated 1.11.2011. He directed the Secretary and the President to conduct fresh elections. The said order was not challenged before any Court of

Law and has been permitted to become final.

Two sets of rival elections dated 20.2.2012 and dated 26.2.2012 were set up by the earlier Secretary and the earlier President respectively. Under the order impugned without recording any finding qua the legality or otherwise of the elections set up by the President, the Assistant Registrar has directed the list of elected Office Bearers may be registered while the elections set up by the Secretary dated 20.2.2012 have been discarded.

3. Learned counsel for the parties agreed that there was a bona fide dispute and, therefore, the order passed by the Assistant Registrar is without jurisdiction reference All India Council and Another Vs. Assistant Registrar, Firms, Societies and Chits, Varanasi Region, Varanasi and Another, .

4. Learned counsel for the respondent No. 5 and the petitioner further agree that it would be appropriate that fresh elections may be got conducted through Assistant Registrar himself in exercise of his powers u/s 25(2) of the Societies Registration Act so that the controversy may be resolved.

5. In view of the agreement arrived at between the parties and in order to settle the dispute of Office Bearers and avoid further litigation, it is provided as follows:

It is not in dispute that there are 18 undisputed life members of the General Body who are entitled to participate in the elections. The dispute is only in respect of the three members who had earlier participated in the elections as special members whose term is stated to be limited. They are said to have been enrolled as life members.

Subsequently, according to the respondents, these three members have not deposited the requisite membership fee in the relevant account so as to become life members. Thus the only dispute in respect of the electoral college is confined to the issue as to whether these three members" have been admitted as life members or not.

The Assistant Registrar shall himself summon the original record of the society and shall satisfy himself with regard to the original record of the society as to whether these three members namely, Gauri Shankar Adurje, Ram Narayan Sharma and Dr. Ravindra Kumar Dubey, have been validly admitted as life members after depositing of the requisite money in the relevant account of the society or not and as to whether they were entitled to such membership or not. The finalisation of list of members shall be done after affording opportunity to the petitioners as well as those three members and Jinendra Kumar Jain.

The Assistant Registrar shall pass a reasoned speaking order within four weeks and shall thereafter notify the election programme for holding the elections. The elections must be completed preferably within six weeks from the date of finalisation of the list of members.

The voting shall take place through secret ballot. The votes polled shall be

counted and results shall be declared, thereafter kept in sealed cover by the Assistant Registrar himself, to be provided, if required, before the appropriate forum if any challenge is made to the elections by any of the parties.

The order impugned is set-aside and the writ petition is disposed of with the directions as aforesaid.