
(2009) 07 AHC CK 0178

In the Allahabad High Court

Case No : (Civil Miscellaneous Writ Petition No. 60308 of 2007)

Kisan Junior High School, Azamgarh and Another	APPELLANT
Vs	
Commissioner, Azamgarh Division, Azamgarh and Others	RESPONDENT

Date of Decision : 09-07-2009

Acts Referred:

Societies Registration Act, 1860 — Section 12D(2), 3, 3A, 3B

Citation : (2009) 07 AHC CK 0178

Hon'ble Judges : Dilip Gupta, J

Final Decision : Allowed

Judgement

Dilip Gupta, J.—The petitioners have sought the quashing of the order dated 31st October, 2007 passed by the Commissioner, Azamgarh Division, Azamgarh by which the appeal filed by respondent No.3 Ram Kripal Shukla under Section 12D(2) of the Societies Registration Act, 1860 (hereinafter referred to as the ""Act") for setting aside the order dated 28th October, 2006 passed by the Assistant Registrar, Firms, Societies and Chits, Azamgarh Division, Azamgarh (hereinafter referred to as the ""Assistant Registrar") under Section 3A of the Act was allowed.

2. The sole contention advanced by Sri Rajendra Rai, learned counsel for the petitioners for setting aside the order is that appeal does not lie to the Registrar under Section 12D(2) of the Act against an order passed under Section 3A of the Act and in support of his contention, he has placed reliance upon a Division Bench judgment of this Court in Shiksha Parishad, Nagwa, Ballia & Anr. Vs. Deputy Registrar, Firms, Societies and Chits, Faizabad Division, Faizabad & Anr., (1998) 1 UPLBEC 290.

3. Section 3A of the Act, as amended in the State of U.P., deals with renewal of certificate of registration of the Society and provides that a Society registered under Section 3 of the Act shall, on application made to the Registrar within one month of the expiration of the period mentioned in Section 3A(1) of the Act and on payment of fee, be entitled to have its certificate of registration renewed for

five years at a time.

4. Section 3B of the Act, as amended in the State of U.P., provides that if any question arises whether any Society is entitled to get itself registered in accordance with Section 3, or to get its certificate of registration renewed in accordance with Section 3A, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.

5. Section 12D of the Act, as amended in the State of U.P., deals with the power of the Registrar to cancel the registration in certain circumstances and provides as follows:

"12D. Registrar's power to cancel registration in certain circumstances. (1) Notwithstanding anything contained in this Act, the Registrar may, by order in writing, cancel the registration of any society on any of the following grounds:

(a) that the registration of the society or of its name or change of name is contrary to the provisions of this Act or of any other law for the time being in force;

(b) that its activities or proposed activities have been or are or will be subversive of the objects of the society or opposed to public policy;

(c) that the registration or the certificate of renewal has been obtained by misrepresentation or fraud:

Provided that no order of cancellation of registration of any society shall be passed until the society has been given a reasonable opportunity of altering its name or object or of showing cause against the action proposed to be taken in regard to it.

(2) An appeal against an order made under subsection (1) may be preferred to the Commissioner of the Division in whose jurisdiction the Headquarter of the society lies, within one month from the date of communication of such order.

(3) The decision of the Commissioner under subsection (2), shall be final and shall not be called in question in any Court."

6. A perusal of Section 12D(1)(c) of the Act shows that the Registrar has been conferred with the power to cancel the registration or the certificate of renewal if it has been obtained by misrepresentation or fraud and an appeal will lie to the Commissioner of the Division under Section 12D(2) of the Act against an order. It is, therefore, clear that no appeal can be filed under Section 12D(2) of the Act against an order passed under Section 3A of the Act granting renewal to the certificate of registration.

7. In the present case, respondent No.3 had filed the appeal under Section 12D(2) of the Act against the order passed under Section 3A of the Act. In view of the clear provisions of Section 12D(2) of the Act and in view of the Division Bench judgment of this Court in *Shiksha Parishad (supra)*, the appeal filed by

respondent No.3 Ram Kripal Shukla against the order dated 28th October, 2006 passed by the Assistant Registrar under Section 3A of the Act was not maintainable. The order dated 31st October, 2007, therefore, cannot be sustained.

8. The writ petition is, accordingly, allowed. The order dated 31st October, 2007 passed by the Commissioner, Azamgarh Division, Azamgarh is set aside. There shall be no order as to costs.