

(2020) 01 UK CK 0038

In the Uttarakhand High Court

Case No : Writ Petition No. 853 Of 2015 (M/S), 198 Of 2016 (M/S)

Mahadevi Kanya Pathshala College Society & Others

APPELLANT

Vs

Commissioner, Garhwal Mandal, Pauri Garhwal And Others

RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:

Societies Registration Act, 1860 — Section 1, 2, 2(7), 3, 3(2), 3(2)(5), 3A, 3A(2), 4, 4(1), 4(2), 4(5), 4A, 4B, 12, 12A, 12B, 12B(1), 12C, 12D, 12D(1)(c), 12D(3), 12(2), 13B, 15, 15(2)(7), 19, 22, 23(1), 23(3), 24, 24(1), 24(2), 24(3), 24(5), 25, 25(2), 27
General Clauses Act, 1897 — Section 21
Societies Registration (Uttar Pradesh Amendment) Act, 1979 — Section 21
Indian Contract Act, 1872 — Section 17
Uttar Pradesh Societies Registration Rules, 1976 — Rule 5, 5(1), 5(2), 12(1), 14, 17, 28
Constitution Of India, 1950 — Article 32, 226, 226(1)

Citation : (2020) 01 UK CK 0038

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Neeraj Garg, Pradeep Joshi, Neetu Singh, Shashank Pandey, M.S. Bisht

Final Decision : Dismissed

Judgement

,

Alok Kumar Verma, J",

1. Mahadevi Kanya Pathshala College Society is a society to provide education. The vision of the Founders of this institution, namely, late Shri Jyoti",

Swroop Bhatnagar and his wife late Smt. Mahadevi Bhatnagar, was to provide opportunities to women for obtaining good education, to build up their",

confidence, to enable them to make informed decisions, to develop wisdom, goodness and sense of social responsibilities. The objects of this institution",

is to impart to Indian girls such education, religious and secular, to develop

Spastic ideal of a devoted wife, mother and citizen, possessing sound",
learning and other accomplishments of modern times. Boys up to the age of 10
years, may receive education in this institution. For attaining these",
objects, the institution imparts primary and higher education including Degree
and Post Degree Classes.",

2. For attaining the objectives, the Society established educational institutions
including Institutes of Technology and Centre of Studies/Research, which",
includes:-,

- (i) Mahadevi Kanya Pathshala Inter College.,
- (ii) Mahadevi Kanya Pathshala (PG) College.,
- (iii) Mahadevi Institute of Technology.,
- (iv) M.K.P.(PG) College Hostel.,
- (v) Kalindi Hostel.,

3. After mentioning the renewal certificate of the Society, bearing
No.700/2005-2006 dated 24.02.2006, the College Society sent an application
dated",

21.05.2007 to the Regional Office, Deputy Registrar, Firms and Societies of Chits,
Uttarakhand, Dehradun, with a copy of resolution of the Society for",

amendment in the Constitution of the Society and requested to change in the
concerned register of the office of the Deputy Registrar accordingly.,

Vide his letter dated 19.07.2007, the Deputy Registrar informed to Dr. N.S.
Bhatnagar, non-paid Secretary of the College Society, that on the",

proposed amendment, an objection had been received in his office and directed
to submit the report with evidence in the light of the received objection.",

4. The report was not submitted by the Society. Therefore, the Deputy Registrar
returned the original amendment on 07.09.2007 and informed the",

Society that till the amended rules was not registered, the list of Executive
Committee, supplied in the light of the amended rules, was not valid. It was",

also requested to the Society to produce the list of Executive Committee as per
the earlier registered statute. After receiving the letter dated,

07.09.2007, the amended proposal was again sent to the Deputy Registrar with
an application dated 05.10.2007 and requested to register all the",

amendments. The Deputy Registrar informed to the Society on 30.10.2007 that
the documents sent for the amendment were not under the provisions,

of the Societies Registration Act and directed to produce the evidence whether the notices of the meeting were given to all the members within time, and what was the quorum required for the meeting. The Society again sent the documents with amendments to the Deputy Registrar on 12.11.2007, with request to register the said amendments. The Deputy Registrar, vide his letter dated 15.11.2007, informed that the proceedings for the change of", name of institution was not as per provisions of the Societies Registration Act, hence it was invalid and directed to submit the objects of the revised", rules with preceding names or send it by amending and verifying the amendments. In the light of the directions dated 15.11.2007, after taking the", action, as expected, a true copy of the Constitution of the Society was sent to the Deputy Registrar on 17.11.2007 for necessary action."

5. On 11.12.2007, the District Assistant Registrar, Cooperative Societies, Uttarakhand, Dehradun informed the Society that he was nominated as an", Inquiry Officer by the District Magistrate, Dehradun to inquire into the complaint of Shri Anil Goyal, Life Time Member of the Society, and directed to", present in his office till 16.12.2007 with the copies of documents. After inquiry, the District Assistant Registrar, Cooperative Societies submitted his", report that the process adopted for the amendments in the bye-laws of the Society were found correct and the Constitution of the present Executive, Committee of the Society had been made as per rules. Therefore, in view of that, there did not appear any justification for dissolving the Executive", Committee of the Society and to appoint any Administrator. The Deputy Registrar informed the Society, vide his letter dated 15.01.2008, that the", amendments had been registered as per rules on 04.01.2008.,

6. Thereafter, the Deputy Registrar sent a letter dated 08.06.2011 to the Society and informed that on 06.06.2011, in the meeting held at Vidhan", Sabha, direction was given by the Agriculture Minister for early renewal of the Society. In his letter dated 08.06.2011, the Deputy Registrar directed", to the Society to produce the original documents of the Society, particularly the copy of the original resolution, passed in the General meeting dated", 25.03.2007, which bore the original signature. The Deputy Registrar informed that Shri Ram Kumar Singh, Chief Assistant and Shri Kanhai Lal, Junior", Assistant, were authorized to inquire the matter."

7. After inquiry, the Inquiry Report dated 10.06.2011 was submitted by which it

was found that in the Constitution passed by the Society on",

25.03.2007 and approved on 06.05.2007, there was a variation in the name and objects of the Society, in the copy of the Constitution which was",

submitted for registration of the amendments; the amended statute of the Society had been registered by the office, whereas, earlier on 15.11.2007",

itself, by office letter 2709, it was directed to remove the amended name and object of the Society. Even after the directions of the office, the Society,"

by cutting in the original name, approved on 25.03.2007 and passed on 06.05.2007, and by pasting the original objectives on page No.2, had submitted",

its photocopy; on a perusal of the original proceeding register of the Society, it had been found that the Society, after 06.05.2007, did not pass any",

proposal for cutting of the name and object in any General meeting or meeting of the Managing Committee, from which, it only appeared that the task",

was undertaken by the then three post holders of the Society by taking decisions on their own, by making fabrication in it, for which no consent of the",

Managing Committee or General Committee had been obtained.,

8. The Society replied dated 22.06.2011 to the Assistant Registrar that the former post holders of the institution did not do any fabricated work and,

requested for renewal of the institution. This reply was supported by an affidavit dated 24.06.2011. Vide letter dated 01.07.2011, the Deputy Registrar",

sent the renewal certificate of the institute dated 01.07.2011 in the light of the affidavit dated 24.06.2011 and directed the Society that the amended,

rules which was registered on 04.01.2008 shall be made available to the office of the Deputy Registrar after approval in the forthcoming Annual,

General Meeting. Otherwise, on the basis of the concealment of the facts by the former members of the Managing Committee, the renewal certificate",

shall be cancelled. The said directions were not complied with, therefore, the Deputy Registrar sent reminders to the Society.",

9. The non-paid Secretary of the Society sent a letter dated 05.02.2013 to the Deputy Registrar with the submissions that making inquiry of any kind,

during pendency of cases/petitions before the Honâ??ble Courts may be contempt of the Honâ??ble Courts; in case, inquiry could be done in the",

aforsaid circumstances, then, it was requested to send the annexures of the complaint for submitting point-wise reply.",

10. The Deputy Registrar replied on 12.02.2013 that the entire record had been

called from which it appeared that the Society wanted to keep the, matter pending. The Deputy Registrar directed the Society to submit point-wise reply with proof within 15 days. The non-paid Secretary of the Society, sent a letter dated 23.02.2013 to the Deputy Registrar and informed him that after calling the meeting of the Managing Committee within 15 days and, after approval, the registered Constitution shall be sent to the office of the Deputy Registrar.",

11. The Deputy Registrar sent a letter dated 15.03.2013 to the Society of Mahadevi Kanya Pathshala College by which it was informed that on, receipt of various complaints regarding the amendments, the departmental record of the Society was examined again; the compliance of the letters of", the office of the Deputy Registrar had not been ensured; hence, the provisions of the Societies Registration Act, 1860 and directions given by the", Deputy Registrar had been deliberately violated. Therefore, the Society was required to submit its case within 15 days along with proof, otherwise the", amendments got approved earlier shall be cancelled. The reply was sent by the Society on 28.03.2013.,

12. After examination of the Rules of the Society, it was found that the amended Constitution of Mahadevi Kanya Pathshala College, Dehradun,", which was registered earlier, was irrelevant from the provisions of the Societies Registration Act, 1860 and the Society had not followed the rules and", regulations of its Constitution. Therefore, the amended Constitution, which was registered earlier, was cancelled by the Deputy Registrar vide his", proceeding dated 04.04.2013 and directed that on the basis of amended Constitution, all the activities carried out by the Society will be treated illegal.",

13. An appeal, bearing No.7/2012-13, was filed before the Commissioner, Garhwal Mandal, against the order dated 04.04.2013, passed by the Deputy", Registrar. This appeal was rejected on 06.04.2015 as not maintainable.,

14. On 16.12.2015, the Deputy Registrar informed the non-paid Secretary of the Society that the appeal was rejected on 06.04.2015, therefore, it was", directed to conduct fresh election of the Managing Committee of the Society in the light of the previous registered rules of the Society and send a list, of the members to his office.,

15. The Writ Petition No.853 of 2015 (M/S) was filed with a prayer to issue a writ of certiorari quashing the impugned order dated 06.04.2015 passed,

by the Commissioner, Garhwal Mandal in Appeal No.7 of 2012-13; and a writ of certiorari quashing the impugned order dated 04.04.2013 passed by",

the Deputy Registrar.,

16. The Writ Petition No.198 of 2016 (M/S) was filed with a prayer to issue a writ of certiorari quashing the impugned order dated 16.12.2015, passed",

by the Deputy Registrar; and a writ of mandamus commanding the Deputy Registrar to take appropriate decision forthwith in accordance with law on,

the application dated 09.10.2015 for renewal of certificate of the registration of the Society.,

17. Mr. Neeraj Garg, learned Advocate, appearing for the petitioner in WPMS No.853 of 2015, has submitted that the Deputy Registrar had no",

jurisdiction, power or authority to pass the impugned order dated 04.04.2013 cancelling the amendments made in the bye-laws of the Society and",

declaring the acts and deeds of the Society pursuant to amended constitution to be void in the absence of any specific provision or power conferred,

upon him under the Societies Registration Act, 1860 (hereinafter referred to as "the Act, 1860"); the Deputy Registrar had no jurisdiction to",

adjudicate upon the merits of the amendment in the bye-laws and to adjudicate the validity of the resolution for carrying out the amendments and the,

legality or illegality of the meetings; if there was any question raised or to be adjudicated as regards the propriety of the meetings and resolutions for,

the purposes of carrying out amendments in bye-laws of the Society, the only competent forum to adjudicate the same was the appropriate civil court;",

once the Registrar after certain queries, exchange of letters, on being satisfied, entered the amended constitution in his books on 04.01.2008 and",

intimated the same to the Society vide letter dated 15.01.2008, it was not open to the Deputy Registrar to review or recall its order in the absence of",

any specific power conferred upon him under the Act, 1860; except the change in the name and objects, no other alteration or amendment in the",

Constitution/bye-laws of the Society requires the previous approval of the Deputy Registrar or its registration; admittedly on an objection being raised,

by the Deputy Registrar prior to entering the amended constitution in his books on 04.01.2008, the name and objects of the Society, which were",

initially decided to be altered, remained intact and the amended constitution with the old name and old objects was sent to the Registrar and the same",

was entered in his books on 04.01.2008; as regards the other changes/ amendments in the bye-laws of the Society except name and objects, only an",

intimation along with copy of every such change was to be sent to the Deputy Registrar; the office bearers, namely Sri Rakesh Oberai (respondent",

no.4), President of the Society at that time of amendments in the Constitution and Sri Kushal Pal Singh (member at that time of amendments)",

respondent no.3, had no right to question the procedure in carrying out the amendments in the bye-laws of the Society, which admittedly was done",

under their leadership and management and the challenge at their behest was not tenable and was malafide out of the personal grudges since they,

were out of the management; prior to the meeting dated 25.03.2007, the intimation along with the copy of the proposed amendment was sent to all the",

members but none of the members, except the then President, Secretary and member of Managing Committee, who participated in the meeting, ever",

complained of non intimation of the meeting; in the enquiry report dated 08.02.2008, it was specifically stated that all the members were given",

intimation of the proposed meeting; such report had never been questioned; the another enquiry report dated 17.06.2011, did not state that there was",

any violation of Rule 28 of the bye-laws of the Society; the Society was constituted about 90 years before and there is no provision of deletion of,

name of members, who got expired, and it can be taken note of that old list which was continuing since about 90 years is containing most number of",

dead members and the intent for a particular purpose in the light of the rule of the Society has to be seen; the contention that there was cutting in the,

name and the old objects were pasted in place of amended objects constitutes fraud, is not tenable; there is no allegation either in the report dated",

17.06.2011, show cause notice dated 15.03.2011 and the impugned order dated 04.04.2013 that with an intention and motive to achieve something",

wrong and to cause loss or damage to the Society and to sacrifice the interest of the Society, the alleged act was done which was said to be fraud; the",

cutting was within the purview of sub-rule (2) of Rule 5 of the Uttar Pradesh Societies Registration Rules, 1976; moreover, such act was being",

committed by the then office bearers of the Society (one of which is respondent no.4, who was the Chairman at that time); the non application of mind",

by the Deputy Registrar in the impugned order dated 04.04.2013 is further fortified from the fact that certain provisions which do not find place in the,

Act, 1860 and the Rules, 1976 had been mentioned and relied upon while passing the impugned order; there was no mention of alleged report dated",

17.06.2011 in the show cause notice dated 15.03.2013 however, such report had been placed reliance while passing the impugned order.",

18. Reliance is placed by the learned counsel appearing for the petitioner, on the provisions of Sections 4, 4A, 12, 12A, 12B, 12C, 12D, 24 and Section",

27 of the Act, 1860, as amended by the State of Uttar Pradesh and as applicable in the State of Uttarakhand. Sections 4, 4A, 12, 12A, 12B, 12C, 12D, 24",

and Section 27 of the Act, 1860, as amended by the State of Uttar Pradesh and as applicable in the State of Uttarakhand, are reproduced here-in-",

below:-,

4. Annual list of managing body to be filed.â?"Once in every year, on or before the fourteenth day succeeding the day on which, according to the",

rules of the Society, the annual general meeting of the society is held, or, if the rules do not provide for an annual general meeting, in the month of",

January, a list shall be filed with the Registrar, of the names, addresses and occupations of the governors, council, directors, committee, or other",

governing body then entrusted with the management of the affairs of the society.,

Provided that if the managing body is elected after the last submission of the list, the counter signature of the old members, shall, as far as possible, be",

obtained on the list. If the old office bearers do not counter sign the list, the Registrar may in his discretion, issue a public notice or notice to such",

persons as he thinks fit inviting objections within a specified period and shall decide all objections received within the said period.,

(2) Together with list mentioned in sub-section (1) there shall be sent to the Registrar a copy of the memorandum of association including any,

alteration, extension or abridgement of purposes made under section 12, and of the rules of the society corrected up to date and certified by not less",

than three of the members of the said governing body to be a correct copy and also a copy of the balance-sheet for the proceeding year of account.,

4A. Changes etc. in rules to be intimated to Registrar.â?"A copy of every change made in rules of the society and intimation of every change of,

address of the society, certified by not less than three of the members of the governing body shall be sent to the Registrar within thirty days of the",

change.,

12. Societies enabled to alter, extend or abridge their purposes.â?"Whenever it shall appear to the governing body of any society registered under this",

Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other",

purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may",

submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof",

according to the regulations of the society;,,

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten,

days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed",

to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a",

second special meeting convened by the governing body at an interval of one month after the former meeting.,

12A. Change of name.â?"Any society registered under this Act may, with the consent of not less than two-thirds of the total number of its members,",

and with the previous approval of the Registrar in writing change its name by resolution passed as a general meeting convened for the purpose.,

12B. Notice of change of name or objects.â?"",

(1) Notice in writing of every change of objects made under section 12 of name made under section 12A signed by the secretary and any three,

members of the society shall be sent to the Registrar.,

(2) Where the Registrar is satisfied that the provisions of this Act in respect of objects or name of society and in respect of change of objects or of,

name, as the case may be, have been complied with, he may subject to the provisions of section 12C register the change of name which shall have",

effect from the date of such registration.,

12C. Effect of change of name or objects.â?"The change in the objects or name of a society shall not affect any rights or obligations of the society,",

nor render defective any legal proceedings by or against the society, and any legal proceeding which might have been continued or commenced by or",

against it by its former name may be continued or commenced by or against it

by its new name.,

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 sub-section,

(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 sub-section (2), shall be final and shall not be called in question in any court.",

24. Investigation of affairs of a society."(1) Where on information received under Section 22 or otherwise, or in circumstances referred to in sub-",

section (3) of Section 23, the Registrar is of opinion that there is apprehension that the affairs of a society registered under this Act are being so",

conducted as to defeat the objects of the society or that the society or its governing body, by whatever name called, or any officer thereof in actual",

effective control of the society is guilty of mismanaging its affairs or of any breach of fiduciary or other like obligations, the Registrar may, either",

himself or by any person appointed by him in that behalf, inspect or investigate into the affairs of the society or inspect any institution managed by the",

society.,

(2) It shall be the duty of every officer of the society when so required by the

Registrar or other person appointed under sub-section (1) to produce,
any books of account and other records of or relating to the society which are in
his custody and to give him all assistance in connection with such,
inspection or investigation.,

(3) The Registrar or other person appointed under sub-section (1) may call upon
and examine on oath any officer, member or employee of the society",

in relation to the affairs of the society and it shall be the duty of every officer,
member or employees, when called upon, to appear before him for such",

examination. (3A) The Registrar or other person appointed under sub-section
(1), may, if in his opinion it is necessary for the purpose of inspection or",

investigation, seize any or all the records including account books of the society:",

Provided that any person from whose custody such records are seized shall be
entitled to make copies thereof in the presence of the person having,

the custody of such records.,

(4) On the conclusion of the inspection or investigation, as the case may be, the
person if any appointed by the Registrar to inspect or investigate shall",

make a report to the Registrar on the result of his inspection or investigation.,

(5) The Registrar may, after such inspection or investigation, give such directions
to the society or to its governing body or any officer thereof, as he",

may think fit, for the removal of any defects or irregularities, within which as
may be specified and in the event of default in taking action according to",

such directions, the Registrar may proceed to take action under section 12D or
section 13B, as the case may be.",

27. Penalties.â?"Any person whoâ?",

(a) fails to furnish the list of managing body or other information required to be
furnished under Section 4 or 4 A or wilfully makes or causes to be,

made a false entry in, or any omission from, the list or any statement or copy or
rules or of alteration in rules or other information sent to the Registrar",

under the said Section 4 or Section 4A.,

(b) wilfully fails to furnish any account or statement referred to in sub-section (1)
of Section 23 or furnishes in compliance with the said sub-section,

particulars which are false and which he either knows or believes to be false or
does not believe to be true;;

(c) neglects or refuses to make its accounts or other documents available for

audit as required by sub-section (3) of Section 23;;

(d) wilfully fails to produce any books of accounts or other records as required by sub-section (2) of Section 24;;

(e) wilfully fails to appear before the Registrar or other person appointed by him or otherwise contravenes the provisions of sub-section (3) of Section,

24;;

shall be punishable with fine which may extend to two thousand rupees.,

19. The learned counsel, appearing for the petitioner, relied upon the following judgments in support of his contentions:-",

(i) Managing Committee Khalsa Middle School and another Vs. Mohinder Kaur (Smt.) and another, (1993) Supplementary 4, SCC 26.",

(ii) Liyakat Marquise Khan Vs. Christ Church College Society, Kanpur and others, 2010(82) Allahabad Law Reports, 832.",

(iii) Adhyaksha Committee of Management Shri Vimal Nath Digambar Jain, Teerth Kshera Committee, Kampil, U.P. Farrukhabad and another Vs.",

Deputy Registrar, Firms, Societies and Chits, Kanpur Mandal, Kanpur and another, 2011(84) ALR, 334.",

(iv) Gaya Datt Mishra Vs. Deputy Inspector of Schools, 1995(13) Lucknow Civil Decisions, 1148.",

(v) V.K. Ashokan Vs. Assistant Excise Commissioner and others with batch, (2009)14 SCC 85.",

(vi) State of Orissa Vs. Sudhansu Sekhar Misra and others, AIR 1968 Supreme Court 647.",

(vii) Valliamma Champaka Pillai Vs. Sivathanu Pillai and others, (1979)4 SCC 429.",

(viii) S. Shanmugavel Nadar Vs. State of Tamil Nadu and another, (2002)8 SCC 361.",

20. Mr. Pradeep Joshi, learned Standing Counsel for the respondent Nos.1 and 2, has submitted that the impugned order dated 04.04.2013 had been",

passed by the Deputy Registrar canceling the amendment registered on 04.01.2008 on the ground that amendments were passed and approved in the,

meeting of General Body of the Society on 25.03.2007 and 06.05.2007 respectively in contravention of Rule/Clause 28 of the bye-laws of the Society,

as information was sent to only 330 members through courier, whereas the members of the Society being 746, as per the list sent by the Society; no",

information was given in newspaper regarding meeting dated 25.03.2007 and approved dated 06.05.2007 of the General Body, as such, most of the",

members could not attend the meeting; on receiving various complaints on the amendment registered earlier, a spot inspection was conducted on",

10.06.2011 under Section 24 of the Act, 1860 by the authorized representative of the Registrar; on inspection, from original record, it transpired that",

the resolution passed in the meeting held on 25.03.2007 and approved in the meeting on 06.05.2007, there were cutting on the name and objective and",

pasting of Xerox copy; after the meeting dated 06.05.2007, no resolution was passed again pertaining to altering the name and objective of the Society",

in the General or meeting of the Management Committee; the Registrar has powers under Sections 4B, 15, 22, 24(1), (5) and 25 of the Act, 1860 and",

Rules 5 and 17 of the Societies Registration Rules; the amendments carried out by the Society were disputed by the members of the Society and,

several objections/complaints were received by the Registrar; the impugned order had been passed after complying with the principles of natural,

justice. The learned Standing Counsel relied upon the judgment in D.G. Rao Vs. State of Jharkhand, AIR 2005 SC, 432;1 Allahabad High School",

Society, Allahabad Vs. State of U.P., (2011)6 SCC, 118.",

21. Mrs. Neetu Singh, learned Advocate for the respondent No.3 and Mr. Shashank Pandey, learned Advocate, appearing for the respondent No.4,"

submitted that the amendments in the bye-laws were made with malicious motive to acquire control over the affairs of the Society for self monetary,

gains in purchases and tenders of works etc. of the Institutes and Society's affairs; the petitioner had failed to comply the provisions of the Act,"

1860 and Rules while making such amendments; the amendments by cutting and overwriting were sent without being passed in General Body meeting,

and without sufficient majority of the members of the Society; the petitioner Society was formed and registered in the year, 1957; the Rules and bye-",

laws were called "The Constitution" of the Society; as per provisions of the Rules of the Society, any change or amendments in the Constitution",

of the Society could only be made through a resolution passed in the General Body meeting of the Society by 3/5 majority of its members in a General,

Body meeting but the same had not been done by the petitioner Society; the said amendments were contrary to Rule 28 of the Rules of the Society for,

some vested interests; the respondent No.3 had resigned from the post of the Society in the month of July, 2006; the respondent No.3 was never part",

of any meeting, held by the Society after the year 2006; the respondent No.3 was not present in the meeting held on 08.03.2007 and thereafter; there",

were about 1465 active members of the General Body of the Society at the time of making amendments in the Constitution of the Society in the year,

2007; there were manipulations of the petitioner in calling the General Body meeting of the Society at the time of making the amendments; the,

petitioner did not serve the notice of the General Body meeting to all the members with a malafide motive for managing the affairs of the Society in his,

favour; the Registrar had correctly disallowed the amendments made in Rules and bye-laws of the Society; the Commissioner had also legally rejected,

the claim of the petitioner/Society; order dated 06.04.2015, passed by the Commissioner is final and could not be challenged as per provisions of",

Section 12D of the Act, 1860; for the purpose of making amendments, the Society had to provide a copy of the same to the members; such a proposal",

submitted by the 3/5 members was required to be presented on the date of the special meeting to be convened by the Governing Body at an interval of,

one month from the former meeting; on 30.12.2003, a meeting of Managing Committee of the College Society was held and resolved that the",

amendments as proposed was required to be published in the newspaper so that the second special meeting was required to be held within 30 days,

from the date of the first special meeting; no such publication as resolved by resolution No.7 on 30.12.2003 was ever carried out; thus the very basis,

of floating the proposal for amendments was untenable; the resolution as carried for the proposed amendments cannot be said to be in consonance to,

the provisions contained under sub-clause (2) of Section 12 of the Act, 1860; the copies of the proposed amendments were not supplied to the",

members; no proper notice was ever served to the members of the Society; the mode and manners in which the notices had been supplied to the,

members is not explained by the petitioner; the cuttings on the amendments were not subsequently approved by the General Body; thus, the",

amendments as carried on 25.03.2007 and 06.05.2007 were arbitrary and malafide, which is evident from the inquiry report and audit report dated",

25.02.2014; the defects which were pointed out by the Registrar were not duly approved by the resolution of the Society; the same was not placed,

before the General Body for its consideration; the Secretary/Manager, vide the letter dated 24.06.2011, submitted an affidavit before the Registrar",

with a malafide motive to justify cuttings; the Registrar had recommended to the Government, vide his letter dated 25.02.2008, for the cancellation of",

earlier registered amendment, made due to political pressure; there is no provision in the Act, 1860 to separately register any amendment in the bye-",

laws; when changes in the name and object of the Society are made, the provisions of Section 12B of the Act, 1860 are invoked; if any person is",

aggrieved against the decision of the Registrar, the other alternative remedy is available under law by approaching to the Chief Secretary of the State",

as per provisions of Rule 14 of the U.P. Societies Registration Rules, 1976; the impugned order passed by the Commissioner is valid and justified; the",

appropriate recourse available to the petitioner against the order dated 04.04.2013 was to approach to the Registrar instead of invoking the,

extraordinary jurisdiction of the High Court; thus the writ petition is not maintainable; the cuttings on the amendments were amounted to forgery and,

fraud; the malafides and arbitrary action in the affairs of the Society were also revealed from the facts that even prior to the actual registration of the,

amendments carried as a matter of fact, the Society started functioning with changed name of the Society without even waiting for its registration; the",

Registrar is duly authorized to cancel registration, if it is obtained by fraud as per provisions of Section 12D(1)(c) of the Act, 1860; as per provisions of",

the Section 21 of the General Clauses Act, the Registrar has jurisdiction and authority to review its earlier order."

22. Mr. Shashank Pandey, learned Advocate for respondent No.4 relied upon the judgments in Dr. P.P.Rastogi and others Vs. Meerut University and",

another, (1997)1 UPLBEC 415 ,Ayaubkhan Noorkhan Pathan Vs. State of Maharashtra and others (2013)4 SCC 465, Writ Petition No.12926 of",

2013, Ram Yash Yadav Vs. State of U.P. dated 20.11.2015 of Allahabad High Court, Chairman All India Railway Recruitment Board and another",

Vs. K. Shaym Kumar and others, (2010)6 SCC 614, M/S Mahbir Jute Mills Ltd., Gorakhpur Vs. Shri Shibban Lal Saxena and others, (1995)2 SCC",

818, Civil Appeal No.6634 of 2012, Ramesh Ahluwalia Vs. State of Punjab, dated 13.09.2012 of Honâ??ble Supreme Court, Gurjar Sabha Meerut",

through President Vs. State of U.P., (2010)0 Supreme (U.P.) 52906, Harendra Singh Chaddha Vs. State of U.P. and others, (2009)0 Supreme (U.P.)",

49362, Committee of Management, Shiksha Prasar Samiti, Dharai Mafi District Sultanpur Vs. State of U.P. (2012)0 Supreme (U.P.) 56036, and",

Managing Committee Vs. State of U.P. (2009)0 Supreme (U.P.) 49383.,

23. Mr. Neeraj Garg, learned counsel appearing for the petitioner further submitted that the Deputy Registrar passed the impugned order dated",

16.12.2015 (WPMS No.198 of 2016) based on the order dated 04.04.2013 and 06.04.2015 that the amendments in the Rules of the Society had been,

cancelled; the Deputy Registrar erred in law as well as jurisdiction in passing the impugned order and issuing such directions, which is against the spirit",

of provisions contained in Section 3A(2) and its proviso read in conjunction with sub-section (2) of Section 3 of the Act, 1860.",

24. Written submissions are filed on behalf of the petitioner by Mr. Neeraj Garg, learned counsel, on behalf of the State Government by Mr. Pradeep",

Joshi, learned Standing Counsel and on behalf of the respondent No.3 by Mrs. Neetu Singh, learned counsel. Mr. Shashank Pandey, learned counsel",

for respondent No.4 stated that the respondent No.4 has adopted the written submissions filed on behalf of the respondent No.3 and respondent No.4,

had nothing more to add.,

25. We have considered the contentions of learned Counsel for parties and have perused the record.,

26. Whether, under the provisions of the Societies Registration Act, 1860, the Deputy Registrar of Societies had any power to reject the amendments",

of the Constitution of the petitioner Society and whether the Deputy Registrar had authority to direct petitioner Society to conduct fresh election?,

These are the questions of law in these writ petitions.,

27. The Societies Registration Act, 1860 provides for the registration of literary, scientific and charitable Societies. The object of this Act is to make",

provisions for improving the legal conditions of societies established for the promotion of literature, science or the fine arts, or for the diffusion of",

useful knowledge, the diffusion of political, educational or for charitable purposes.",

28. Section 1 of Act, 1860 requires the memorandum of association shall be signed by seven or more persons for forming a Society. Section 2",

provides that the rules and regulations of the Society shall be certified to be correct copy by not less than three of the members of the governing body.,

Section 3 lays down that upon such memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is",

registered. Section 4 contemplates that a Society has to submit a list of its governing body (committee of management) with the Registrar. Sub-section,

(2) of Section 4 contemplates that the memorandum of society including alteration, extension or abridgment of purposes made under Section 12, should",

also be filed along with the list of governing body and it has to be certified by three members. The proviso to Section 4 (1) states that in case any,

members in the list of governing body is different from the last submission of the list then old office bearers should also countersign the list. The,

purpose of Section 4 is that the correct list of governing body of society should be maintained and it may not be disputed. The proviso states that in,

case old office bearers do not countersign the list then the Registrar may issue public notice or notice to such persons as he thinks fit inviting,

objections and decide the same. Section 4 A states that a copy of every change made in rules of the society and intimation of every change of address,

of the society, certified by not less than three of the members of the governing body shall be sent to the Registrar within thirty days of the change.",

29. Section 12 of Act, 1860 deals with the alternation of purpose or purposes of a Society. This Section lays down the following steps for alternation,"

extension or abridgment:-,

(i) submission of the proposal by the governing body to members of Society;;

(ii) ten day's notice to members about the holding of a special meeting;;

(iii) convening a special meeting for the consideration of the proposal;;

(iv) approval of the proposal by three-fifths of the members;;

(v) convening another special meeting after a month; and,"

(vi) confirmation by three-fifths of members present at the second special meeting.,

30. Section 12 A of the Act states that any society registered under the Act, 1860 may, with the consent of not less than two-thirds of the total",

number of its members, and with the previous approval of the Registrar in writing change its name by resolution passed as a general meeting",

convened for the purpose. Requirement of notice for registration of the change of name or objects of a Society is contained in Section 12 B. Section,

Constitution of 1958 of the Society regarding name and objectives.", "Amended Constitution of the Society regarding name and objectives.

Name

(a) The name of the institution shall be the Mahadevi Kanya Pathshala College, Dehradun. (b) The Governing Body shall be called the Mahadevi Kanya Pathshala College Trust and Management Society, Dehradun. (c) The Registered Office of the above Society shall be at 10, Amrit Kaur Road, Dehradun.", "Name

(a) The name of the Society shall be the Mahadevi Kanya Pathshala Educational Society. (b) The main organs of the Society shall be â?" (i) The Governing Body (The General Body). (ii) The Managing Committee. (c) The Registered Office of the Society shall be at 10, New Road (Amrit Kaur Road), Dehradun.

Objects

The objects of the Pathshala shall be â?

To impart to Indian girls such education, religious and secular, as will develop in them the Spastic ideal of a devoted wife, mother and citizen, possessing sound learning and other accomplishment of modern times.", "Objects

(i) To provide for women, access to high quality education from Primary to Post Graduate levels through formal and non-formal streams including continuing education. (ii) To provide for women, access to wide range of technological and professional courses specially in emerging areas. (iii) To provide for women students appropriate academic

environment and extra curricular activities so that they can fully develop their potential, professional capacities and capabilities. (iv) To inspire women students to cultivate love for higher learning, creativity and intellectual honesty. (v) To help women students develop in them wisdom and goodness, a social consciousness and a social conscience. (vi) To develop linkage with Industries, R and D Institutions and other Educational Institutions for providing interactions, quality consciousness, competitive spirit and to collaborate in establishing joint training and research programs in emerging areas.

Note- Boys up to the age of 10, may receive education in the Pathshala.", Deleted

Registrar, Firms, Societies and Chits, Kanpur Mandal, Kanpur and another (Supra), in which it was held that the amendments in the registered bye-laws of the Society except for the change in the name do not require any registration by the Registrar. But, the fact remains that the petitioner Society", was bound to follow the mandatory provisions of Section 12 of the Act, 1860.",

38. The learned counsel for the petitioner has submitted that prior to the meeting dated 25.03.2007, the intimation along with copy of the proposed amendments was sent to all the members of the Society. The learned counsel for the petitioner further submitted that Rule 28 of the constitution of the Society had been fully complied with. Per contra, the learned counsel, appearing for the respondents, refuted the submissions of the learned counsel", for the petitioner and submitted that any change or amendment in the constitution of the Society could only be made through a resolution passed in the Governing Body meeting but the same had not been done and intimation of the meeting was not sent to all the members of the Society, therefore, the", amendments were contrary to the Rule 28 of the Constitution of the Society also.,

39. Rule 28 of the Constitution of the Society stipulates that constitution can be altered only by the Governing Body at the majority of two-thirds of the,

members present at the meeting. Any such amendment or alteration shall require a specific and clear notice. The desired alteration along with the, Rules concerned shall be circulated amongst the members along with the Agenda.,

40. Vide Uttar Pradesh Act 26 of 1979, Section 21 was substituted with this effect, that in the Act, 1860, the word "Registrar" means a person", appointed as such by the State Government, and includes any Additional Registrar, a Joint Registrar, Deputy Registrar, or Assistant Registrar, on", whom all or any of the powers of the Registrar under the Act, 1860 are conferred by general or special order of the State Government.",

41. The word "purpose" as used in Section 12 is synonymous with the word "object". In Shridhar Misra Vs. Jai Chandra Vidyalkar, AIR", 1959 Allahabad, 598, the Allahabad High Court has held that the procedure prescribed in Section 12 of the Act, 1860 for altering or extending the", purpose of a registered Society is mandatory.,

42. The learned counsel for respondent Nos.3 and 4 submitted that there were 1465 active members of the General Body of the Society at the time of, making amendments in the Constitution of the Society in the year, 2007. In the impugned order dated 04.04.2013, passed by the Deputy Registrar, it is", clear mentioned that the amendments were passed and approved in the meetings of General Body of the Society dated 25.03.2007 and 06.05.2007 but, information of these meetings was sent only to 330 members through courier (not by post as mentioned in the Section 12 of the Act, 1860), whereas", the members of the Society were 746 as per list sent by the Society.,

43. The learned counsel for the petitioner submitted that the Society was constituted about 90 years before and there was no provision of deletion of, name of the members who got expired and it could be taken note of that old list which was continuing since about 90 years was containing most, number of dead members.,

44. The maxim ie incumbit probatio qui dicit, non qui negati, i.e. the burden of proving the fact rests on the party who asserts the affirmative of the", issue and not upon the party who denies it, is a law of evidence. The burden of proof as to any particular fact lies on the person who wishes the Court", to believe in its existence. In the case at hand, the petitioner Society claimed that prior to the meeting dated 25.03.2007, the intimation along with copy",

of the proposed amendments was sent to all the members of the Society. The burden of proving this fact lies on the petitioner Society. But, no",
evidence/proof is placed by the petitioner Society to discharge this onus. In the absence of any such proof, it cannot be assumed that intimation was",
given to all the members of the Society along with copy of the proposed material amendment before the meeting held on 25.03.2007. Therefore, the",
mandatory procedure prescribed in Section 12 of the Act, 1860 as well as Rule 28 of the Constitution of the Society were not followed by the",
petitioner Society.,

45. The Deputy Registrar had mentioned in the impugned order dated 04.04.2013 that after entering the amendments in the concerned register and,
after intimation the same to the Society, the Society was asked to submit the reply on the points mentioned in the letter dated 15.03.2012 of the Deputy",
Registrar. The reply of Mr. Jitendra Singh Negi, Secretary of the Society, was furnished on 30.03.2013. Examining the matter, the Deputy Registrar",
found the following facts:-,

â??(1) It has been mentioned in the Rule No.28 of the former registered Rules and Regulations of the Society that any such amendment or alteration,
shall require a specific and clear notice. The desired alteration along with rules concerned shall be circulated to the members along with agenda.,

Therefore, according to the Rule No.28, by not informing all the members about the changes in the rules, is in defiance of the bye-laws.",

(2) In the present response of the Society dated 28.03.2013 stated that in the year, 2007 the total number of members is 1465 whereas, in the meeting",

dated 25.03.2007 and 06.05.2007, 922 members and 1100 members were informed respectively. The copy of the amended constitution was not sent to",

the members. For these amendments of the Society, the total members for the meeting held on 18.03.2007 was only 29; for meeting held on",

25.03.2007 was only 36; for meeting held on 29.04.2007 was only 25; for meeting held on 06.05.2007 was only 24; whereas, the total number of",

members is 1465, which is not sufficient according to Section 3(2)(5) of Societies Registration Act, 1860.",

(3) On receiving the different complaints on this amendment, spot inspection was conducted on 10.06.2011 under Section 24 by the authorized",

representatives of the Registrar Sri Ram Kumar Singh, Chief Assistant and Sri

Kanhal Lal, Senior Assistant. During the spot inspection, original",
proceeding registered were inspected and it was found that the Constitution
passed in the meeting 25.03.2007 and approved in the meeting 06.05.2007,
the cutting of name and in the page number 2 of the Objectives, original
objectives pasted and presented a Xerox copy. After this meeting of",
06.05.2007, no resolution was passed again about the altered name and
objectives in the general meeting or any meeting of the Managing Committee.",
Which is confirmed by the then Secretary now in the point No.4 of his reply sent
on dated 28.03.2013. Therefore, it is clear that this work get done by",
omitting and fraudulent by the then three office bearer of the Society
themselves.,

(4) According to Section 2(7) of the Societies Registration Act, 1860, in the
referred suit Radha Swami Satsang Sabha alias Tara Chand, 1939 ALJ",
757, AIR 1939, Allahabad 557 a judgment given, if Society is in defiance or is not
working in accordance to the rules and regulations constituted by",

itself in that case such rules and regulations will not be considered illegal but
such rules and regulations will be treated null and void and unchangeable.,

(5) According to the Section 4(5) of the Societies Registration Act, 1860, in the
referred suit M.N. Pandey Vs. Registrar, 1984 U.P. L.B.E.C, 551 a",

judgment passed, if any controversy arises of amended rules and regulations in
that case the right to ensure the changes lies with the Registrar, and",

this right of Registrar cannot be challenged.â??,

46. After considering the matter, the Deputy Registrar passed the impugned
order dated 04.04.2013, â??the constitution of Mahadevi Kanya",

Pathshala College, Dehradun, amended by this office on 15.01.2008 is different
from the provisions of Societies Registration Act, 1860, and because",

of not follow the rules and regulations of its constitution by the Society, are
hereby cancelled. In reference of above order, on the basis of amended",

constitution dated 15.01.2008, all the activities carried out by the Society will be
treated illegal.â??",

47. The learned counsel appearing for the respondent Nos.3 and 4 submitted
that the cutting on the amendments were amounted to fraud. On behalf,

of the respondent Nos.3 and 4, reliance has been placed on the judgment dated
24.09.2018 passed by the Honâ??ble Apex Court in Civil Appeal",

No.9871 of 2018, Satluj Jal Vidyut Nigam Vs. Raj Kumar Rajinder Singh (dead)

through LRS. and others, in which the Honâ??ble Apex Court has",
observed that fraud vitiates every solemn proceeding and no right can be claimed by a fraudster on the ground of technicalities.,

48. The learned counsel, appearing for the petitioner rebutted the above contentions of the learned counsel for respondent Nos.3 and 4 and submitted",
that there was no allegation regarding cutting and pasting in the report dated 17.06.2011 or in show cause notice dated 15.03.2011. Apart from this, it",
cannot be said that it was an act of fraud, since cutting was within the purview of sub-rule (2) of rule 5 of the Uttar Pradesh Societies Registration",
Rules, 1976.",

49. According to the rule 12(1) of the said Rules, 1976 (as applicable in the State of Uttarakhand), where any Society registered under the Act has",
changed its objects under Section 12 or its name under Section 12A, it shall send the notice of such change under Section 12B(1) to the Registrar",
within thirty days from the date of the resolution. Rule 5 provides procedure of filing documents. Sub-rule (1) of Rule 5 stipulates that every document,
required to be filed under the provisions of the Act or these rules shall be sent or delivered to the Registrar personally or shall be sent to him by,
registered post. Sub-rule (2) of rule 5 stipulates that the documents referred to in sub-rule (1) shall be neatly typed, printed or cyclostyled on only side",
of the paper, and every page thereof shall be initialled by the signatories to the document. Every cutting in the document shall be initialled by one of the",
signatories.,

50. Fraud means a misrepresentation made with an intention to cheat or deceive. In Blackâ??s legal Dictionary, â??fraudâ? is defined as an",
intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a,
legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that",
which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. In Websterâ??s",
Third New International Dictionary, â??fraudâ? in equity has been defined as an act or omission to act or concealment by which one person obtains",
an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In Concise Oxford Dictionary, it",

has been defined as criminal deception, use of false representation to gain unjust advantage; dishonest artifice or trick. In Section 17 of the Indian",

Contract Act, 1872, "fraud" is defined as an act committed by a party to a contract with intent to deceive another.",

51. In *Shrisht Dhawan Vs. Shaw Bros.*, (1992)1 SCC, 53,4 the Hon'ble Supreme Court observed, "fraud" and collusion vitiate even the most",

solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human conduct. In *Indian Bank Vs. Satyam*,

Fibres (India)(P) Ltd., (1996)5 SCC, 550 ,the Hon'ble Supreme Court observed, "fraud" means an intent to deceive. The expression",

"fraud" involves two elements, deceit and injury to the person deceived.",

52. The allegation of fraud must be substantially proved. To prove fraud it must be proved that the representation made was false to the knowledge of,

the party making such representation. The degree of proof required in the allegation of fraud is extremely high. The learned counsel for the respondent,

Nos.3 and 4, could not show any circumstances from which it may infer that the petitioner Society had intent to deceive by cutting on the",

amendments.,

53. The learned counsel for the respondent Nos.3 and 4 have failed to prove the fraud but this is not very foundation of this matter.,

54. The learned counsel, appearing for the petitioner, urged that the non-application of mind by Deputy Registrar in the impugned order dated",

04.04.2013 is fortified from the fact that in his impugned order, he mentioned and relied upon Section 15(2)(7), Section 3(2)(5) and Section 4(5) of the",

Act, 1860, which do not find place in the Act, 1860, therefore the impugned order dated 04.04.2013 is null and void.",

55. It is a well settled principle of law that mentioning of a wrong provision does not invalidate an order if the court or statutory authority had the,

requisite jurisdiction therefore. In *H.L. Mehra Vs. Union of India*, (1974)4 SCC, 39,6 the Hon'ble Supreme Court held that mention of a wrong",

provision of a statute will not invalidate an order when it is within the powers of the authority. In *M.T. Khan Vs. Government of A.P.*, (2004)2 SCC",

267, the Hon'ble Supreme Court reiterated that non-mentioning or wrong mentioning of a provision of law does not invalidate an order. In *Ram*",

Sunder Ram Vs. Union of India and others, 2007(9) SCALE 197 t,he Hon'ble

Apex Court has held, "It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law."

In *T. Nagappa Vs. Y.R. Muralidhar*, 2008(6) SCALE 642, the Hon'ble Apex Court held that non-mentioning or wrong mentioning of provision of law would not be of any relevance, if the court had the requisite jurisdiction to pass an order."

56. In *Maha Narain Pandey Vs. Registrar, Chit, Funds, Firms and Societies*, AIR 1984 Allahabad 583, it was held that when dispute is raised in regard to amendment, the Registrar is duty bound to decide the same and said action cannot be questioned on the ground of lack of jurisdiction. Where a dispute was raised with regard to the amendment in the *Samiti Patra and Niyamawali*, the Registrar had to decide whether such change or amendment had in fact taken place and this jurisdiction could, therefore, be exercised by the Registrar under Section 3 read with Section 4A of the Act.

57. Section 12D of the Act, 1860 deals with cancellation of registration if certain conditions mentioned in the said section appear to have come to the notice of the Registrar after registration of the Society was granted and if any of the grounds mentioned in that section is proved, the Registrar may cancel registration of the Society. Section 12D can come into play on the complaint or Registrar may suo motu take action under this section if he is satisfied that the circumstances mentioned in the section on which cancellation can be ordered, do exist."

58. In *Shiksha Samiti Degree College Garua Maksudpur and others Vs. Registrar, Firms, Societies and Chits, U.P., Lucknow*, AIR 1990 Allahabad 110, the Allahabad High Court has held that if an amendment or amendments are made in the bye-laws, they have to be incorporated in the register under Section 4A of the Act. The Registrar at that time is entitled not only to find as to whether the meeting, which made the amendment, had taken place or not, but also to consider and apply his mind to the controversy if it arises before him whether the amendment is contrary to the provisions of the Act and the Rules. It has further to be seen that

the amendment is not such which destroys the very purpose of the,
Society for which it was incorporated.,

59. In Civil Misc. Writ Petition No.46551 of 2010 Allahabad High School Society Vs. State of U.P. and others, on 22.02.2011, the Allahabad High",

Court has held once papers are to be statutorily transmitted to the Assistant Registrar in terms of Section 4A for his information and the same has to,

be taken on record, as per Rules 5 and 17 of the Rules, then the Assistant Registrar is not mere post office and specially when certified copy of the",

same in terms of Section 19 is prima facie evidence of the matter contained therein in all legal proceedings, and qua the same if complaints are made",

that the meeting was an outcome of fraud and manipulation and total illegal resolution subversive to the objects of Society has been passed, then",

requisite exercise can be undertaken to see and ensure that records are set straight. Assistant Registrar had full authority to decide the matter, as are",

incidental or conclusive to attainment of the object i.e. to ensure that object is not defeated and the affairs are not being mismanaged by incumbents in,

the control of the affairs of the Society.,

60. "Subvert" comes from the Latin word "subvertere". "Subvert" means overthrow or destroy completely. "Subversive" means,

tending or intending to subvert or overthrow, destroy, or undermine an established or existing system. According to Cambridge Dictionary,"

"subversive" means trying to destroy or damage something. According to Black's Law Dictionary, "subversion" means the process of",

overthrowing, destroying or corrupting.",

61. Civil Misc. Writ Petition No.46551 of 2010 (Supra) with connected matters were filed questioning the validity of the decision dated 24.07.2010,

taken by Assistant Registrar, Firms, Societies and Chits, Allahabad Region, Allahabad, proceeding to annul the resolution dated 28.05.2007 for",

amendments to the bye-laws. The Allahabad High Court dismissed the said writ petition on 22.02.2011. The intra-court appeal was filed against the,

judgment dated 22.02.2011. The said intra-court appeal was dismissed on 25.03.2011. The Division Bench of Allahabad High Court held that the order,

of the Assistant Registrar dated 24.07.2010 was well within his powers vested in him under Section 4A and 24 of the Act, 1860. A Civil Appeal",

No.4329 of 2011 (arising out of Special Leave Petition (C) No.9353 of 2011) was

filed before the Honâ??ble Supreme Court. The Honâ??ble, Supreme Court noted that the Division Bench, in view of its findings held that the meetings itself had not been validly convened as per the Rules of the", Society and concluded that the orders passed by the Assistant Registrar and the learned Single Judge do not warrant any interference. The said civil, appeal was dismissed by the Honâ??ble Supreme Court on 12.05.2011.,

62. Relying upon the judgments in Valliamma Champaka Pillai (Supra) and S. Shanmugavel Nadar (Supra), the learned counsel for petitioner", submitted that there is no ratio decidendi in the judgment of the Honâ??ble Supreme Court in Civil Appeal No.4329 of 2011 (Supra) and doctrine of, merger will not applicable when S.L.P. was dismissed on technical grounds. These judgments are not applicable in this matter. Against the judgment, dated 25.03.2011 of the Division Bench of Allahabad High Court (Supra), leave to appeal had been granted by the Honâ??ble Apex Court. In", Khoday Distilleries Ltd. (Now known as Khoday India Limited) and others Vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd., Kollegal (under", Liquidation) Represented by the Liquidator, (2019)4 SCC 376, the Honâ??ble Apex Court while observing that the view in the detailed judgment in", Kunhayammed and others Vs. State of Kerala and another, (2000)6 SCC 359 ,lays down the correct law, held that once leave to appeal has been", granted and appellate jurisdiction of Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may, be of reversal, modification or merely affirmation.",

63. In the instant matter, Rule 28 of the Constitution of the Society stipulates that the constitution of the Society can be altered only by the Governing", Body at the majority of two-thirds of the members present at the meeting. Any such amendments or alteration shall require a specific and clear notice., The desired alteration along with the Rules concerned shall be circulated amongst the members along with the Agenda. In the impugned order dated, 04.04.2013, passed by the Deputy Registrar, it is mentioned that the amendments were passed and approved in the meetings of General Body of the", Society dated 25.03.2007 and 06.05.2007 but information of these meetings was sent only to 330 members through courier, whereas, the members of", the Society were 746 as per list sent by the Society. No reasonable explanation has been given as to why notices were given by courier and not given,

by post as mandatory procedure prescribed in Section 12 of the Act, 1860. It is also important to note that the intimation was not given to all the",

members of the Society along with copy of the proposed material amendments before the meeting held on 25.03.2007 as mentioned in Rule 28 of the,

Constitution of the Society. However, the petitioner Society misrepresented through its letters dated 21.05.2007 and 17.11.2007 that the intimation of",

the meeting of General Body of the Society dated 25.03.2007 and 06.05.2007 were given to all the members of the Society and copy of the proposed,

amendments were given to all the members of the Society. Therefore, the earlier order dated 04.01.2008 was obtained by the petitioner Society",

through misrepresentation of the material facts. Apart from this, the comparative perusal of the chart of the original objects and amended objects",

clearly demonstrates that the said amendments were against the basic structure of the Society and through these amendments, the petitioner Society",

tried to destroy the basic feature of the original Constitution of the Society without following the mandatory provisions of Section 12 of the Act, 1860",

and Rule 28 of the Constitution of the Society. Therefore, in the light of the judgment dated 25.03.2011 passed by the Division Bench of Allahabad",

High Court (Supra) and the judgment of the Honâ??ble Supreme Court dated 12.05.2011 (Supra) the Deputy Registrar had the authority to reject the,

amendments of the bye-laws of the Society.,

64. The learned counsel for petitioner submitted that once the Registrar after certain queries, exchange of letters, on being satisfied, entered the",

amended constitution in his books on 04.01.2008 and intimated the same to the Society vide letter dated 15.01.2008, it was not open to the Deputy",

Registrar to review or recall its order in the absence of any specific power conferred upon him under the Act, 1860. The learned counsel for the",

petitioner relied upon in judgment in Gaya Dutt Misra (Supra). In the facts and circumstances of the instant particular case, the petitioner is not entitled",

to the benefit of the said judgment. According to the said judgment, the High Court directed to consider the representation. The Allahabad High Court",

observed that the High Court had not directed that any duty was to cast on the respondent No.3 to review or recall the order passed by him. The,

direction for consideration of the representation does not mean that the High Court had directed to recall the said order.,

65. In D.G. Rao Vs. State of Jharkhand, AIR 2005 Supreme Court 432,¹ the Honâ??ble Supreme Court observed that there is no legal bar or",

prohibition in administrative authority/body in seeking to review its earlier decision provided opportunity is provided to the incumbent in whose favour,

order had been passed on earlier occasion.,

66. The authority of review can be exercised by the administrative authority/body when power of review is conferred by statute and the said,

authority/body has got inherent authority to review its order, where order in question has been obtained by practicing fraud or misrepresentation or",

manipulation or is without jurisdiction, and on such facts being brought to the knowledge and notice of the authority that on earlier occasion such an",

order could not have been passed, the authority can review its earlier order.",

67. In the instant case, the Deputy Registrar had exercised his inherent authority and after making inquiry and provided opportunity to the petitioner",

Society, he satisfied that the earlier order was obtained by misrepresentation of material facts, he had annulled the resolution. In appeal, the",

Commissioner Garhwal Mandal rightly observed that from the perusal of the order dated 04.04.2013, passed by the Deputy Registrar, it was clear that",

the amended law of Mahadevi Kanya Pathshala, Dehradun was contrary to the provisions of the Act, 1860, which was cancelled by the Deputy",

Registrar.,

68. The learned counsel for the petitioner argued that the office bearers, namely Shri Rakesh Oberai, respondent No.4, was President of the Society",

at the time of the impugned amendments and Shri Kushal Pal Singh, respondent No.3, was member at the time of the amendments, therefore, they",

have no right to question the procedure in carrying out the amendments in the bye-laws of the Society. Per contra, the learned counsel for respondent",

Nos.3 and 4 submitted that the respondent No.3 had resigned from the post of the Society in the month of July, 2006 and he never taken part in any",

meeting of the Society after the year 2006.,

69. It is well settled law that there can be no estoppel against law. The petitioner Society is controlled by the Act, 1860 and by its own Rules. Any",

action contrary to the provisions of the Act, 1860 and rules of the Society will be against the law. The doctrine of estoppel cannot be availed of to",

permit and condone a breach of the law.,

70. The learned counsel for the petitioner placed reliance in judgments V.K. Ashokan (Supra) and State of Orissa Vs. Sudhansu Sekhar Misra,

(Supra) and submitted that a statutory authority must exercise its jurisdiction within the four corners of the statute. Any action taken which is not,

within the domain of the said authority would be illegal and without jurisdiction and it is for the executive to say whether a particular officer would,

meet its requirements or not. In the instant matter, it was found that the meetings, which considered the amendments in the Constitution of the Society,"

had not been validly convened. Therefore, the impugned order passed by the Deputy Registrar was well within his power.",

71. The certificate of registration of the Society was lastly renewed on 01.07.2011 for the period of five years from 10.10.2010. The petitioner Society,

moved the application dated 09.10.2015 for renewal of the certificate of registration of the Society. On 16.12.2015, the Deputy Registrar informed the",

non-paid Secretary of the Society that the appeal was rejected on 06.04.2015 by the Commissioner, Garhwal, therefore, directed to conduct fresh",

election of the Managing Committee of the Society in the light of the previous registered rules of the Society and send a list of the members to his,

office.,

72. The learned counsel for the petitioner submitted that the order dated 16.12.2015 of the Deputy Registrar is breach and contempt of the order dated,

21.04.2015 passed in WPMS No.853 of 2015, whereby this Court issued direction that status quo as on day shall be maintained pertaining to the",

management of the Society and the said order dated 16.12.2015 is also against the judgment and order dated,

24.02.2015 passed by this Court in WPMS No.445 of 2015, Mahadevi Kanya Pathshala College Society Vs. State of Uttarakhand and others,"

whereby the reference of the Deputy Registrar to the Prescribed Authority was quashed.,

73. In Writ Petition (M/S) No.445 of 2015, the fact was that the Deputy Registrar, Firms, Societies and Chits vide order dated 21.01.2014, was",

pleased to stay the election process of the election of Management Committee of the College; order dated 21.01.2014 staying the election process,

was challenged in Writ Petition No.178 of 2014 (M/S); when Writ Petition No.178 of 2014 (M/S) was taken up for preliminary hearing, learned",

Vacation Judge was not inclined to grant any interim order staying the impugned order dated 21.01.2014; therefore, Special Appeal No.17 of 2014",

was preferred; Division Bench of this Court vide order dated 17.02.2014 was pleased to dispose of the Special Appeal No.17 of 2014 staying the,

impugned order dated 21.01.2014 whereby election process was stayed by the Deputy Registrar; order dated 17.02.2014 was communicated to the,

Deputy Registrar, however, certified copy thereof was received by the Deputy Registrar on 22.02.2014; election was held on the next day, i.e.",

23.02.2014 that too in the presence of Deputy Registrar; now vide impugned order dated 29.01.2014, Deputy Registrar was pleased to refer the",

dispute to the Prescribed Authority under Section 25 of the Act, 1860 saying since he could not supervise the election in the light of the order passed",

by the Division Bench in Special Appeal No.17 of 2014, therefore, validity of the election should be adjudicated upon by the Prescribed Authority. The",

learned Single Judge observed that undisputedly, certified copy of the order dated 17.02.2014 passed in Special Appeal No.17 of 2014 was",

communicated to the Deputy Registrar on 22.02.2014 and election was held in his presence on 23.02.2014, therefore, on the face of it, observation of",

the Deputy Registrar that he could not obtain certified copy of the order dated 17.02.2014, passed in Special Appeal No.17 of 2014 itself prior to the",

election and he could not supervise the election was patently wrong; moreover, it was nowhere mentioned that election was adversely affected for",

any reason; the Deputy Registrar could not supervise the election was no ground to refer the dispute.,

Consequently the writ petition was allowed and impugned order was quashed.,

74. The learned counsel for the petitioner submitted that the petitioner had filed a Contempt Petition No.12 of 2016 for committing breach and,

contempt of the said order dated 21.04.2015 and 24.02.2015 and the said contempt petition is still pending. However, in WPMS No.198 of 2016, the",

learned counsel for petitioner reiterated the submissions made in WPMS No.853 of 2015 and submitted that the reason to pass the impugned order in,

WPMS No.198 of 2016 is the subject matter of challenge in WPMS No.853 of 2015. The learned counsel for the petitioner further submitted that the,

decision in the WPMS No.853 of 2015 would be decisive for disposal of the WPMS No.198 of 2016.,

75. The learned counsel for the petitioner submitted that in view of the provisions of the Section 3A of the Act, 1860, the Deputy Registrar erred in",
law as well as jurisdiction in passing the impugned order dated 16.12.2015 and
issuing such direction, which is against the spirit of provisions contained",
in Section 3A(2) and its proviso read in conjunction with sub-section (2) of
Section 3 of the Act, 1860. The learned counsel for the petitioner further",
submitted that except the grounds mentioned in sub-section (2) of Section 3 and
on a show cause notice being issued based on such grounds on being,
satisfied with the existence of such grounds the Registrar cannot refuse renewal
of certificate of registration of Society. There is no other power,
vested with the Deputy Registrar under the Act to refuse renewal of registration.,

76. Per contra, the learned counsel for respondents contended that the order
dated 16.12.2015 was legally passed by the Deputy Registrar.",

77. The learned counsel for the petitioner relied upon in judgments Liyakat
Marquise Khan (Supra), in which it was held that if the Registrar, prima",
facie, comes to a conclusion that there is a dispute as to the list of office bearers,
then that cannot be considered under Section 4 of the Act and, that",
can be resolved only under Section 25 of the Act.,

78. The learned counsel for the respondent No.4 relied upon the judgments in
Gurjar Sabha Meerut (Supra), Harendra Singh Chaddha (Supra),",
Committee of Management, Shiksha Prasar Samiti Dharai (Supra) and Managing
Committee and another Vs. State of U.P. and others (Supra).",

79. In Gurjar Sabha Meerut (Supra), the Allahabad High Court has held that the
petitioner Committee having not held the elections within time, the",
Assistant Registrar was well within his jurisdiction under sub-section (2) of
Section 25 of the Act to proceed to hold the elections. In Harendra Singh,
Chaddha (Supra), the Allahabad High Court has held that the plain reading of
Section 25(2) indicates that after expiry of term of the Management",
Committee the office bearer of Committee of Management shall loss their right to
hold the election. In Committee of Management, Shiksha Prasar",
Samiti Dharai (Supra), the Allahabad High Court has held that as the elections
were not held within the specified time as such after expiry of the term",
the outgoing Committee cannot hold the election and it is only the Registrar or
the Deputy Registrar to hold the election. In Managing Committee and,
another Vs. State of U.P. and others (Supra), the Allahabad High Court has held

that the Scheme of the Act, 1860 is democratic in nature. The",
purpose is that the office bearers of the Society must be elected for the period provided in the bye- laws or Rules of the Society and any member of,
the General Body has right to contest such election.,

80. In the light of the contentions of the learned counsel for the parties, it seems necessary to peruse the provisions of Section 3, 3A and Section 25 of",
the Act, 1860. These provisions as amended by the State of Uttar Pradesh and as applicable in the State of Uttarakhand, are reproduced here-in-",
below:-,

â??3. (1) Upon such memorandum and certified copy being filed along with particulars of the address of the Societyâ??s office which shall be in,

registered address, by the Secretary of the Society on behalf of the persons subscribing to the memorandum, the Registrar shall certify under his hand",

that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of one thousand or such smaller fee,

as the State Government may notify in respect of any class of societies:,

Provided that the State Government may, by notification in the Official Gazette, increase from time to time the fee payable under this sub-section;"

Provided further that the Registrar may, in his discretion, issue public notice or issue notices to such persons as he thinks fit inviting objections, if any,"

against the proposed registration and consider all objections that may be received by him before registering the society.,

(2) Notwithstanding anything in sub-section (1) the Registrar shall refuse to register a society, if after giving it an opportunity of showing cause against",

such refusal, he is satisfied thatâ?""

(a) the name of the society is identical with that of any other society previously registered under this Act;,

(b) the name of the society sought to be registered uses any of the words namely â??Unionâ??., â??Stateâ??., â??Land Mortgageâ??., â??Land",

Developmentâ??., â??Co-operative, â??Gandhiâ??., â??Reserve Bankâ?? or any words expressing or implying the sanction, approval or patronage",

of the Central or any State Government or any word which suggests or is calculated to suggest any connection with any local authority or any,

corporation or body constituted by or under any law for the time being in force or is such as is otherwise likely to deceive the public or the members of,

any other society previously registered under this Act; ,

(c) any one or more of the objects of the society sought to be registered is not an object mentioned in sections 1 and 20; or,

(d) its objects are contrary to any other law for the time being in force; ,

Provided that the State Government may, in exceptional circumstances, for reasons to be recorded, permit any society to use the word "union" or,

the word "Gandhi" in its name, and thereupon, the use of that word in the name of the society shall not be ground for refusal to register or to",

renew the certificate of registration of such society.",

3-A. Renewal of certificate of registration " (1) Subject to the provision of sub-section (2), a certificate of registration issued under Section 3 shall",

remain in force for a period of two years from the date of issue : ,

Provided that a certificate issued before the commencement of the Societies Registration (Uttar Pradesh Amendment) Act, 1984 (hereinafter in this",

section referred to as the said Act), shall remain in force for a period of five years from the date of such commencement on payment of the",

difference of the fees specified under sub-section (3) and the fees already paid.,

(2) A Society registered under section 3, whether before or after the commencement of the said Act, shall on application made to the Registrar within",

one month of the expiration of the period referred, to in sub-section (1) and on payment of the fee specified in subsection (3), be entitled to have its",

certificate of registration renewed for five years at a time : ,

Provided that in the case of a society registered before the commencement of the Act, the Registrar shall refuse to renew the certificate of",

registration, if after giving it an opportunity of showing cause against such refusal, he is satisfied that any of the grounds mentioned in sub section (2)",

of Section 3 exist in respect thereof.,

(3) There shall be paid to the Registrar with every application for renewal of the certificate of registration " ,

(a) a fee equal to the registration fee payable under Section 3 or rupees two hundred, whichever is less, if such application is filed within the period",

specified in sub-section (2); ,

Provided that the State Government may, by notification in the Official Gazette, increase from time to time the fee payable under this clause subject to",

the condition that the fee so increased shall not exceed the registration fee payable under Section 3;;

(b) an additional fee of forty rupees or such higher fee not exceeding one-fifth of the fee payable under clause (a) as may be notified by the State,

Government, if such application is filed within one month of the date of expiration of the period specified in sub-section (2); and",

(c) an additional fee at the rate of twenty rupees per month or part thereof, or such higher additional fee per month not exceeding half of the additional",

fee payable under clause,

(b) as may be notified by the State Government, if such application is filed beyond one month of the expiration of the period specified in sub-section",

(2).,

(4) Every application for renewal of the certificate shall be accompanied by a list of members of the managing body elected after the registration of,

the society or after the renewal of certificate of registration and also the certificate sought to be renewed unless dispensed with by the Registrar on,

the ground of its loss or destruction or other sufficient cause.,

(5) A society which fails to get its certificate of registration renewed in accordance with this Section within one year from the expiration of the period,

for which the certificate was operative shall become an unregistered society;;

Provided that the Registrar may, for sufficient cause, allow an application for renewal more than one year after the expiration of the period for which",

the certificate was operative on payment of a fee of four hundred rupees or such higher fee not exceeding ten times of the additional fee payable,

under clause (b) of sub-section (3) as may be notified by the State Government from time to time.,

(6) Where a certificate of registration is renewed in accordance with sub-section (2) or sub-section (5) such renewal shall operate from the date of,

expiration of the period for which the certificate was operative."",

â??25. Dispute regarding election of office-bearers.â??",

(1) The prescribed authority may, on a reference made to it by the Registrar or by at least one-fourth of the members of a society registered in Uttar",

Pradesh, hear and decide in a summary manner any doubt or dispute in respect of the election or continuance in office of an office-bearers of such",

society, and may pass such orders in respect thereof as it deems fit:",

Provided that the election of an office-bearer shall be set aside where the prescribed authority is satisfiedâ?",

(a) that any corrupt practice has been committed by such office-bearer; or,

(b) that the nomination of any candidate has been improperly rejected; or,

(c) that the result of the election in so far as it concerns such office-bearer has been materially affected by the improper acceptance of any,

nomination or by the improper reception, refusal or rejection of any vote or the reception of any vote which is void or by any non-compliance with the",

provisions of any rules of the Society.,

Explanation. 1 â?"A person shall be deemed to have committed a corrupt practice who, directly or indirectly, by himself or by any other personâ?"",

(i) induces, or attempts to induce, by fraud, international misrepresentation, coercion or threat of injury, any elector to give or to refrain from giving a",

vote in favour of any candidate, or any person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate at the election;",

(ii) with a view to inducing any elector to give or refrain from giving a vote in favour of any candidate, or to inducing any person to stand or not to",

stand as, or to withdraw or not to withdraw from being a candidate at the election, offers or gives any money, or valuable consideration, or any place",

or employment, or holds out any promise of individual advantage or profit to any person;",

(iii) abets (within the meaning of the Indian Penal Code) the doing of any of the acts specified in clauses (i) and (ii);,

(iv) induces or attempts to induce a candidate or elector to believe that he or any person in whom he is interested, will become or will be rendered an",

object of divine displeasure or spiritual censure;,,

(v) canvasses on grounds of caste, community, sect or religion; (vi) commits such other practice as the State Government may prescribe to be a",

corrupt practice.,

Explanation II.â?"A promise of individual advantage or profit to a person includes a promise for the benefit of the person himself or of any one in,

whom he is interested. Explanation III.â?"The State Government may prescribe the procedure for hearing and decision of doubts or disputes in,

respect of such elections and make provision in respect of any other matter relating to such elections for which insufficient provision exists in this Act, or in the rules of the society.,

(2) Where by an order made under sub-section (1), an election is set aside or an office-bearer is held no longer entitled to continue in office or where",

the Registrar is satisfied that any election of office-bearers of a society has not been held within the time specified in the rules of that society, he may",

call a meeting of the general body of such society for electing such office-bearer or office-bearers, and such meeting shall be presided over and be",

conducted by the Registrar or by any officer authorised by him in this behalf, and the provisions in the rules of the society relating to meetings and",

elections shall apply to such meeting and election with necessary modifications.,

(3) Where a meeting is called by the Registrar under sub-section (2), no other meeting shall be called for the purpose of election by any other authority",

or by any person claiming to be an office-bearer of the society.,

Explanation.â?"For the purposes of this section, the expression â??prescribed authorityâ?? means an officer or court authorised in this behalf by the",

State Government by notification published in the Official Gazette.â??,

81. It is not disputed between the parties that the election was not held in time. It is also not disputed that the election was held on 23.02.2014 with the,

amended Constitution of the Society, which was amended without following the mandatory procedure prescribed in the Act, 1860 as well as Rule 28",

of the Constitution of the Society. Therefore, it was not possible to recognize anyone of its member elected. In the facts and circumstances of this",

matter, Section 25 of the Act, 1860 is also not applicable. Section 25 of the Act, 1860 contemplates different situation. Section 25 is attracted only",

when there is any doubt or dispute in respect of the election or continuance in office of an office-bearers of such Society. It is also not necessary that,

in all the cases the Registrar/Deputy Registrar is bound to refer the dispute under Section 25 of the Act, 1860 to the Prescribed Authority. The",

petitioner may also go in for a reference with one-fourth of its members. Section 25 of the Act, 1860 is not attracted when there is dispute in respect",

of its renewal of certificate of registration. Thus, the dispute under Section 25 can be referred for adjudication only when it is found that the",

registration of the Society or its renewal is intact. In this matter, renewal of

certificate of registration of the Society was till 09.10.2015. It is evident",

from Section 3A of the Act, 1860 that renewal of the certificate of registration of a Society is within the exclusive jurisdiction of the Registrar. In",

Shambhu Kumar Tripathi Vs. Assistant Registrar, Firms, Societies and Chits, AIR 1994 Allahabad 20,9 it was held that the power to renew a",

certificate of registration being expressly and exclusively conferred upon the Registrar, the Registrar would be deemed to possess all incidental and",

ancillary powers as may be considered necessary for an effective exercise of the power under Section 3A of the Act, 1860. In Committee of",

Management Adarsh Shiksha Niketan Vs. Assistant Registrar, Firms, Societies and Chits, (2000)3 AWC 1802, it was held that the Assistant Registrar",

can exercise power under sub-section (2) of Section 25 of the Act, 1860 in directing that a fresh meeting of the General Body be held for electing",

office-bearers of the Society.,

Therefore, in the light of the abovementioned judgments, the Deputy Registrar was justified in exercising powers under sub-section (2) of Section 25",

of the Act, 1860 in directing to conduct fresh elections of the Society and to send list of members as per un-amended Constitution of the Society.",

82. In the light of the foregoing discussions, we find that the Deputy Registrar had power to reject the amendments of the Constitution of the petitioner",

Society and the Deputy Registrar had authority to direct petitioner Society to conduct fresh elections.,

83 Since the certificate of registration of the Society has expired on 09.10.2015 and the application for renewal of the certificate of registration of the,

Society is still pending before the Deputy Registrar, we direct the Deputy Registrar to convene a meeting of all the members of the Society for",

election of the Managing Committee within three months from the production of the certified copy of this Order and after Managing Committee is duly,

constituted then consider its request for renewal of the certificate of registration of the Society in accordance with law.,

84. Subject to the aforesaid observations, the Writ Petition No.853 of 2015 (M/S) and Writ Petition No.198 of 2016 (M/S) are dismissed. No order as",

to costs.,