

(2019) 06 UK CK 0139

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1014 Of 2019

Rudrapur Club (Registered), Rudrapur

APPELLANT

Vs

Prescribed Authority/Sub Divisional Magistrate, Rudrapur And
Others

RESPONDENT

Date of Decision : 28-06-2019

Acts Referred:

Societies Registration Act, 1860 — Section 25

Citation : (2019) 06 UK CK 0139

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Sanpreet Singh Ajmani, Yogesh Pandey, S.R. Joshi, P.C. Petshali

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. This writ petition was dismissed for non-prosecution vide order dated 15.05.2019. Now a recall application has been filed by the petitioner for recalling the order dated 15.05.2019.

2. The grounds shown in the restoration application seem to be just and bona fide. Restoration application (MCC No. 518 of 2019) is allowed. Order dated 15.05.2019 is recalled and the writ petition is restored to its original number.

3. On a reference made under Section 25 of the Societies Registration Act, 1860 the Prescribed Authority i.e. the Sub Divisional Magistrate, Rudrapur passed an order on 02.11.2013 making certain determination. Thereafter a recall application was filed by the present petitioner for recalling the order dated 2.11.2003, which was dismissed by the Prescribed Authority vide order dated 01.03.2019 on ground that the Prescribed Authority has no power to review/recall its earlier order under Section 25 of the Societies Registration Act, 1860. Aggrieved, the petitioner has filed the present writ petition.

4. Section 25 of the Societies Registration Act, 1860 reads as under:

"25. Disputes regarding election of office-bearers. - (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-bearer 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 satisfied -

(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 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 I. A person shall be deemed to have committed a corrupt practice who, directly or indirectly, by himself or by any other person -

(i) induces, or attempts to induce, by fraud, intentional 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 to 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 of 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. - 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. - 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 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. - For the purposes of this section, the expression 'prescribed authority', means an officer or court authorised in this behalf by the State Government by notification published in the Official Gazette."

5. The orders are passed by the Prescribed Authority under its quasi-judicial powers. The statute does not provide the Prescribed Authority the powers of review. Unless the powers of review are given under a statute or law the authority cannot exercise such powers. The Prescribed Authority has rightly rejected the review petition of the petitioner.

6. Consequently, the writ petition fails and is hereby dismissed. In case the petitioner has any grievance for any other cause of action, he shall be at liberty to approach the appropriate forum.