

(2011) 02 AHC CK 0372

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 56641 of 2009

Shiv Murti Verma

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Societies Registration Act, 1860 — Section 25, 4

Citation : (2011) 3 ADJ 755 : (2011) 3 AWC 2598

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.P. Sahi, J.—Heard Sri Saroj Yadav, learned Counsel for the Petitioner, Sri Rajeev Kumar Singh, learned Counsel appearing on behalf of the Respondent No. 4 and learned Standing Counsel for the Respondent Nos. 1,2 and 3.

2. The Assistant Registrar has proceeded to pass an order with regard to the registration of list of office bearers under the provisions of Section 4 of the Societies Registration Act, 1860. Learned Counsel for the Petitioner submits that basically the entire dispute was with regard to the election and continuance of office bearers, therefore, he ought to have referred the same to the Prescribed Authority u/s 25 of the Act. The contention, therefore, is that the Registrar has proceeded to decide the dispute for which he had no jurisdiction.

3. Learned Counsel for the Respondent No. 4 submits that on the findings that have been arrived at, the dispute arose with regard to the election of 2003. Apart from that periodical elections were held in 2006 and have now been held in 2009.

4. Learned Counsel for the Petitioner submits that the subsequent elections would be dependent upon the decision of the disputes with regard to the elections of the year 2003 and, therefore, the matter ought to have been referred to the appropriate authority.

5. This position taken by the Petitioner is contrary to law laid down by the Apex Court in the case of Nagri Pracharini Sabha and Another Vs. Vth Additional District and Sessions Judge, Varanasi and Others, where it has been held that the authority need not enter into any infructuous dispute as it would be a futile exercise as the elections are periodical. The term of 2003 elections has come to an end....

6. Apart from this, there is a clear finding that the elections set up by the Respondent in 2006 was never challenged, which position has not been disputed. It is contended that if the elections of 2003 are set aside then the elections held in the year 2006 will automatically vanish. That is not the position of law inasmuch as, the elections were held periodically and they have to be taken into account. The elections of 2006 having not been challenged, there is no occasion to further investigate the dispute at the instance of the Petitioner moreso when fresh elections have already been held.

7. If the Petitioner is aggrieved by the holding of any fresh election or any fresh cause of action, he can challenge the same. This writ petition is dismissed as infructuous without prejudice to the rights of either of the parties to contest their claim in relation to the fresh elections.

8. With the aforesaid observations, the writ petition is dismissed.