
(2007) 01 AHC CK 0164
In the Allahabad High Court

Swami Rameshwar Prapannacharya

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 08-01-2007

Acts Referred:

Citation : (2007) 1 ADJ 405 : (2007) 1 AWC 682

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.U. Khan, J.—Heard learned . counsel for the parties.

2. The question involved in this writ petition is as to whether respondent No. 3-Swami Abheyshwar Prapannacharya is President of the society known by the name of Brahmrishi Sri Devrahababa Surveshwar Kalyan Mahamandal (hereinafter referred to as Society).

3. The society is a registered society, copy of its byelaws has been annexed as Annexure-3 to the writ petition. The objects of the society mentioned in Clause 3 of the byelaws are predominantly religious and educational in nature. The area of the activities of the society mentioned in the byelaws is quite large however it is basically related with Triveni Sangam Bandh (Allahabad) area. The society was basically founded by Sri Swami Surveshwar Prapannacharya Brahmachariji Maharaj who was a disciple of Devraha Baba a religious Guru. Under Clause 6 (1) of the byelaws, he was made President for life with omnipotent powers (Survadhikari). It is also provided under the said clause that the successor President should be Prapannacharya and his or Brahmrishi Sri Devrahababa's disciple and who must also have renounced the world (Viraktshish). Under Clause 6 (1) Kha of the byelaws. it was provided that any member of the founder committee could be removed by the President Swami Surveshwar Prapannacharya for doing anything against the interest of the society. The other office bearers of the founder committee were General Secretary, member of

Manila Kalyan Vibhag, Auditor (Aay Vyay Nirikshak), Sachetak and two other members. It is not disputed that petitioner was General Secretary and respondent No. 3 was Income and Expenditure Inspector.

4. Respondent No. 3 was accused of kidnapping children for which F.I.R. was lodged against him. Due to his involvement in criminal case of kidnapping, founder removed him from the post of Income and Expenditure Inspector. Thereafter founder President Swami Surveshwar Prapannacharya died on 24.2.2005.

5. According to the petitioner, after the death of the founding President, Sri Ram Prapannacharya was elected as President in accordance with byelaws who was disciple of the founding President and had renounced the world.

6. Respondent No. 3 mainly based his claim upon a letter dated 26.5.2003 in which the founding President mentioned that respondent No. 3 was his disciple and successor. The allegation of the petitioner is that the words "he is my successor" were manipulated and inserted afterwards. Learned Counsel for the petitioner has further argued that the said letter was written so that it could benefit respondent No. 3 in his bail application as at that time he was in Jail on the allegation of kidnapping of children. It appears that u/s 3A of the Societies Registration Act, different lists of office bearers and members of the Executive Committee of the society were sent to the Assistant Registrar, Firms, Societies and Chits Allahabad. In one list respondent No. 3 was shown to be the President and in the other list Sri Ram Prapannacharya was shown to be the President. Accordingly, Assistant Registrar issued notice to both the parties and after hearing both of them passed the impugned order dated 2.6.2006 holding that respondent No. 3 was the valid President of the society. The said order has been challenged by the petitioner through this writ petition.

7. The respondent No. 3 asserted and Assistant Registrar accepted that on 12.3.2005 and 4.2.2006, a huge meeting of Sadhus/ Saints was held in which respondent No. 3 was unanimously elected as President to run the society. Assistant Registrar held that respondent No. 3 had been acquitted of the charges of kidnapping by the C.J.M. on 19.3.2004, hence his removal from the society which was based upon his involvement in criminal case of kidnapping became automatically invalid. Assistant Registrar therefore held that respondent No. 3 was the valid President of the Society.

8. The Assistant Registrar did not disbelieve the version of the petitioner that respondent No. 3 was removed by the founder President on 26.1.2004. The letter written by the founder President dated 26.5.2003 which was prior to removal of respondent No. 3 by the founder President cannot therefore be of any help to respondent No. 3 as in spite of the said letter, the founder President himself afterwards removed the respondent No. 3 from the membership of the society and its executive body. If the intention and action of the founder President is to be taken as the last word then his subsequent action will have to

be given preference. Earlier in May, 2003 founder President wrote a letter in favour of respondent No. 3 however subsequently in January 2004 founder President removed him from the society hence the subsequent action will have to be relied upon.

9. Moreover, there is no provision under the byelaws of the society that Sadhu Samaj shall elect the successor and President of the Society after the death of the founding President i.e.. Swami Surveshwar Prapannacharya. The Sadhus who allegedly passed the resolution in favour of respondent No. 3 on 12.3.2005 and 4.2.2006 were not members of the society. Under Clause 6(1) Ka. It was provided that successor of President would be either his disciple or disciple of Brahmurishi Sri Devrahababa with the further restriction that he should have renounced the world. There is no provision under the byelaws that the successor of the founder President as elected by Sadhu Samaj shall also be the President of the Society.

10. Moreover, if respondent No. 3 was removed from the Society on the basis of involvement in criminal case then he cannot automatically become member of the society after his acquittal. A formal resolution is required to be passed and the procedure prescribed under the byelaws for inducting new member is necessary to be followed before reinducting an expelled member. For about 11 months after the acquittal of respondent No. 3, the founder President remained alive still he did not reinduct him as member of the society or office bearer of the executive body of the society. Accordingly, even if some letter was written by the founder President before the removal of respondent No. 3, it would not be of any help to the respondent No. 3. On the basis of the said letter respondent No. 3 cannot say that he is entitled to become President after the death of the founder President.

11. Accordingly impugned order is patently erroneous in law and is liable to be set aside.

12. Writ petition is therefore allowed. Impugned order is quashed. Assistant Registrar is directed to register the list of office bearers and members of the executive committee of the society with Sri Ram Prapannacharya as President.