

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO (OS) No.273/2010**

Date of Decision :- 23.04.2010

Sh.Harbir Singh Appellant
Through Mr.Sanjiv K.Jha, Advocate.

Versus

Shaheed Udham Singh Smarak Shiksha Samiti & Respondents
others
Through Mr.B.B.Gupta, Advocate.

And

+ **FAO (OS) No.274/2010**

Sh.Harbir Singh Petitioner
Through Mr.Sanjiv K.Jha, Advocate.

Versus

Shaheed Udham Singh Smarak Shiksha Samiti & Respondents
others
Through Mr.B.B.Gupta, Advocate.

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+ **FAO (OS) No.275/2010**

Sh.Harbir Singh Petitioner
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Versus

Shaheed Udham Singh Smarak Shiksha Samiti & Respondents
others
Through Mr.B.B.Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR
HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. This order shall dispose of these three appeals filed by the appellant against the order dated 11th February, 2010 passed in three application being IA No. 11323 of 2008 under order 39 Rules 1 & 2 of the Civil Procedure Code; IA No. 11324 of 2008 under section 151 of Code of Civil Procedure for appointment of an Administrator and IA No. 12251 of 2008 under Order 39 Rules 1 & 2 of the Civil Procedure Code in a suit for Declaration and Perpetual injunction filed by the appellant.

2. **FAO (OS) No.273/2010**

This appeal under Order XLIII and Section 151 of the Code of Civil Procedure is against the order dated 11th February, 2010 passed in I.A.No.12251 of 2008 in CS (OS) No.1957 of 2008. The prayers made by the appellant under the said IA are as under:

- a. To stay the operation of the notice dated 18.9.2008
- b. To stay the holding of the proposed general body meeting dated 19.10.2008 as proposed in the notice dated 18.9.2008
- c. To direct that the office bearers elected by the illegally held elections on 26.12.2007 not to interfere with the affairs of the society till the disposal of the present suit.

d. To pass such other and further orders as this Hon'ble Court may deem fit and proper.

3. **FAO (OS) No.274/2010**

This appeal under Order XLIII and Section 151 of the Code of Civil Procedure is against the order dated 11th February, 2010 passed in I.A.No.11323 of 2008 in CS (OS) No.1957 of 2008. The prayers made by the appellant under the said IA are as under:

- a. Restraining Defendant no.2 being the secretary of the Society and other office bearers of the society to interfere in the functioning of the primary and secondary school;
- b. Restraining Defendant no.2 and the other office bearers from operating the bank account and misappropriating or dealing with the society funds in any manner what so ever;
- c. Restraining the Defendant no.2 and other office bearers from enrolling any member in the society and interfering in the affairs of the society.

4. **FAO (OS) No.275/2010**

This appeal under Order XLIII and Section 151 of the Code of Civil Procedure is against the order dated 11th February, 2010 passed in I.A.No.11324 of 2008 in CS (OS) No.1957 of 2008. The prayers made by the appellant under the said IA are as under:

- a. To appoint a Retired Judge of this Hon'ble Court as the Administrator of the society till the disposal of the instant suit;
- b. To direct that the office bearers elected by the illegally held elections on 26.12.2007 not to interfere into the affairs of the society;

c. To pass such other and further orders as this Hon'ble Court may deem fit and proper.

5. Some relevant facts to appreciate the controversies between the parties in the suit filed by the appellant and the three applications which were filed by the appellant were dismissed against which order these three above noted appeals have been filed are as follows. The appellant is a retired cashier who is not gainfully employed after his retirement and is a member of respondent No.1 society which is registered since 1979 and runs a recognized aided senior secondary school in the name of Shaheed Udham Singh Smarak Secondary School at Shastri Nagar and also runs a primary public school which acts as a feeder school for the secondary school.

6. The respondent No.1 is represented through respondent No.2 whose election has been challenged by the appellant. He also challenged contending that membership of respondent Nos.2 to 8 was cancelled by board resolution dated 25th May, 2003 and respondent Nos.9 to 30 are illegally enrolled members as the due process established for enrollment of members was not followed for them and the respondent Nos.31 to 51 were alleged to be only valid members of respondent No.1 society.

7. There has been protracted litigation in respect of respondent No.1 society and for its elections. A retired Judge of this Court was appointed as a Court Commissioner for the election which was held on 24th November, 1991. Respondent No.2 was also the secretary of the respondent no.1 society in 1991. A suit bearing No.2435/1993 was filed against respondent No.2 and Thakur Lachman Singh seeking restrain against them from interfering with the functioning of the society and from collecting the dues and fees. An electoral roll of 42 members was prepared by Hon'ble Mr.Justice Jagdish Chandra (Retd) on 22nd February, 1994 and election for 11 posts under the bye-laws of respondent No.1 society was held on 30th March, 1994. The Court Commissioner later on had also showed his inability to continue as a Court Commissioner and as such Hon'ble Mr. Justice Charanjeet Talwar was appointed in his place by order dated 18th May, 1994.

8. Election held on 30th March, 1994 was challenged, however, the interim application was dismissed and in an appeal filed against the dismissal of the application, fresh elections for 6 posts were ordered and accordingly fresh elections were held on 15th October, 1995 and 5 posts were filled. On account of a tie for the 6th post, fresh election for the sixth post was held on 7th July, 1996.

9. The elections held on 15th October, 1995 and 7th July, 1996 was also challenged. By order dated 17th October, 1996, it was directed that the administrator appointed by the Court should continue as an administrator. The said order appointing an administrator, however, was vacated by order dated 10th August, 2001 and the members elected by order dated 7th July, 1996 were directed to assume the office and therefore those elected members took over the affairs of the society on 9th September, 2001.

10. Allegations of financial mismanagement and embezzlement were made against Sh.Saheb Singh, Sh.Anil Aggarwal and Sh.Lachman Singh, Sh.Gordhan Sharma and Sh.Hargyan Singh Rathore. Allegations were also regarding the irregularities in the provident fund account and in respect of employees share being deducted and not deposited.

11. In the suit filed by appellant, it was alleged that in the alleged general body meeting of 15th December, 2002, the primary membership of respondent Nos.2 to 8 was suspended and a disciplinary committee of three members was appointed and ordered to enquire into the irregularities which found that the members had misappropriated the funds of the society and a report was submitted to the executive committee. The executive committee recommended expelling respondent

Nos.2 to 8 and allegedly in the general body meeting held on 25th May, 2003 the membership of respondent Nos.2 to 8 was cancelled.

12. Later on Hon'ble Mr.Justice Satpal (Retd) had also been appointed and he had also prepared the electoral roll of members, however, he did not exclude respondent Nos.2 to 8 from the electoral rolls. The plaintiff in the suit gave details of various other legal proceedings initiated between the members of the society including suit No.1479/2007; FAO (OS) No.297/2007.

13. The appellant primarily challenged the election held on 26th December, 2007 on the basis of electoral roll prepared by the Court Commissioner Hon'ble Mr. Justice Satpal (Retd) and filed a suit praying inter-alia that respondent Nos.2 to 8 be declared to have been validly and legally expelled from the membership of the society; declare the general body meeting dated 20th October, 2009 to be bad in law and enrollment of respondent Nos.9 to 19 be also bad in law; declare that the executive committee meeting dated 17th June, 2004 was illegal and not authorized to enroll respondent Nos.19 to 30; declare the electoral roll as prepared by the Court Commissioner Hon'ble Mr.Justice Satpal (Retd) as illegal; declare that the plaintiff and defendant Nos.31 to 51 are the only genuine and valid members of respondent No.1 society and

restrain respondent No.2 and the office bearers from interfering in the affairs of the society.

14. Along with the suit, the appellant also filed an IA No.11323/2008 under Order 39 Rules 1 & 2 read with Section 151 of the Code of Civil Procedure seeking an interim restrain against respondent No.2 from interfering in the functioning of the primary and secondary school and from operating the bank accounts and misappropriating or dealing with the society funds in any manner and from enrolling any member in the society and interfering in the affairs of the society. Another application being IA No.11324/2008 was also filed by the plaintiff/appellant under Section 151 of the Code of Civil Procedure for appointment of a retired Judge as the administrator of the society and for a direction to the office bearers elected by the election held on 26th December, 2007 not to interfere into the affairs of the society. During the pendency of the suit the appellant filed yet another application under Order 39 Rules 1 & 2 being IA No.12251/2008 praying inter-alia to stay the operation of notice dated 18th September, 2008 proposing to hold a general body meeting on 19th December, 2008 and for directions to the office bearers elected on 26th December, 2007 not to interfere with the affairs of the society till the disposal of the present suit.

15. The suit and the applications filed by the appellant were contested by the contesting respondents pleading inter-alia that the society is being run in a democratic and transparent manner and no new members have been enrolled after 1st August, 2003 and there is no violation of any bye-laws or regulation of respondent No.1 society. The respondents pleaded that the Court may refrain from interfering in the internal management of the society as it is governed by its own charter and should not exercise any appellate jurisdiction over the decision taken by the management. The respondents reiterated that elections were conducted on 15th October, 1995 under the administration and supervision of Hon'ble Mr. Justice Charanjit Talwar (Retd), who had been appointed as a Court Commissioner on 18th May, 1994 and in the election conducted by him 11 members were elected as office bearers and respondent No.2 was elected as a member of the executive committee.

16. The respondents emphasized that from 10th August, 2001 upto 17th September, 2002 there were no disputes which can be inferred as there had been no intervening litigation between the two factions. On 17th September, 2002 a notice for a general body meeting scheduled for 20th October, 2002 was given leading to institution of a suit being CS (OS) No.1499/2003 which was, however, dismissed for non prosecution, however, holding that the matter relates to the elections of a society which elections had already been over.

17. Thereafter another suit being CS (OS) No.1479/2007 was filed where Hon'ble Mr.Justice Satpal (Retd) was appointed as a Court Commissioner to hold the election of respondent No.1 society which had fallen due in September, 2007. The Court Commissioner was also to finalize the electoral roll/voter list.

18. Reliance was also placed by the respondents on the voter list/electoral list prepared by the Court Commissioner, Hon'ble Mr.Justice Satpal (Retd) in his report dated 26th November, 2007 holding that there are 51 members of the society. The respondents also asserted that the list of 42 members were ratified on the basis of report of Hon'ble Mr.Justice Jagdish Chandra (Retd) in his report dated 22nd February, 1994 wherein also membership of Mr.Randhir was not disputed. After 22nd February, 1994, 12 persons had died and 10 members were enrolled in terms of General Body meeting dated 10th October, 2004 who had also been approved in the meeting of executive committee dated 17th June, 2004. Twelve members were enrolled in terms of general body meeting dated 10th October, 2004, whose membership was also earlier approved in the minutes of the executive committee meeting held on 17th June, 2004. Thus the list of 51 members was held to be valid and a report dated 26th November, 2007 was given. Pursuant to the electoral roll prepared by report dated 26th November, 2007 elections were held on 26th December, 2007 and the

present suit was filed and thereafter on the ground that the election is based on illegal electoral rolls.

19. The learned Single Judge while disposing off the applications of the appellant has noted that the prayers made in the suit are the prayers made in the applications filed by the appellant. The Court also noted that where grant of temporary injunction would amount to practically granting the relief claimed in the suit, the court should be very slow in granting such prayers. It also noted that the Court Commissioner had the requisite power to decide the question about the genuineness of a particular member and to prepare the voter list. The learned single Judge has also noted that the litigation between the parties is contentious and allegations and counter allegations have been made since 1991, Court Commissioners have been appointed since 1991 to prepare the electoral list and to conduct the elections. The management of the society had been handed over on 10th August, 2001 after a long period of the members duly elected on 15th October, 1995. For the purposes of election which was to be held on in December, 2007, Hon'ble Mr. Justice Satpal (Retd.) had been appointed as a Court Commissioner.

20. In IA No.11323/2008, the appellant had sought a restraint against respondent No.2 even as Secretary of the respondent no.1 to interfere in the functioning of primary and secondary school and from

operating the bank account and dealing with the society funds which prayer was declined by the learned Single Judge which is challenged in FAO(OS) No.274/2010. The learned Single Judge considered that no specific instance of embezzlement or fraud or of the dates on which they were allegedly committed by respondent No.2 has been pointed out by the appellant/plaintiff. The learned counsel for the appellant is also unable to show the specific instances or such facts which would prima facie show that there has been embezzlement or fraud by respondent No.2. The allegations regarding embezzlement or fraud in the circumstances appear to be vague and the inference of the learned Single Judge that no prima facie case had been made out cannot be faulted. In case no prima facie case is made out for embezzlement or fraud then why respondent No.2 being the Secretary of the society should be restrained from functioning of the primary and secondary school has not been satisfactorily explained by the learned counsel for the appellant. In absence of any prima facie case against respondent No.2 for embezzlement or fraud, no directions can be given to respondent No.2 not to operate the bank account or deal with the society funds in accordance with the rules and regulations.

21. The leaned Single Judge also took into consideration the fact that on 10th August, 2001 the management had been handed over to newly appointed management and the management since 2001 is continuing.

The voter list had also been finalized on 10th October, 2004 in the last general body meeting of respondent No.1. A voter list was also filed in the Court by a Court commissioner on 22nd February, 1994. From the voter list of 63 members, 12 members have died and voter list comprises of 51 members. What has also been noticed that in two elections in 2003 and 2005, the plaintiff had participated but he had lost the election. This Court had enquired from the learned counsel for the appellant as to what is the profession of the appellant and it has been revealed that he is a retired cashier and after retirement he has not been gainfully employed.

22. This cannot be disputed that the object of interim injunction is to protect the status quo during the adjudication of the rights of the parties. The learned Single Judge considering the prima facie case, balance of convenience and irreparable loss caused, in case injunction is not granted has declined to grant interim injunction against respondent No.2 Secretary of the Society from interfering in the functioning of primary and secondary school and from operating the bank account of the society. The learned counsel for the appellant was asked the basis for embezzlement and fraud alleged against the respondent No.2 and the learned counsel has referred to the letter dated 28th November, 2008 written by the alleged President, Shravan Kumar Garg to the appellant stipulating that an amount of Rs.10,000/-

was given for the welfare of the school and no account for the same has been rendered for the last two months before the executive committee. Similarly, in the said letter it has been alleged that Rs.25,000/- was paid to Smt.Ved Kumari a relative of the member of the executive committee, however, no explanation has been given. Surprisingly, though Shravan Kumar Garg is a party to the suit, however, the President himself has not initiated any legal proceedings against respondent No.2 for alleged non explanation of the said two amounts allegedly incurred by respondent No.2 for the welfare of the school. From the pleadings it is apparent in the facts and circumstances that the appellant is carrying on proxy litigation on behalf of respondent No.36, President of the Society.

23. The principles applicable to grant of an interlocutory injunction were laid down by the Supreme Court in Gujarat Bottling Co. Ltd. v. Coca Cola & Ors, (1995) 5 SCC 545 holding that grant of an interlocutory injunction requires exercise of the discretion by the Court. Relief by way of interlocutory injunction is granted to mitigate the risk or injustice to the petitioner during the period before that uncertainty can be resolved. In para 43 of Gujarat Bottling Co. Ltd. (Supra), the Supreme Court elaborated the principles for grant of interlocutory injunction which is as under:-

“43. The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the court. While exercising the discretion the court applies the following tests—(i) whether the plaintiff has a prima facie case; (ii) whether the balance of convenience is in favour of the plaintiff, and (iii) whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory injunction has to be taken at a time when the existence of the legal right assailed by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the “balance of convenience” lies. [See: *Wander Ltd. v. Antox India (P) Ltd.* (SCC at pp. 731-32)] In order to protect the defendant while granting an interlocutory injunction in his favour the court can require the plaintiff to furnish an undertaking so that the defendant can be adequately compensated if the uncertainty were resolved in his favour at the trial.”

24. The learned Single Judge after taking the facts and circumstances into consideration has declined the temporary injunction. The learned counsel for the appellant has not been able to show such facts which could prima facie show the embezzlement or fraud by the respondent No.2. The alleged non explanation of Rs.10,000/- and Rs.25,000/- as to whether the amounts have been spent for the welfare of the school or not and not putting it up before the executive committee as has been alleged by the President in his letter dated 28th November, 2008 to the plaintiff though the President himself has not taken any action, will not reflect a very sound prima facie case of embezzlement and fraud against respondent no.2 so as to entitle the appellant for an interim injunction as prayed by him against the respondent no.2 and to stop the functioning of the school.

25. The jurisdiction of the appellate Court to interfere with a discretionary order passed by a Single Judge had also been considered and laid down by the Supreme Court in *Wander Ltd. and Another v. Antox India (P) Ltd*; (1990) Suppl.SCC 727 holding that appellate Court need not reassess the material and seek to reach a conclusion different from the one reached by the court below. If the one reached by the Court was reasonably possible on the material before it. It was held that the appellate court would normally be not be justified in interfering with the exercise of discretion under appeal solely on the ground that if

it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion is exercised by the Trial Court reasonably and in a judicial manner the appellate court will desist from taking a different view and will not normally interfere with the exercise of discretion by the trial court. In para 14 of *Wander Ltd. and Another* (Supra), the Supreme Court had held as under:-

“14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court’s exercise of discretion.”

26. In the circumstances, this Court does not find any ground to interfere with the order passed by the Learned Single Judge and does

not find any prima facie case in favor of appellant. Also considering the balance of convenience and the irreparable loss, this Court is not inclined to grant any interim injunction that the respondent No.2 being the secretary of the society and other office bearer of the society should not interfere in the functioning of the primary and secondary school and should not operate the bank accounts or deal with the society funds in accordance with the rules and regulations of the society. The election of 2007 was held pursuant to the electoral roll prepared by the Court Commissioner and in the circumstances, interference with the functioning of the elected members will hamper the smooth functioning of the school and the orders prayed by the appellant will create more inconvenience to the functioning of the society and the school and thus balance of convenience is in favor of the respondent no.1 & 2. The allegation of the appellant is not that the respondent no.2 has been acting contrary to the rules and regulations of the society and/or applicable to the school as no such violation has been alleged or pointed out. Even otherwise this Court holds that there are no grounds to interfere with the decision of the learned Single Judge exercising its discretion declining the interim injunction sought by the appellant. The appeal against the order passed in IA No.11323/2008 is, therefore, without any merit and FAO(OS) No.274/2010 is, therefore, dismissed with a cost of Rs.10,000/- payable to respondent No.1 society.

27. The appellant has also filed the FAO(OS) No.273/2010 against the order declining the interim relief to the appellant in IA No.12251/2008, whereby appellant had sought stay of operation of notice dated 18th September, 2008 and also to stay proposed general body meeting dated 19th October, 2008 as proposed in the said notice and to direct the office bearers elected by the elections held on 26th December, 2007 and not to interfere with the affairs of the society. The learned Single Judge while declining the prayers of the appellant in the said application being IA No.12251/2008 relied on the order dated 24th November, 2008 passed by the single Judge staying item Nos.1 & 5 of the impugned notice dated 18th September, 2008 notifying convening of an annual general meeting.

28. By the notice dated 18th September, 2008 the amendments were proposed in the bye-laws of the society which were approved by the executive committee in the meeting held on 9th July, 2008, 30th August, 2008, 18th September, 2008 and 10th October, 2008. The proposed amendments and the existing bye-laws are as under:-

	Existing	Proposed Amendments
a)	Society Office B/1866, Shastri Nagar, Delhi-110052. (In personal House	In Society's School Building (Already functioning here for more than 20 years). Therefore the amendment sought are only to keep the records straight. The said

	Property of a Member)	amendments could not be processed earlier and are now being processed so that the Registrar of Societies can be informed accordingly.
b)	Life Membership Fee Rs.101/-	Enhanced to Rs.5100/-[The amount of Rs.5100/- has been effective since last about 7 years. However, the formal amendment is necessitated in the bye-laws so that the office of the Registrar of Societies be informed accordingly].
c)	Special Invitees—4 numbers.	Now proposed only two.
d)	Word ‘Sansthapak Mandal’	The same ceased to exist with the consent of all the members under the Chairmanship of Mr.Justice Jagdish Chandra (Regd.), the learned Court Commissioner appointed by this Hon’ble Court during 1991-1993. The elections are being conducting accordingly since then. Since the same is now to be informed to the Registrar of Societies, formal amendments in bye-laws become necessary.

29. The learned Single Judge after considering the existing bye-laws and the proposed amendments held that amendments sought at item No.1 is a formal amendment while amendment by item No.5 is the confirmation of the enrolment of newly inducted members. In the circumstances, it has been held that any decision taken in the annual general meeting will be subject to final outcome of the suit though the

voter list which has been finalized on 10th October, 2004 is under challenge in the suit.

30. The learned counsel for the appellant prima facie has not been able to show such facts as to why the annual general body meeting which was proposed by notice dated 18th September, 2008 should be stayed as item No.1 of the proposed amendment is formal regarding the office of the society. Similarly, the amendment by item No.5 is also regarding the confirmation of the enrolment of the newly inducted members and appears to be formal. In the circumstances, the discretion exercised by the learned Single Judge not staying holding of general body meeting cannot be held to be illegal or so perverse that this Court has to exercise its appellate jurisdiction and would interfere with the decision of the Learned Single Judge. The learned Single Judge has passed the order declining injunction considering the settled principles of law regarding interlocutory injunction and, therefore, this Court does not find any grounds to interfere with the same. The rights of the plaintiff/appellant have been protected as any decision taken by the annual general body meeting has been held to be subject to final outcome of the suit and, therefore, there is no merit in the appeal of the appellant. The appeal being FAO(OS) No.273/2010 is, therefore, dismissed with a cost of Rs.10,000/- payable to respondent No.1 society which is running the school.

31. By IA No.11324/2008 under Section 151 of the Code of Civil Procedure the appellant had sought appointment of administrator of the society which was declined by the order dated 11th February, 2010 which is impugned in the present appeal FAO(OS) No.275/2010.

32. The learned Single Judge while declining the prayer for appointment of the administrator considered that for granting such a prayer the appellant was not only liable to show a case of adverse and conflicting claims but he was also liable to show some emergency or danger or loss demanding an immediate action. It has also been held that the appellant's own right must reasonably be clear and free from doubt. The learned Single Judge has held that no such case is made out in favor of appellant and if an order of appointment of an administrator is passed, it will affect the rights which has been recognized by this Court, as the management was handed over pursuant to the consideration and supervision by this Court. The learned counsel for the appellant has admitted that the claim of the appellant for appointment of an administrator on account of alleged illegal siphoning of funds of the society and other allegations is solely based on the letter of the president of the society, Shri Shravan Kumar Garg dated 28th November, 2008. Surprisingly, the President of the society has not initiated any action on the basis of the allegation made by him in his said letter and the action is initiated by the appellant who

is a retired cashier and after his retirement who is not gainfully employed in some other activities. In the circumstances, the inference of the learned single judge that the right of the appellant is not reasonably clear and free from doubt, cannot be impugned on the grounds as has been raised on behalf of the appellant. There is no infirmity in the order of the learned single judge declining appointment of an administrator and dismissing the application of the appellant being IA no. 11324 of 2008. Therefore the appeal filed by the appellant being FAO(OS) 275 of 2010 is also without any merit and it is dismissed with a cost of Rs.10,000/- payable to the respondent no.1 society.

33. Therefore, in the facts and circumstances, there is no infirmity in the order of the learned single Judge dated 11th February, 2010 dismissing three application of the appellant and all the three appeals filed by the appellant are dismissed with the costs as indicated hereinbefore.

ANIL KUMAR, J.

APRIL 23, 2010

‘VK’

MOOL CHAND GARG, J.