

Court No. - 10

Case :- WRIT - C No. - 9760 of 2023

Petitioner :- C/M Jalalpur Janta Junior High School And 2 Others

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Bheem Singh,Aalok Singh,Sr. Advocate

Counsel for Respondent :- C.S.C.,Prabhakar Awasthi

Hon'ble Kshitij Shailendra,J.

1. Heard Shri Bheem Singh, learned counsel for the petitioners, learned Standing Counsel for the State-respondents and Shri Prabhakar Awasthi for the contesting respondents.

2. In this writ petition, an interim order was passed on 11.05.2023 which was corrected on 03.07.2023, against which, the Special Appeal No.530 of 2023 (C/M Jalalpur Janta Junior High School And 2 Others v. State of U.P. And 8 Others) was filed which has been dismissed by the following order dated 25.08.2023:-

"1. Heard Sri Prabhakar Awasthi, learned counsel for the appellants, learned Standing counsel for the State respondents and Sri G.K. Singh, learned Senior Counsel assisted by Sri Bheem Singh, learned counsel for respondent nos. 7 to 9, the main contesting parties and an order passed in whose favour in the Writ C No. 9760 of 2023 dated 11.05.2023 corrected on 03.07.2023, is under challenge.

2. It appears that the Deputy Registrar in pursuance of an order dated 11.01.2022 passed in Writ C No. 33980 of 2021 filed by respondent nos. 7 to 9 (petitioners) remitting the matter relating to dispute between the parties regarding enrollment of new members of a society registered under the Societies Registration Act, 1860 again held the exercise for determining the dispute. In course thereof, he passed the order dated 25.11.2022 and consequential order dated 20.02.2023 holding the induction of the aforesaid 702 members to be valid. Aggrieved thereby, the respondent (petitioners) filed Writ C No. 9760 of 2023.

3. The learned Single Judge stayed the operation of the orders impugned in the writ petition dated 25.11.2022 and 20.02.2023 by order dated 03.07.2023 being satisfied with the contention that a fresh representation along with documents was filed before the Deputy Registrar on 20th August, 2022, the last date of hearing, without supplying copy thereof to the petitioners and which resulted in violation of principles of natural justice.

4. Sri Prabhakar Awasthi, learned counsel for the appellants is not in a position to dispute that the representation dated 20.08.2022, which is labelled as 'written submissions along with documentary evidence', was filed without supplying copy thereof to the petitioner (respondents). In the order impugned before the Writ Court, the Deputy Registrar has placed reliance on the aforesaid written submission as well as the documentary evidence annexed therewith.

5. Thus, we find no infirmity in the order of learned Single Judge in holding that there was breach of principles of natural justice.

6. At this stage, Sri Prabhakar Awasthi, learned counsel for the appellants suggested that the entire dispute be remitted back to the Deputy Registrar so that fresh order is passed.

7. Sri G.K. Singh, learned Senior Counsel appearing for the respondent (petitioners) has no objection to the same.

8. Accordingly, the orders impugned in the writ petition dated 25.11.2022 and 20.02.2023 are quashed/set aside. The petitioner (respondents) have now been supplied with the written arguments and documentary evidence filed by the appellants before the Deputy Registrar on 20.08.2022. It shall be open to the respondents (petitioners) to file their reply within two weeks from today. The appellants will have a week thereafter to file their reply in rejoinder. The Deputy Registrar will thereafter take up the matter for final disposal and will hear the parties and pass final orders. The entire exercise in this regard shall be completed within a period of three months from today.

9. Learned counsel for the parties state that the parties will co-operate in the disposal of the dispute, which is being remitted to the Deputy Registrar and will not seek any adjournment.

10. In the result, the instant appeal is dismissed and the writ petition stands allowed. "

3. In view of the fact that impugned orders in the present writ petition i.e. 25.11.2022 and 20.02.2023 have already been quashed by the Division Bench and the writ petition has been allowed and the matter has been remanded to the Deputy Registrar, the directions issued by the Division Bench being self explanatory shall be complied with by the Deputy Registrar concerned.

4. The writ petition is, accordingly, **consigned to record.**

Order Date :- 26.10.2023

Jyotsana