

Court No. - 10

Case :- WRIT - C No. - 13387 of 2023

Petitioner :- C/M Madrsa Anjuman Maktab Islamiya Noorull Ollum And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Prabhakar Awasthi, Gaurav Kumar Chand

Counsel for Respondent :- C.S.C., Arun Kumar

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Prabhakar Awasthi along with Sri Gaurav Kumar Chand, learned counsel for the petitioners, learned Standing Counsel for the State-respondents and Sri Arun Kumar, learned counsel for the respondent no.3.

2. By means of the present petition, the order impugned dated 29.07.2022 passed by the Assistant Registrar, Gorakhpur has been challenged.

3. By the said order, the claim set up by the petitioners on the basis of certain election proceedings allegedly conducted by them on 23.02.2020 has been found to be without any substance and, contrarily, the papers submitted by the respondent no.3 based upon registered lists of office bearers from time to time have been accepted as genuine and consequential direction for registration of the list of office bearers of the respondent no.3 has been issued.

4. Various submissions have been made before this Court by both the sides. Whereas the submission of Sri Awasthi is that when there were two sets of elections before the Assistant Registrar, nullifying one of the elections does not fall within his jurisdiction and, at the most, he could have referred the dispute before the Prescribed Authority under Section 25(1) of the Societies Registration Act, 1860, contrarily, it has been argued by Sri Arun Kumar that the elections dated 23.02.2020 held by the respondent no.3 were based upon the list of office bearers which was duly approved and registered in the office of Assistant Registrar and the petitioner not being outgoing committee and having no power to convene meeting under the Presidentship of one Fate Mohammad, who himself was elected as Deputy Manager in the elections of the respondent no.3, the claim of the petitioners is bogus and the Assistant Registrar rightly held it so.

5. In the affidavits exchanged between the parties, documents right from 2008 till 2023 have been annexed.

6. Whereas, the Court finds that the list of office bearers of the respondent no.3 was registered and prior thereto the list submitted by one Khursheed Alam was registered, for the first time the petitioners have set up the elections on 23.02.2020 and the impugned order has been passed entertaining complaint of one Fate Mohammad who, surprisingly, was elected as Deputy Manager in the elections held by the respondent no.3.

7. Various authorities have been placed before this Court from both the sides addressing on the competence and power of the Assistant Registrar to make adjudication of an election dispute, however, instead of recording findings on merits of rival claims of the parties in this petition, this Court finds that the term of the body elected pursuant to the elections dated 23.02.2020 has already come to an end in February, 2023 and fresh elections have been held on 19.02.2023, the proceedings whereof have been annexed along with the counter affidavit. The list of office bearers based upon fresh elections dated 19.02.2023 has also been registered on 06.04.2023.

8. Though, Sri Awasthi argues that subsequent elections are based upon the previous elections, the Court is not inclined to adjudicate the validity of the elections of 2020 in this petition, however, the Court cannot restrain any party aggrieved by the subsequent elections dated 19.02.2023 or registration of the list on the basis thereof, from challenging the same before appropriate court or forum.

9. The Court also finds that even if the argument of the petitioners is accepted for sake of acceptance that two rival sets of elections should have persuaded the Assistant Registrar to make a reference to the Prescribed Authority under Section 25(1) of the Act, in view of the judgment of this Court pronounced in the case of **Kisan National Education Trust Pratapganj & Another Vs. Prescribed Authority (S.D.M.) & 2 Others: reported in 2019 (1) ADJ 817**, it would be a futile exercise to accept even this argument, at this stage, as the claim has rendered infructuous and no reference in respect of infructuous claim can be made.

10. Granting liberty to any party aggrieved by the subsequent elections dated 19.02.2023 to approach appropriate forum, the writ petition stands **dismissed**.

Order Date :- 12.10.2023/AKShukla/-