

Court No. - 10

Case :- WRIT - C No. - 20331 of 2023

Petitioner :- Committee Of Management Shri Bhagirathi Sanskrit Mahavidyalaya And 5 Others

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

Counsel for Petitioner :- Gautam Baghel, Babboo Ram

Counsel for Respondent :- C.S.C., Rajesh Kumar Shukla

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Gautam Baghel, learned counsel for the petitioners and learned Standing Counsel for the State-respondents.
2. This Court passed interim order on 27.09.2023 staying the effect and operation of the impugned order dated 26.05.2023.
3. The respondents filed **Special Appeal No.723 of 2023 (Sarvesh Kumar Rohatgi v. C/M Shri Bhagirathi Sanskrit Mahavidyalay And 7 Others)** against the said order and the Division Bench has disposed off the Special Appeal as well as the writ petition by the following order dated 01.11.2023:-

"1. Heard Sri Anil Bhushan, learned Senior Counsel assisted by Sri Rajesh Kumar Shukla, learned counsel for the appellant, Sri Prabhakar Awasthi and Sri Gautam Baghel, learned counsel for respondent nos. 1 to 6 and Sri Ajit Singh, learned Standing Counsel for respondent nos. 7 and 8.

2. With consent of learned counsel for the parties, the instant appeal is being disposed of finally.

3. Respondent nos. 1 to 6 filed a writ petition assailing the order of respondent no. 8 dated 26.05.2023 by which he has directed for elections of Sri Bhagirathi Sanskrit Mahavidyalay, Garhmukteshwar, District Hapur, a registered society under the Societies Registration Act, 1860 (hereinafter referred to as the 'Act') to be held under Section

25 (2) of the Act. The finding returned in the said order is that last election of the Managing Committee of the Society was held on 01.04.2002 and the term being three years under the bye-laws, the same has expired.

4. The learned Single Judge by the impugned order dated 27.9.2023 has stayed the operation of the order of respondent no. 8 dated 26.05.2023.

5. Sri Anil Bhushan, learned Senior Counsel appearing for the appellant submitted that a specific objection was raised by the appellant before the Writ Court that the writ petition of the Committee of Management of the Institution challenging the order of respondent no. 8, was not maintainable. The said contention has also been noted in the impugned order, but without dealing with it, the learned Single Judge has proceeded to pass an interim order, which is, therefore, seriously affecting the rights of the parties.

6. Sri Prabhakar Awasthi and Sri Gautam Baghel, learned counsel appearing for contesting respondent nos. 1 to 6 although tried to contend that the aforesaid respondents would have full locus to challenge the order of Assistant Registrar as thereby he has also discarded the membership of certain persons while recognizing membership of some others, who according to them, were not validly enrolled. However, they are not in a position to show that any valid election of the Managing Committee of the Society has been held after 2016-17. They submit that they will have no objection in case, the Assistant Registrar is permitted to hold elections under Section 25 (2) of the Act, but after determining the electoral college afresh, to which Sri Anil Bhushan, learned Senior Counsel appearing for the appellant has no objection.

7. Accordingly, in order to give quietus to the dispute and to ensure that a duly elected managing committee comes in control of the affairs of the Society, we dispose of the instant appeal as follows:

(a) The order of the Assistant Registrar to the extent it directs for holding of election under Section 25 (2) of the Act is hereby upheld.

(b) The parties are at liberty to file objection along with documentary evidence relating to membership of the Society within ten days from today along with true attested copy of the instant order before respondent no. 8.

(c) Respondent no. 8 will, after public notice, determine the electoral college afresh, taking into consideration the objections filed by the parties herein or by any other person interested.

(d) The electoral college will be finalized without being influenced by any finding recorded in the order dated 26.05.2023, which was impugned before the Writ Court.

8. The instant order also disposes of the writ petition, as agreed by the parties.

9. Office shall also place a copy of the instant order in the file of the writ petition bearing Writ C No. 20331 of 2023. "

4. In view of the fact the the writ petition itself has been decided, the matter is **consigned to record**.

Order Date :- 9.11.2023

Jyotsana