

Court No. - 10

Case :- WRIT - C No. - 24786 of 2023

Petitioner :- C/M Darul Uloom Amjadiya Ahle Sunnat Arshadul Uloom And Another

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

Counsel for Petitioner :- Mohammad Ali Ausaf

Counsel for Respondent :- CSC,Om Prakash Singh,Rajesh Kumar Shukla

Hon'ble Kshitij Shailendra,J.

1. Heard Shri H.P. Shahi, learned counsel holding brief of Shri M.A. Ausaf, learned counsel for the petitioners, Shri I.P. Srivastava, learned Additional Chief Standing Counsel for respondent nos.1 and 2, Shri Rajesh Kumar Shukla, learned counsel for respondent no.3 and perused the record.
2. This writ petition has been filed claiming two reliefs, however, learned counsel for the petitioners, at this stage presses relief No.b to get adjudication of their objections dated 02.11.2022 at the end of Assistant Registrar, Firms, Societies and Chits, Gorakhpur Region, Gorakhpur.
3. This Court, on previous occasion, passed following order on 25.09.2023:-

"1. After hearing the learned counsel for the parties, a question has arisen before this Court as to when certain amendments are brought in the bye-laws of the Society and the same are objected to by other office bearers of the Society, as to under what power conferred by the Societies Registration Act, 1860 (as applicable in the State of U.P.), the Assistant Registrar is empowered to consider and decide the objections of the said nature. This question is framed as learned counsel for the petitioners presses for deciding the objections dated 02.11.2022 filed

by the petitioners, which is of the said nature.

2. Learned Standing Counsel has referred to sections 2 and 3 of the Societies Registration Act, 1860, whereas learned counsel for respondent No. 3 has referred to bye-laws as well as paragraph No. 6 of the representation of the petitioners.

4. Put up this case as fresh on 12.10.2023. "

4. Learned counsel for the petitioners submits that power of the Assistant Registrar to deal with such kinds of objections has already been considered by this Court time and again and all the judgments have been summarized in the judgment passed by this Court in the case of **Allahabad High School Society, Allahabad And Another v. State of U.P. And Others, 2011 (4) ADJ 341**. He submits that this Court has held the Assistant Registrar competent to examine such kind of objections after dealing with Sections 4-A, 5, 12-B, 12-D, 17 and 24 of the Societies Registration Act, 1860.

5. I have perused the judgment and I find that the objections preferred by the petitioners fall within the zone of consideration by the Assistant Registrar who has already issued notice to the rival parties including respondent no.3. I have perused the notice filed as 'Annexure No.6' to the writ petition which is addressed to respondent no.3 fixing 14.12.2022 which is the date that has passed one year ago.

6. Learned counsel for the respondent no.3 vehemently opposed the writ petition by arguing that in bye-laws got registered by the petitioners in 1999, post of Treasurer was scored out/removed. He further submits that pointing out certain relationship between the parties, the objections preferred are quite baseless as the petitioner no.2 is the real brother of respondent no.3.

7. Having heard learned counsel for the parties, this Court does not want to enter into the merits of the rival claims concerning provisions of bye-laws or the amended bye-laws.

8. A Writ of Mandamus can be issued if Authority fails to exercise statutory power within a reasonable period of time.

9. In view of the decision of this Court in the case of **Allahabad High School Society, Allahabad And Another** (supra), this writ petition is **disposed off** directing the Assistant Registrar, Firms, Societies and Chits, Gorakhpur Region, Gorakhpur (respondent no.2) to decide the objections dated 02.11.2022 on merits **on or before 28.02.2024** after providing full opportunity of hearing to the noticees strictly in accordance with law provided a certified copy of this order is filed by either of the sides before the respondent no.2 in the month of **December 2023 itself**.

Order Date :- 11.12.2023

Jyotsana