

Court No. - 10

Case :- WRIT - C No. - 24997 of 2023

Petitioner :- Ved Singh And Another

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

Counsel for Petitioner :- Sankalp Narain,Hritudhwaj Pratap Sahi

Counsel for Respondent :- CSC,Nipun Singh

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Sankalp Narain, learned counsel for the petitioners, learned Standing Counsel for the State-respondents no.1 and 2 and Sri Nipun Singh, learned counsel for the respondent no.3.

2. The present petition has been filed claiming a writ of mandamus commanding the respondent no.2, i.e. the Assistant Registrar, Firms,Societies and Chits, Saharanpur Region, Saharanpur to forthwith take a decision upon the objection dated 30.01.2023 preferred by the petitioners against the illegal registration of the list of office bearers of the society under Section 4(1) of the Societies Registration Act, in favour of the respondent no.3 for the year 2021-22.

3. Sri Sankalp Narain, learned counsel, has referred to various proceedings held before the authorities as well as before this Court and has argued that finally when, on 31.05.2018, two writ petitions were allowed together and the society that was in control of the affairs was allowed to continue, special appeal being Special Appeal Defective No.773 of 2018 was filed in which parties were directed to maintain status quo by order dated 11.10.2018, however, the respondent no.3 by making a false statement in the affidavit to the effect that the dispute relating to Committee of Management is not pending before any office/court, got the list registered and continued to hold elections and, therefore, the petitioners have filed aforesaid objections dated 30.01.2023 which should be directed to be decided, as prayed.

4. Learned Standing Counsel submits that in so far as the pendency of special appeal is concerned, the Assistant Registrar has already taken note of the same in his order dated 28.02.2020 while registering the list of office bearers presented by the respondent no.3 for the year 2019-20 with a clear observation that the matter shall be subject to the order to be passed by the Allahabad High Court in Special Appeal Defective No.773 of 2018. He, therefore,

submits that after a period of three years, no direction should be issued, particularly when even subsequent elections have been held.

5. Sri Nipun Singh, learned counsel for the respondent no.3 submits that on the date when the writ petitions were allowed on 31.05.2018, it was the respondent no.3 society/committee that was continuing and it therefore continued to remain in power even after the order of the status quo passed by the Division Bench and held the elections dated 14.02.2021 and the list pertaining to the same has already been registered for the year 2021-22 and now the term of three years pursuant to the said elections would also be over in February, 2024. He further argues that the submission of petitioner that everything was done behind his back is not reflected from the record, particularly the order dated 28.02.2020 passed by the Assistant Registrar which reflects that copy of the same had been sent to the petitioner's side also. He also submits that even the petitioner also set up rival elections.

6. Considering the nature of dispute, particularly considerable period of time lapsed after the elections dated 18.02.2018 and then 14.02.2021, term whereof would also shortly come to an end and in absence of challenge to the order passed in the year 2021, at this belated stage in 2023 merely because the petitioners have filed an application which contains a prayer that the registration of the list of office bearers presented by the respondent no.3 be cancelled from retrospective effect, the Court is not inclined to issue any mandamus to the Assistant Registrar as the same would amount to reviewing even those proceedings which have attained finality long ago. However, non issuance of writ of mandamus should not be treated as any final opinion on the rival claims which are yet to be taken care of by the Division Bench in the pending special appeal.

7. The writ petition is, accordingly, **dismissed** with an observation that in case fresh elections are held by the respondent no.3, it shall be open for the petitioners to assail the same in accordance with law.

Order Date :- 9.11.2023
AKShukla/-