

Court No. - 10

Case :- WRIT - C No. - 26294 of 2023

Petitioner :- Mohd Yusuf Farooqui And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Raj Kamal Singh,Alok Mishra

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

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Alok Mishra, learned counsel for the petitioners, learned Standing Counsel for the respondents no.1, 2 and 3 and Sri Prabhakar Awasthi, learned counsel for the respondent no.4.

2. At the very out set, a preliminary objection has been raised by Sri Awasthi to the effect that against the order impugned dated 14.06.2023, remedy of appeal before the Commissioner of the Division has been provided under Section 25(1)(d) of the Societies Registration Act, 1850, as applicable in the State of U.P.

3. Sri Alok Mishra, learned counsel for the petitioners, has raised various submissions regarding merits of the case, however, he does not dispute that remedy of statutory appeal is available but submits that only one month's period has been provided for filing the appeal which has already expired in the month of July, 2023 and, therefore, even if the appeal is filed by the petitioners, the same shall be dismissed as barred by limitation.

4. Although, I find that proviso attached to Section 25(1)(d) of the Act authorizes the appellate authority to condone the delay in filing the appeal preferred beyond the prescribed period of time, considering the fact that this writ petition was filed in July, 2023 itself and certain defects were reported and, thereafter, it could not be heard, pendency of the writ petition before this Court is taken as a sufficient ground to condone the period of limitation by invoking the provisions of Section 14 of the Limitation Act, 1963.

5. The writ petition is **disposed of** permitting the petitioners to file an appeal under Section 25(1)(d) of the Act, 1860 before the Commissioner of the Division.

6. In case the appeal is filed **on or before 15.11.2023**, the same shall be decided on its **own merits** after hearing the petitioners as well as the respondent no.4 **on or before 31.01.2024** and shall not be dismissed on the ground of delay which has already been

condoned by this Court in exercise of powers under Article 226 of the Constitution of India read with Section 14 of the Limitation Act, 1963.

Order Date :- 26.10.2023
AKShukla/-