

Court No. - 10

Case :- WRIT - C No. - 27177 of 2023

Petitioner :- Renu Goyal And 4 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Harishchandra Dubey, Sr. Advocate

Counsel for Respondent :- C.S.C., Bhuvnesh Kumar Singh, Rohit Pandey, Samarath Singh, Sankalp Narain

Hon'ble Kshitij Shailendra, J.

1. Heard Sri R.K. Ojha, learned Senior Counsel, assisted by Sri H.C. Dubey, learned counsel for the petitioners, learned Standing Counsel for the respondents no.1, 3 and 4, Sri Abhishek Mishra, holding brief of Sri Rohit Pandey, for the respondent no.2 and Sri G.K. Singh, learned Senior Counsel, assisted by Sri Bhuvnesh Kumar Singh, for the respondent no.5.

2. Learned counsel for the petitioners is directed to correct the name of respondent no.6, which appears to be a typographical error, during the course of day.

3. By means of the present writ petition, an order dated 24.04.2023 passed by the Commissioner, Moradabad Division, Moradabad has been challenged. The said order was passed in an appeal purported to be under Section (1-A) of the Societies Registration Act, 1860 against an order dated 28.03.2023 passed by the Assistant Registrar, Firms, Societies and Chits, Moradabad.

4. Sri R.K. Ojha, the learned Senior Counsel, submits that the appeal was not maintainable and, even otherwise, the Commissioner has grossly erred in setting aside the order impugned before him, inasmuch as, the Assistant Registrar had simply called upon the Secretary of the Society to appear before him on a particular date along with certain original documents.

5. On the other hand, Sri G.K. Singh, learned Senior Counsel, submits that the list of office bearers was registered in 2022-23 and the petitioners along with few others submitted joint application/objections dated 24.03.2023 raising four objections which particularly related to certain names left out from the list of office bearers, with reference to 363/ 302/ alive members etc. It is, therefore, contended that since the Assistant Registrar went beyond the scope of objections and started carrying out a fresh exercise, the Commissioner has rightly interfered with the same.

6. This Court finds that the appeal before the Commissioner against the order dated 28.03.2023 was not maintainable. However, at the same time, considering the fact that the Assistant Registrar had, while issuing notice to the Secretary of the Society as well as one of the petitioners to appear before him and submit certain documents, declared the list already registered as ineffective and void, even if the order impugned is set aside on the ground of non maintainability of the appeal, it would revive the order dated 28.03.2023 in toto.

7. This Court, in writ jurisdiction, has to look into various aspects of a particular case and any case can be viewed from different angles. In the present case, there is an order dated 28.03.2023 before this Court which, in part, appears to be correct in view of certain left out members as prima facie noticed by the Assistant Registrar based upon the objections filed by the concerned parties but another part of the order declaring the list already registered as ineffective and void appears to be unsustainable.

8. Nevertheless, once objections were preferred pointing out certain discrepancies in the list and both the parties were put to notice, the Assistant Registrar should have awaited the response and then should have passed appropriate orders, rather than nullifying the list already registered merely on the basis of prima facie discrepancy about which, no evidence was led before him by the time when the order was passed.

9. Sri Ojha, learned Senior Counsel, submits that the last three lines of the order dated 28.03.2023 appear to be beyond jurisdiction of the Assistant Registrar at the stage when the same were mentioned in the order impugned, nevertheless the Assistant Registrar is fully competent to deal with the objections raised before him.

10. Considering the facts and circumstances of the case and without multiplying the litigation in one or other way, this petition is **disposed of** in the following terms:-

(i) The **order impugned dated 24.04.2023** passed by the Commissioner, Moradabad Division, Moradabad in Appeal No.641 of 2023 (Computerized No. C202313000000641) (Dhampur Mahila Shiksha Sabha Dhampur Vs. State of U.P. and others) is **set aside**.

(ii) The **last three lines contained in the order dated 28.03.2023** passed by the Assistant Registrar, Firms, Societies and Chits,

Moradabad declaring the list already registered as ineffective and null and void **are also set aside.**

(iii) The noticees under the order dated 28.03.2023 shall appear before the Assistant Registrar with relevant records **on 04.01.2024.**

(iv) The Assistant Registrar shall provide personal hearing to the noticees in support of their respective representations/ documents and shall fix date(s) with due intimation to them and, thereafter, shall pass appropriate orders in relation to the objections raised before him **by the end of February, 2024.**

Order Date :- 7.12.2023

AKShukla/-