

Court No. - 10

Case :- WRIT - C No. - 30847 of 2023

Petitioner :- Poonam Rai

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

Counsel for Petitioner :- Jitendra Kumar

Counsel for Respondent :- C.S.C., Amit Kumar Rai, Santosh Kr. Singh Paliwal

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Jitendra Kumar, learned counsel for the petitioner, learned Standing Counsel for respondent Nos. 1 and 2 and Shri Amit Kumar Rai, learned counsel for respondent Nos. 3 and 4, who appear through caveat.

2. Raising various allegations against certain proceedings terming the same to be fabricated, the petitioner filed certain applications before the Assistant Registrar including the application dated 24.02.2023 with a request that registration of Society be cancelled in exercise of power under section 12-D of the Societies Registration Act, 1860. It is this complaint, which has been rejected by the order impugned dated 17.06.2023.

3. A preliminary objection has been raised by Shri Amit Kumar Rai, learned counsel for private-respondents that the writ petition is not maintainable in view of availability of alternative remedy of filing appeal under section 12-D(2) of the Societies Registration Act, 1860.

4. In this regard, Shri Jitendra Kumar learned counsel for the petitioner submits that the petitioner's documents and contentions were not considered in correct perspective by the Assistant Registrar in the light of section 4-B of the Act nor the records as required to be produced and perused have been looked into and, in a cursory manner, the complaint has been rejected on hypothetical grounds. He has argued on merits of the order impugned on this line.

5. Learned Standing Counsel submits that whether the registration of the Society is cancelled or such cancellation is denied, under both circumstances, an appeal would lie under section 12-D (2) of the Societies Registration Act, 1860.

6. Having heard the learned counsel for the parties, prayer to quash the order impugned is declined in view of the availability of alternative remedy of appeal under section 12-D (2) of the Act.

7. Learned counsel for the petitioner submits that even if the petitioner files an appeal now, the same shall be dismissed as barred by limitation in view of one month period prescribed for the said purpose, which has already expired in July, 2023.

8. Considering the facts and circumstances of the case, the writ petition is **disposed of** permitting the petitioner to file statutory appeal before the Commissioner. In case, the appeal is filed **in the month of November, 2023**, the same shall be registered and shall be decided on merits after providing full opportunity of hearing to the petitioner-appellant as well as respondent Nos. 3 and 4, strictly in accordance with law **by the end of March, 2024** and shall not be dismissed on the ground of limitation, which period has been condoned by this Court.

Order Date :- 2.11.2023

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