

Court No. - 10

Case :- WRIT - C No. - 29747 of 2023

Petitioner :- C/M Kshetriya Shiksha Samiti And Another

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

Counsel for Petitioner :- Bachchu Lal Yadav

Counsel for Respondent :- CSC

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Babu Lal Yadav, learned counsel for the petitioners and Sri I.P. Srivastava, learned Additional Chief Standing Counsel for the respondents no.1, 2 and 3.

2. This writ petition has been reported to be beyond time by 127 days, however, the Court proceeds to examine the case on merits.

3. By the order impugned dated 17.01.2023, the Deputy Registrar, Firms Societies and Chits, Agra (respondent no.2) has referred the matter to the Prescribed Authority under Section 25(1) of the Societies Registration Act, 1860 for taking appropriate decision in the matter.

4. The submission of learned counsel for the petitioners is that the order impugned is unsustainable for the reason that the reference can be made if there is a dispute regarding elections or office bearership, however, in the present case, the matter of renewal of registration of the society has been referred. He submits that renewal is done in the interest of society and this aspect is separate from the election dispute.

5. Sri I.P. Srivastava, learned Additional Chief Standing Counsel, on the other hand, submits that when the matter of renewal came before the Deputy Registrar, two rival parties relied upon two rival set of elections, one dated 22.08.2021 and the other dated 27.01.2020 and their right to get the registration of the society renewed was dependent upon the validity of the elections and, therefore, the Deputy Registrar was justified in making a reference to the Prescribed Authority.

6. Having heard the learned counsel for the parties, I find that under the Scheme of the Act, 1860, particularly, Section 25 (1) thereof, whenever any doubt or dispute arises in respect of the elections or continuance in office or office bearers of the society, the matter should be referred to the Prescribed Authority who is

competent to set aside the elections. Therefore, if two rival sets of elections had come before the Deputy Registrar, he was justified in making a reference. The submission of the petitioners that renewal of registration cannot be associated with election dispute, is not acceptable to this Court in the facts of the case, particularly when two rival claimants are fighting amongst themselves for attaching validity to the elections. In case such a dispute is not decided by the Prescribed Authority, even right to get the renewal of the society would give rise to multiplicity of proceedings and, therefore, once this Court is satisfied that the Prescribed Authority is the final authority to determine the election dispute, no illegality can be found in the order impugned.

7. At this stage, learned counsel for the petitioner submits that about 11 months have passed from the date of passing of the order impugned, however, till today, neither the Prescribed Authority has registered the reference nor called upon anyone to address him.

8. In the facts and circumstances of the case, while declining to interfere with the order impugned dated 17.01.2023, the writ petition is **disposed of** directing the Prescribed Authority/ Up Ziladhikari, Tehsil Atrauli, District Aligarh (respondent no.3) to register the reference made by the Deputy Registrar, if not already registered, and decide the same in accordance with law **on or before 31.03.2024** after providing full opportunity to the parties concerned, provided a certified copy of this order is produced before the Prescribed Authority with a photostat copy addressed to the Deputy Registrar concerned, **in the month of November, 2023 itself.**

Order Date :- 7.11.2023

AKShukla/-