

Court No. - 8

Case :- WRIT - C No. - 7868 of 2023

Petitioner :- C/M, Madarsa Ashraful Uloom, Amethi Thru. Manager, Akhlaque Ahmad And Another

Respondent :- State Of U.P. Thru. Prin. Secy., Institutional Finance, Lucknow And 3 Others

Counsel for Petitioner :- Rakesh Chandra Tewari, Pawan Kumar Pandey

Counsel for Respondent :- C.S.C., Ghulam Mohammad Kamil

Hon'ble Pankaj Bhatia, J.

Heard Sri R.C.Tewari, learned counsel for petitioners, Sri G.M.Kamil, learned counsel for respondent no.4 and learned Standing Counsel for the State-respondents.

By means of this petition, the petitioners have challenged an order dated 14.08.2023 whereby the Deputy Registrar, in exercise of power under Section 25 (1) of Societies Registration Act, has referred the matter before the Prescribed Authority.

The facts, in nutshell, leading to filing of writ petition are that in the past, a dispute arose in between the members with regard to membership which is subject matter of Writ-C No.6665 of 2018 wherein this Court had passed interim order directing the holding of elections on 05.03.2018 amongst the 68 members of the general body. The said writ petition is said to be pending.

After the holding of the elections in the year 2018, when the term of election came to be an end, the petitioners claimed that they held an election from amongst 59 surviving members out of the 68 members whereas the claim of the respondents is that they had also held an election from amongst the same set of members. It is common ground in between the parties that out of 68 members list, mentioned in the order dated 05.03.2018 passed in Writ-C No.6665 of 2018, some members have died and 59 members are said to be surviving from amongst the said members, both the rival parties claimed that they had conducted the elections. The election held by the petitioners was submitted before the Deputy Registrar which accepted the election held by the petitioner on 02.03.2023 by means of an order dated 17.05.2023. The said order came to be challenged before this Court in Writ-C No.4704 of 2023 whereby this Court on 31.05.2023 remanded the matter for consideration of objection filed by the respondents. In terms of the said order, the order impugned came to be passed on 14.08.2023. The Deputy Registrar by means of the order has formed a view that the petitioners as well as the respondents claimed to have got two separate elections conducted on 02.03.2023. In view of

there being a dispute, the Deputy Registrar exercising the powers under Section 25 (1) of the Societies Registration Act has referred the matter to the Prescribed Authority.

Learned counsel for petitioners argued that the impugned order dated 17.05.2023 does not *prima facie* refer any infraction with regard to the elections held on 02.03.2023 and no *prima facie* satisfaction with regard to the alleged elections held by the respondents also on 02.03.2023 have been recorded, to form a view that there existed a dispute with regard to the elections.

Reliance is placed upon judgment of this Court in the case of ***Committee of Managment, Chacha Nehru Vidyalyaya, Kumbhi through its Manager vs. State of U.P. through Secretary, Ministry of Society Chits, U.P. Lucknow and others, reported in (2012) 93 ALR 753***, wherein this Court has held as under:-

"5. The contention of the petitioner could have been accepted provided there was some material to even prima facie establish that the petitioner's claim of entering into the society is based on any valid material. There is nothing either on the record nor there was anything before the Assistant Registrar and therefore the Assistant Registrar is not bound to refer every dispute, inasmuch as, it is only a bonafide claim which can be gone into for the purpose of deciding the claim of rival parties under Section 25 of the Societies Registration Act. The Assistant Registrar is not a mere post office as held by this Court in the Division Bench of this Court in case of Committee of Management, Kisan Shiksha Sadan, Banksahi, District Basti vs. Assistant Registrar, Firms, Societies and Chits, Gorakhpur Region, Gorakhpur."

In the case referred to by learned counsel for petitioners, no material whatsoever was submitted by the respondents, as such, the observation of the Court in para-5 as quoted above, was relevant, however in the present case, both the parties claimed to have conducted separate elections on 02.03.2023.

In view of rival claims, the Deputy Registrar has rightly referred the matter to the Prescribed Authority in terms of the mandate of Section 25 (1) of the Societies Registration Act. I do not see any reason to interfere with the said order.

The petition is disposed of with the direction to the Prescribed Authority to hear and decide the dispute with all expedition, preferable within a period of two months from the date of receipt of a certified copy of this order.

Order Date :- 16.10.2023

Renu/-