

**Court No. - 7**

**Case :-** WRIT - C No. - 9729 of 2023

**Petitioner :-** Prabandh Samiti Kisan Junior High School Saiyan, Sitapur Thru. Member Deshraj Verma And Ors.

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

**Counsel for Petitioner :-** Desh Raj Singh, Sharad Pathak

**Counsel for Respondent :-** C.S.C., Anil Kumar Maurya, Siddharth Raj Gupta

**Hon'ble Abdul Moin, J.**

1. Vakalatnama filed today by Shri Pt. S. Chandra, Advocate, on behalf of respondent no. 4 is taken on record.
2. Heard learned counsel for the petitioners, learned Standing Counsel for the respondents no. 1 to 3 and Shri Pt. S. Chandra, learned counsel for the respondent no. 4.
3. The instant writ petition has been filed praying for quashing of the orders dated 26.09.2023 and 16.10.2023, copies of which are annexures 1 and 2 respectively to the writ petition. A further prayer is for quashing of the order dated 19.10.2023, a copy of which is annexure 3 to the petition.
4. By means of the order dated 26.09.2023, a provisional list of 75 members has been issued. By means of the order dated 16.10.2023 an election officer has been nominated and has been required to hold the elections of the society. Vide order dated 19.10.2023 the dates of elections have been notified.
5. A preliminary objection has been raised by Shri Pt. S. Chandra, learned counsel for the respondent no. 4 that considering the division bench judgements of this Court in the case of **Committee of Management Maharana Pratap Vidyalaya Prabhand Samiti vs State of U.P. and others, 2013 (10) ADJ 532** and **Basant Prasad Srivastava vs State of U.P. and others, AIR 1994 All. 112** as the elections have been

notified and the election schedule has been published consequently the law laid down by constitution bench of Hon'ble Supreme Court in the case of **N.P. Ponnuswami vs Returning Officer, AIR 1952 SC 64** would be attracted and the division bench in the case of **Maharana Pratap Vidyalaya Prabhand Samiti (supra)** has categorically held that in order to avoid a large number of petitions filed for quashing of orders passed by education authorities during the process of election and seeking directions to them, the principles of law laid down by Hon'ble Supreme Court in the case of **N.P. Ponnuswami (supra)** would be attracted. Thus it is prayed that the instant writ petition be dismissed on the preliminary objection as it is always open for the petitioners to challenge the result of the elections before appropriate forum.

6. On the other hand, learned counsel for the petitioners has placed reliance on the single judge judgement of this Court in the case of **Shiv Narain Agarwal & others vs State of U.P., 2021 (39) LDC 2237** to argue that this Court has held that there is no constitutional bar for entertaining writ petitions challenging election process of societies registered under Societies Registration Act.

7. Perusal of the judgement passed by the Hon'ble Single Judge in the case of **Shiv Narain Agarwal (supra)** would indicate that Hon'ble Single Judge had not considered the division bench judgement of this Court in the case of **Maharana Pratap Vidyalaya Prabhand Samiti (supra)** wherein it has categorically been held that the principles of law laid down by Hon'ble Supreme Court in the case of **N.P. Ponnuswami (supra)** restraining the courts from interfering in the process of election after elections are notified has been held applicable to the elections of the office bearers of the committee of

management of the societies as well as the committee of management to be elected under the provisions of scheme of administration of educational institutions.

8. The division bench also held that the courts should keep their hands off in electoral matters and that all election disputes must be tried by election tribunal which principle would also be applicable to the educational institutions and elections arising therefrom.

9. Thus, it is the division bench judgement in the case of **Maharana Pratap Vidyalaya Prabhand Samiti (supra)** which would be binding on this Court.

10. Keeping in view the aforesaid discussion, the preliminary objection is upheld. The writ petition is **dismissed** leaving it open to the petitioners to challenge the elections before the appropriate court in appropriate proceedings.

**Order Date :- 6.11.2023**  
J.K. Dinkar