

A.F.R.
Neutral Citation No. - 2024:AHC-LKO:64430
RESERVED

Case :- WRIT - C No. - 3418 of 2022

Petitioner :- Arya Pratinidhi Sabha, Lucknow Thru. Pradhan Devendra Pal Verma And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Institutional Finance, Lko. And Others

Counsel for Petitioner :- Lalta Prasad Misra, Atul Kumar Dwivedi, Vineet Bihari Patel

Counsel for Respondent :- C.S.C., Gaurav Mehrotra, Maria Fatima, Nadeem Murtaza, Nakul Pathak, Ratnesh Chandra, Santosh Kumar Tripathi, Sharad Dwivedi, Sonal Bajpai

ALONGWITH

Case :- WRIT - C No. - 14794 of 2021

Petitioner :- Arya Pratinidhi Sabha Thru. Mantri/Secy. And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Finance Lko And Others

Counsel for Petitioner :- Ratnesh Chandra, Abhinav Singh

Counsel for Respondent :- C.S.C., Atul Kumar Dwivedi, Gaurav Mehrotra, Lalta Prasad Misra, Santosh Kumar Tripathi

Hon'ble Jaspreet Singh, J.

1. The instant two petitions have been filed by Arya Pratinidhi Sabha, a society registered under the Societies Registration Act, 1860 (for short, "the Act of 1860") having its registered office at 5, Meerabai Marg, Lucknow. However, in both the petitions, the society is represented by different officer bearers inasmuch as in WRIT-C No.3418/2022, it is represented by its alleged President Shri Devendra Pal Verma, who is the petitioner No.2 whereas in WRIT-C No.14794/2021, it is represented through its Secretary namely Shri Bhuwan Tiwari, who is impleaded as petitioner No.2, therein.

2. There is an internal conflict relating to the management of the society and as such four set of factions have claimed rights on the basis of four separate alleged elections. One faction has set up their rights on the basis of an election said to have been held on 21.03.2021 wherein Shri Devendra Pal Verma is said to have been elected as a President, who has filed WRIT-C No.3418/2022. The second faction is led by Shri Bhuwan Tiwari, who

has filed WRIT-C No.14794/2021 wherein he claims rights on the basis of his election allegedly held on 20.02.2021. The third faction is led by Shri Vivek Singh, who alleges that his election was held on 07.03.2021, though Shri Vivek Singh is not a party in WRIT-C No.14794/2021 but he is impleaded as respondent No.5 in WRIT-C No.3418/2022. The fourth faction is led by Shri Ram Ratan Chaturvedi, who claims rights on the basis of an alleged election dated 27.11.2021. Shri Chaturvedi has not been impleaded in WRIT-C No.14794/2021, but he is respondent No.6 in WRIT-C No.3418/2022.

3. Since, contesting parties are all represented in WRIT-C No.3418/2022 and it encompasses all the warring factions, hence, this Court for the sake of convenience shall consider and refer to the parties as they are impleaded in WRIT-C No.3418/2022. The issue involved in both the petitions is common, hence, by deciding the controversy in terms of WRIT-C No.3418/2022, it shall also dispose of WRIT-C No.14794/2021. Accordingly, both the petitions are being decided by this common judgment.

4. The faction led by Shri Devendra Pal Verma, the petitioner of WRIT-C No.3418/2022 is represented by Dr. L.P. Misra and Shri Atul Kumar Dwivedi, learned counsel. The faction of Bhuwan Tiwari is represented by Shri Ratnesh Chandra, who is the counsel for the petitioner in the connected WRIT-C No.14794/2021. The third faction led by Shri Vivek Singh, who is respondent No.5 and is represented by Shri Nadeem Murtaza, Advocate and the fourth faction led by Shri Ram Ratan Chaturvedi, who is respondent No.6, is represented by Shri Gaurav

Mehtrotra, Advocate.

5. Under challenge in WRIT-C No.3418/2022 is the order passed by the respondent No.2 dated 23.04.2022 whereby the Deputy Registrar, Society, Chit and Fund, Lucknow Region has referred the matter to the Prescribed Authority in terms of Section 25(1) of the Act of 1860. While doing so, the Deputy Registrar noticed that four separate factions have set up their own separate elections and in terms of the legislative prescription, the Deputy Registrar is mandated to refer the matter to the Prescribed Authority who is the competent authority to decide the validity of the rival elections set up by the four separate factions.

6. In the connected WRIT-C No.14794/2021 which was filed prior in time to the WRIT-C No.3418/2022, a challenge has been made to the order impugned and said to have been passed by the Deputy Registrar registering the list of Members of Managing Committee of the Society in context with an election allegedly held on 26.03.2021 wherein Shri Devendra Pal Verma (who is the petitioner No.2 in WRIT-C No.3418/2022) was elected as the President and a further prayer has been made to register the names of the Committee Members of the faction led by Bhuwan Tiwari in pursuance of the election said to have been held on 20.02.2021.

7. This ongoing litigation between the warring factions has a chequered and a long drawn history. Several writ petitions have been filed and were decided by this Court from time to time. In order to appreciate the controversy involved in the instant two petitions, it will be worthwhile to take a glimpse in the past through the background facts:-

BACKGROUND FACTS

8. Historically, Arya Samaj was founded by Swami Dayanand Saraswati in the year 1875 with the prime objective to promote social, spiritual, cultural upliftment of the society. The aforesaid Arya Samaj has a four tier composition namely (i) Sarvadeshik Arya Pratinidi Sabha (ii) Pradeshik Arya Pratinidhi Sabha (iii) Zila Arya Pratinidhi Sabha (iv) Arya Samaj Units.

9. The Arya Pratinidhi Sabha was formed in the State of Uttar Pradesh on 03.07.1987 and was duly registered under the provisions of the Societies Registration Act, 1860. The Arya Pratinidhi Sabha has its own registered bye-laws which regulate and governs the functioning of the Society. The bye-laws also define the constitution of the Arya Pratinidhi Sabha and further elucidates the powers and duties of the General Body, the Governing Body as well as the office bearers of the Governing Body. The registered office of Arya Pratinidhi Sabha is situate at Narayan Swami Ashram at 5 Meera Bai Marg, Lucknow.

10. There are approximately 300 units of Arya Samaj spread over the various districts within the State of Uttar Pradesh which constitutes the electoral units of the Arya Pratinidhi Sabha to elect its general body. The General Body of the Arya Pratinidhi Sabha elects its own Governing body which is known as 'Antrang Sabha'. The Sarvadeshik Arya Pratinidhi Sabha at New Delhi has its own rules which are known as Rules-Sub Rules of Arya Samaj. The aforesaid rules are binding over every Arya Samaj Unit which is affiliated with the Pradeshik Arya Pratinidhi Sabha.

11. The last undisputed elections of Arya Pratinidhi Sabha was held on 27.03.2016. Term of the said Committee of governing body was of 5 years and it expired on 26.03.2021. In the last undisputed election, a Committee of 90 Members was constituted wherein Shri Devendra Pal Verma was elected as the President while one Dr. Dheeraj Singh (now deceased and in the instant context he belonged to the faction of the private-respondent No.6 namely Ram Ratan Chaturvedi).

12. It is soon after the election on 27.03.2016 that the disputes emerged and certain charges were leveled against Devendra Pal Verma and the Deputy Registrar vide his order dated 09.11.2016 restrained Shri Verma from performing his duties as the President of Arya Pratinidhi Sabha and by the said order charge was handed over to Dr. Dheeraj Singh.

13. Shri Devendra Pal Verma preferred a writ petition before this Court at Lucknow bearing Writ Petition No.10563 (MS) of 2017. In the meantime, the Deputy Registrar, Firms, Societies and Chits passed an order dated 16.01.2017 whereby the charge which was given to Dr. Dhiraj Singh was modified as a result the charge was now directed to be given to Smt. Gayatri Dixit.

14. Now, it was the turn of Dr. Dhiraj Singh to prefer a Writ Petition bearing No. 1829 (MS) of 2017 wherein he assailed the order dated 16.01.2017 by means of which the charge of the Pradhan which was given to him was directed to be handed over now to Smt. Gayatri Dixit.

15. During this period, another interesting event took place, inasmuch as, the General Body of the Arya Pratinidhi Sabha by means of its Resolution

dated 26.03.2017 expelled Shri Devendra Pal Verma from the post of President as well as from the membership of the Society for a period of 6 years for various irregularities committed and as the actions of Shri Verma were not found to be in the interest of the Society.

16. Shri Devendra Pal Verma preferred a complaint before the Deputy Registrar, Firms Societies and Chits against the said Resolution dated 26.03.2017 and challenging his expulsion from the membership of the Society upon which the Deputy Registrar by means of its order dated 30.03.2017 stayed the proceedings and the operation of the resolution dated 26.03.2017.

17. Dr. Dhiraj Singh preferred another writ petition bearing Writ Petition No.7613 (M/S) of 2017 assailing the order passed by the Deputy Registrar dated 30.03.2017 staying the resolution dated 26.03.2017 by which Shri Devendra Pal Verma was expelled.

18. Again in a meeting of the Governing Body held on 23.07.2017, the petitioner Dr. Dhiraj Singh was elected as Pradhan for the remaining term up to 26.03.2021 and in the same meeting the membership of Smt. Gayatri Dixit was also terminated on the ground that she was ineligible for membership in terms of Clause 2 (e) (b) (1) and (2) of the bye-laws.

19. Now, Smt. Gayatri Dixit filed a complaint dated 25.07.2019 before the Deputy Registrar against the decision terminating her membership taken by the Governing Body in the meeting held on 23.07.2017.

20. All the three petitions bearing Writ Petition No.1829 (MS) of 2017, Writ Petition No.10563 (MS) of 2017 and Writ Petition No.7613 (MS) of

2017 were clubbed together and decided by means of order dated 30.07.2019. As a result, the orders impugned in the aforesaid three writ petitions were set aside and the matter was remitted to the Deputy Registrar, Firm Societies and Chits to decide the matter afresh and till such decisions, the parties were directed to maintain status-quo. The relevant portion of the said order dated 30.07.2019 passed by this Court on the three clubbed petitions, is being reproduced hereinafter.

"4. So far as impugned orders dated 09.11.2016, 16.01.2017 and 30.03.2017 are concerned, counsels for both the parties agree that the aforesaid order may be set aside. However, the issue as to whether Shri Devendra Pal Verma is entitled to hold any post in the society or not be left to be reproduced decided after decision of the Deputy Registrar with regard to reproduced membership.

5. In view of aforesaid, following order is being passed:-

(i) The impugned orders dated 09.11.2016, 16.01.2017 and 30.03.2017 are set aside.

(ii) All the parties may approach the Deputy Registrar, Firms, Societies and Chits, Lucknow within a period of two week from today raising all their submissions including with regard to membership of Shri Devendra Pal Verma and Smt. Gaytri Dixit. The said matters shall be decided by the Deputy Registrar by a reasoned and speaking order, in accordance with law, after hearing all the parties concerned, within a period of two months from the date a certified copy of this order is placed before him.

(iii) It is provided that authority of Shri Devendra Pal Verma to hold any post including the post of president in the society will depend upon the final order passed by the Deputy Registrar, Firms, Societies and Chits, Lucknow with regard to membership.

(iv) Till final decision of the Deputy Registrar, parties shall maintain status-quo.

6. With the aforesaid, all these writ petitions are disposed of."

21. In furtherance and as per the directions given by this Court in its judgment dated 30.07.2019, the Deputy Registrar called upon the parties concerned to file their respective pleadings and submissions.

22. While the matter was still pending before the Deputy Registrar, in the meantime, the elected Secretary of the Society namely Swami

Dharmeshwaranand Saraswati expired on 23.10.2019.

23. Soon thereafter, the Deputy Registrar after considering the submissions and the pleadings of the respective parties passed its final order dated 02.11.2019. By means of the said order, the Deputy Registrar, Firms Societies and Chits, did not find any error in the Resolution expelling Shri Devendra Pal Verma as his primary Membership had been terminated. It also noted that Smt. Gayatri Dixit had already submitted that her termination has already been revoked, thus, no further adjudication was required on her representation/complaint, hence, in effect the order dated 02.11.2019 primarily focused on the issue of the expulsion of Shri Devendra Pal Verma and the same was upheld by the Deputy Registrar.

24. Shri Devendra Pal Verma assailed the said order dated 02.11.2019 by means of Writ Petition No.4515 (MS) of 2020. He also assailed the consequential order dated 07.11.2019 whereby the list of office bearers as submitted by Dr. Dhiraj Singh was registered by the Deputy Registrar.

25. Dr. Dhiraj Singh in capacity as President circulated an agenda calling for the meeting of the Society to be convened on 01.12.2019 primarily to fill up the post of the Secretary of the Society which had fallen vacant on account of death of Shri Dharmeshwara Nand Saraswati.

26. The meeting of the Governing Body was held on 01.12.2019, however, no business was transacted and after offering due condolences on account of demise of late Shri Dharmeshwara Nand Saraswati, the meeting of the Governing Body was adjourned for 15.12.2019.

27. In the meeting held on 15.12.2019 for the purposes of filling up the

vacancy of the Secretary, the names of the Deputy Secretaries were discussed and Shri Gyanendra Singh's candidature was discussed and by majority he was found suitable and was nominated as the Secretary of the Society.

28. The nomination of Shri Gyanendra Singh as Secretary of the Society was duly ratified by the other office bearers including the Treasurer and the President. The said Resolution was also communicated to the Bank where the Society held its accounts attesting the signatures of Shri Gyanendra Singh. The nomination of Shri Gyanendra Singh as Secretary was also duly published in the Hindi weekly news letter "Arya Mitra" published by the Arya Pratinidhi Sabha for wide circulation and information to all members and persons concerned.

29. On 28.12.2019, the petitioner Dr. Dhiraj Singh also sent a copy of the Minutes of the meeting dated 15.12.2019, the agenda dated 05.11.2019 as well as information regarding nomination of Shri Gyanendra Singh as the Secretary of the Society to the Deputy Registrar.

30. One Shri Vishal Singh in his representation/complaint dated 03.01.2020 depicted himself as the Officiating Secretary of the Arya Pratinidhi Sabha. It was alleged by him that though he was the Deputy Secretary but upon the death of Shri Dharmeshwara Nand Saraswati, he automatically became the officiating Secretary of the Society, hence, the entire proceedings initiated by the meeting dated 01.12.2019, 15.12.2019 as well as the Agenda dated 05.11.2019 issued by Dr. Dhiraj Singh was unlawful and void.

31. Shri Vishal Singh also complained to the Deputy Registrar that upon the death of Shri Dharmeshwara Nand Saraswati, the post of Secretary was lying vacant and as such directions be issued for calling upon a meeting for filling up the post of the Secretary in due accordance with the rules and bye-laws of the Society.

32. Upon the representation/complaint of Shri Vishal Singh, the Deputy Registrar passed an order dated 09.01.2020 addressed to Dr. Dhiraj Singh and directed him to call for a meeting of the "Antrang Sabha" of Arya Pratinidhi Sabha and fill the post of Secretary in accordance with the bye-laws and within 15 days inform the Deputy Registrar of it.

33. Dr. Dhiraj Singh upon receiving the said notice/order dated 09.01.2020 submitted a detailed reply before the Deputy Registrar on 17.01.2020 informing him of the entire exercise undertaken for nominating the Secretary and that Shri Gyanendra Singh had already been appointed as the Secretary. It was also informed that the minutes of the meeting and other relevant documents were already submitted before the Deputy Registrar on 28.12.2019. It was also stated that Shri Vishal Singh who had attended the meeting dated 15.12.2019 wherein his candidature was considered but as the majority found him unsuitable as he was holding a post with the State Government, hence, all these facts had been concealed by Shri Vishal Singh and he has mislead the Deputy Registrar to issue the said order dated 09.01.2020. Hence, it was prayed that the order dated 09.01.2020 be recalled.

34. Shri Vishal Singh in his alleged attempt to usurp control of the Society moved another representation/complaint before the Deputy

Registrar alleging that the meeting called by Dr. Dhiraj Singh as President on 01.12.2019, 15.12.2019, 02.02.2020 and 14.03.2020 were void and impermissible and the same may not be accepted or given effect to. Shri Vishal Singh levelled various allegations against Dr. Dhiraj Singh that few members and office bearers had also filed affidavits raising a protest against Dr. Dhiraj Singh and a meeting of the Governing Body be called, to be supervised by the Deputy Registrar, Firms Societies and Chits.

35. Once the Deputy Registrar received complaint dated 31.01.2020, he issued another letter to Dr. Dhiraj Singh on 01.02.2020 calling upon Dr. Dhiraj Singh to submit his reply.

36. Shri Dhiraj Singh informed that in the meeting dated 02.02.2020 vide Resolution No. 11, Shri Vishal Singh was expelled from the membership as well as from the post of Deputy Secretary. Shri Vishal Singh did not challenge the said decision dated 02.02.2020 regarding his expulsion, however, in order to browbeat, he issued an illegal agenda on 03.02.2020 while ante-dating the same to 30.01.2020 for convening a meeting on 16.02.2020 at the head office of the Society at Lucknow mainly for considering a 'No Confidence Motion' against Dr. Dhiraj Singh and also for filling up the vacancy for the post of Secretary.

37. As in the alleged meeting dated 02.02.2020 the Governing Body of the Society had expelled Shri Vishal Singh, hence, Dr. Dhiraj Singh also sent another amended list of members to the Deputy Registrar on 05.02.2020. Shri Vishal Singh by means of his letter dated 14.02.2020 addressed to the Registrar sought an Observer for supervising the alleged meeting slated for 16.02.2020. The Registrar, Firms Societies and Chits by

means of his order dated 14.02.2020 and addressed to the Assistant Registrar required the Assistant Registrar to do the needful for appointing an Observer for the meeting dated 16.02.2020. In furtherance thereof the Deputy Registrar informed the Registrar that as per his request from Deputy Registrar, Faizabad, Deputy Registrar, Kanpur , Assistant Registrar, Azamgarh and Assistant Registrar, Gorakhpur anyone may be appointed as the Observer. Accordingly, the Assistant Registrar, Firms Societies and Chits, Azamgarh was appointed as Observer under whose supervision the meeting dated 16.02.2020 was to be held.

38. As per Dr. Dhiraj Singh on the alleged date 16.02.2020 on account of commotion and ruckus created by the members at the behest of Shri Vishal Singh, the meeting could not take place, so much so, that the head office of the Society was locked by the police and the Observer so appointed also noticed the same while submitting its report to the Registrar that no meeting was held for the said reason.

39. As per Shri Vishal Singh, the meeting took place on 16.02.2020 and a resolution was passed by means of which the President Dr. Dhiraj Singh was removed as the No Confidence Motion was passed successfully by the members.

40. It is in furtherance thereof that the alleged list of office bearers was submitted by Shri Vishal Singh before the Deputy Registrar on 17.03.2020 upon which the Deputy Registrar passed an order dated 19.03.2020 directing the said list to be registered.

41. It is this order dated 19.03.2020 which was assailed by the Dr. Dhiraj

Singh in Writ Petition No. 9735 (MS) of 2020 as well as the consequential order dated 20.03.2020 by means of which amended list of office bearers of the Governing Body of the Society has been registered for the year 2019-2020.

42. In light of the aforesaid disputes, this Court by means of its detailed judgment and order dated 07.06.2021 allowed the petition filed by Dr. Dheeraj Singh and dismissed the petition filed by Shri Devendra Pal Verma.

43. The order passed by this Court dated 07.06.2021 was made the subject matter of a Special Appeal No.217/2021 wherein the Division Bench of this Court by means of the judgment and order dated 01.07.2021 disposed of the special appeal with the following observations, which have been reproduced hereinafter for ready reference.

"Mr. Gaurav Mehrotra, learned counsel appearing on behalf of respondent no.1 has taken the Court to the judgment under challenge, particularly paragraph 117 to point out that the matter has been remitted by learned Single Judge to the Deputy Registrar with a direction that Deputy Registrar shall after affording full opportunity of hearing to the parties concerned, shall reconsider the entire matter in the light of the observations made in the order, which may not be taken as an expression on merit of the case and on the basis of material on record decide the matter afresh on merit by passing a reasoned and speaking order, strictly in accordance with law, preferably within four months from the date an authenticated copy of the judgment is placed before the authority concerned."

44. Shri Devendra Pal Verma had also filed a Civil Misc. Review Application No.94/2021 against the judgment of this Court dated 07.06.2021 passed in WRIT-C No.4315 of 2020 whereby the petition of Shri Verma had been dismissed.

45. Initially the said review petition was also clubbed with the instant petitions, however, a request had been made that the review petition be decided first in point of time before considering these two petitions. Accordingly, after hearing the parties on review, this Court by means of the order dated 16.08.2023 dismissed the review application and the relevant portion thereof reads as under:-

"23. Considering the aforesaid submissions which though on the first blush may sound attractive but there are certain chinks in the said armour of submissions made by the learned counsel for the review-petitioner which are noticed as under:-

(a) It is not disputed that by means of order dated 30.07.2019, the order dated 09.11.2016 along with orders dated 06.01.2017 and 30.03.2017 were set aside by a coordinate Bench of this Court on 30th July, 2019. Thus, apparently, since then the order dated 09.11.2016 ceased to exist, but at the same time, the coordinate Bench in its order dated 30.07.2019 had directed the parties to maintain status-quo and had directed the Deputy Registrar, Firms, Societies and Chits, Lucknow to decide all issues including the issue of membership of Devendra Pal Verma as well as his authority to hold a post in Arya Pratinidhi Sabha.

(b) What is significant to note is that after the order passed by this Court on 30.07.2019 and while the matter was seized by the Deputy Registrar, Firms, Societies and Chits, Lucknow who was conducting the hearings in light of the directions issued by this Court on 30.07.2019. It was also brought to his notice that the primary membership of Devendra Pal Verma had been terminated in meeting dated 24.07.2019 (prior to the order passed by a coordinate Bench of this Court dated 30.07.2019). This is perhaps the reason that the coordinate Bench while issuing the directions in its order dated 30.07.2019 categorically provided that the Deputy Registrar, Firms, Societies and Chits, Lucknow would consider all issues regarding the membership of Sri Devendra Pal Verma and the issue whether Devendra Pal Verma would have the authority to hold any post of President in the Society would depend on the final orders to be passed by the Deputy Registrar, Firms, Societies and Chits, Lucknow. It is for the said reason that till the final decision of the Deputy Registrar, Firms, Societies and Chits, Lucknow, the parties were directed to maintain status-quo.

(c) The very fact that if a person loses his primary membership in a District Arya Samaj then he is not entitled to hold a post in the Arya Pratinidhi Sabha which is the apex body. Thus, once the primary membership of Devendra Pal Verma had been terminated on 24.07.2019, hence, he could not be permitted to hold the post of President and all these issues were yet to be decided by the Deputy Registrar, Firms, Societies and Chits, Lucknow, accordingly, the Court had safeguarded the

rights of the respective parties by directing them to maintain status-quo.

(d) Admittedly, the order dated 30.07.2019 has not been set aside nor challenged rather it was acceded to by the parties who participated in the proceedings before the Deputy Registrar, Firms, Societies and Chits, Lucknow. It is in the aforesaid factual backdrop, the issue before the Deputy Registrar, Firms, Societies and Chits, Lucknow was two fold;

(i) the correctness of removal of Devendra Pal verma in pursuance of the order dated 09.11.2016 which had been set aside and its effect;

(ii) the removal of Devendra Pal Verma from the primary membership of Arya Samaj, Muzaffarnagar on 24.07.2019 and its effect.

(e) Taking a complete view of the matter including the various pleadings and contentions, the Deputy Registrar, Firms, Societies and Chits, Lucknow by a detailed order dated 02.11.2019 rejected the representation of Sri Devendra Pal Verma. This was challenged in W.P. No. 4515 (MS) of 2020. This Court while considering W.P. No. 4515 (MS) of 2020 was required to adjudge the correctness of the order dated 02.11.2019 and 07.11.2019 in exercise of its power of judicial review. It may be reminded that this Court does not act as an Appellate Authority. Taking the consideration and looking into the facts which were brought before the Deputy Registrar, Firms, Societies and Chits, Lucknow at the relevant point of time when the order was passed, this Court concluded that no error could be found in the order passed by the Deputy Registrar, Firms, Societies and Chits, Lucknow, therefore to that extent this Court does not find that there is any merit in the submissions of the learned counsel for the review-petitioners in so far as they have tried to link up the entire issue of membership with that of the order dated 09.11.2016.

(f) In so far as the issue raised regarding the restoration of the membership of Devendra Pal Verma is concerned, it would be found that the primary membership of Devendra Pal Verma was terminated on 24.07.2019, as noticed above, prior to the order dated 30.07.2019. The review-petitioner in his rejoinder affidavit dated 18.03.2021 in paragraphs 10 to 14 stated that the Arya Samaj, Muzaffarnagar has reversed the resolution dated 24.07.2019 and has restored the primary membership of the review-petitioner by means of resolution dated 19.07.2020 and this resolution has further been affirmed by the Arya Pratinidhi Sabha on 26.09.2020. It will also be relevant to notice that these two orders regarding restoration of primary membership is post order dated 02.11.2019 and thus this could not have been taken as a ground to hold that the order dated 02.11.2019 passed by the the Deputy Registrar, Firms, Societies and Chits, Lucknow was bad. Nevertheless, the Court was cautious of this fact and already in paragraph 129, 130 and 131 of the judgment dated 07th June, 2021, it recorded its observations that if the membership of Devendra Pal Verma has been restored, the same will have its own consequences and since that was not the subject matter before the Court then, hence, it refrained from making any observations in respect thereto.

24. Thus, any apprehension as allayed by the review-petitioner on this count is also misfounded as it is well settled that an impugned order and

in this case the order dated 02.11.2019 and 07.11.2019 were to be adjudged by this Court on the basis of material before it and the order impugned could not have been improved upon merely on the basis of some subsequent events. However, the fact remains that even if at all the membership has been restored, it still is open for the review-petitioner to participate in the proceedings and raise his objections on the strength of the same and the same would be considered but it cannot be said that the Deputy Registrar, Firms, Societies and Chits, Lucknow while passing the order dated 02.11.2019 had committed any error.

25. It is also another aspect to be noted that a membership of a person can be terminated for a limited time and once the membership is restored, he gains back his status from the date of restoration but that does not mean that the order dated 02.11.2019 was bad since the order by which the membership was terminated dated 24.07.2019 was actually never challenged seriously, by Sri Devendra Pal Verma, before any appropriate competent forum. Thus, taking care of the aforesaid situation, the Court had made the observations as noticed above and, therefore, to that extent, the submission of learned counsel for the review-petitioner does not find favour with the Court.

26. Lastly, what has been argued that the effect of elections which were held on 21.03.2021 has also not been appropriately considered by the Court for the reason that in the order it has been mentioned that no material was brought on record by the review-petitioner in its rejoinder affidavit dated 18.03.2021 whereas the elections were held only subsequent thereto on 21.03.2021. This also does not impress the Court for the reason that for any elections it is not the date of polling alone which is important since the review-petitioner had filed his rejoinder affidavit on 18.03.2021, he could have very well brought on record certain documents regarding the notification of elections and other ancillary documents indicating the various stages of an election leading up to the polling but that was not brought on record.

27. Even otherwise, it will be noticed that the hearing of the petitions continued on a number of dates and finally the matter was reserved as late as on 23.03.2021 and in case if the elections had been held on 21.03.2021, it was always open for the review-petitioner to have informed the Court apart from the fact that despite assistance sought from the learned Standing Counsel, he also did not inform the Court and this has also been recorded in the judgment dated 07.06.2021.

28. Thus, for all the aforesaid reasons, this Court is of the clear view that the judgment dated 07.06.2021 does not require a review and the entire endeavour made by the review-petitioner is to get a re-hearing on merits which this Court is unable to persuade itself to permit and nevertheless it would also be against the settled legal principles relating to review as this Court does not find any error apparent on the face of the record.

29. For all the aforesaid reasons, this Court is of the humble opinion that the instant review-petition is sans merit and is accordingly dismissed. In the facts and circumstances, there shall be no order as to costs. "

46. The aforesaid factual matrix would reveal that this Court by means of

its judgment dated 07.06.2021 had remitted the matter to the Deputy Registrar to consider the matter afresh leaving all pleas open to the respective parties to be raised before the said authority in a time bound fashion. This judgment was further affirmed by the Division Bench vide its order dated 01.07.2021 whereby the time of four months was extended in the sense that it was now to be reckoned from the date of order passed by the Division Bench i.e. 01.07.2021 and not from 07.06.2021.

47. It is in the aforesaid backdrop that the Deputy Registrar was seized of the matter and he had called upon the contesting parties to furnish their respective submissions and the documents upon which they wished to rely.

48. The Deputy Registrar by means of the impugned order dated 23.04.2022 noticed the orders passed by this Court dated 07.06.2021 and 01.07.2021 and further noticed that the contesting parties had claimed rights over the management of the society by setting up four different elections i.e. dated 20.02.2021 (which is the election claimed by Bhuwan Tewari), the other dated 07.03.2021 (this is claimed by Vivek Singh, who is the respondent No.5 in the instant petition), the third dated 21.03.2021 (claimed by Devendra Pal Verma) and the fourth dated 27.11.2021 (claimed by Shri Ram Ratan Chaturvedi), hence, the Deputy Registrar observed that in order to adjudicate the controversy in the given facts and circumstances, it would require him to either way comment and give some observations regarding the conflicting elections and the same was not within his jurisdiction as in terms of Section 25(1) of the Act of 1860 (as amended in the State of U.P.), the jurisdiction to look into the validity of elections is conferred on the Prescribed Authority, hence, he referred the matter to the

Prescribed Authority.

49. This order of the Deputy Registrar dated 23.04.2022 is the subject matter of challenge in WRIT-C No.3418/2022 which has been filed by the society through Devendra Pal Verma while contemporaneously the other petition filed by the society through Bhuwan Tiwari bearing WRIT-C No.14794/2021 assails the order of the Deputy Registrar dated 26.03.2021 whereby the list of elected Members in the alleged election held on 21.03.2021 was registered by the Deputy Registrar and another relief seeking directions against the Deputy Registrar that he be directed to recognize the list of Members sent to the Deputy Registrar dated 03.03.2021 which is in context with the elections as claimed by Bhuwan Tiwari.

SUBMISSIONS OF THE RESPECTIVE PARTIES

50. Dr. L.P. Misra along with Shri Atul Kumar Dwivedi, learned counsel for the petitioner in WRIT-C No.3418/2022 opened their submissions and they primarily attacked the order passed by the Deputy Registrar dated 23.04.2022 on the ground that the Deputy Registrar has acted in a mechanical manner without even applying its judicial mind to the controversy involved.

51. It was urged that the Deputy Registrar does not merely act as a rubber stamp rather while referring the matter to the Prescribed Authority, it was incumbent upon him to have entered into the factual controversy, notice the rival claims and then if it came to a conclusion that it was required to adjudge the validity of the elections only then it could have

referred the matter to the Prescribed Authority.

52. Elaborating his submissions, Dr. Misra submitted that the last undisputed election was held on 27.03.2016 and the said term was come to an end in the year 2021. The elections were held by Devendra Pal Verma on 21.03.2021 i.e. prior to the expiry of the term of the Management Committee of the Arya Pratinidhi Sabha and the same had already been placed before the Deputy Registrar, who was obligated to have recognized the same and rather it was done. This necessarily indicated that the new Committee of Arya Pratinidhi Sabha was duly constituted and was incharge of the affairs of the Society. It was not open for the Deputy Registrar to have shirked from his responsibility of following and complying with the observations and directions given by this Court while deciding the earlier two petitions vide judgment dated 07.06.2021. Once the High Court vide its judgment dated 07.06.2021 which was affirmed in Special Appeal vide order dated 01.07.2021 required the Deputy Registrar to look into certain facets as noticed in the said judgment which related to the Membership which could have been decided by the Deputy Registrar himself. Hence, in such circumstances, it was not open for the Deputy Registrar to have referred the matter to the Prescribed Authority which at best could have only seen the validity of an election but could not decide the issue of Membership.

53. Elaborating further it was stressed by Dr. Misra that the Prescribed Authority is not empowered to enter into the dispute of Membership and more so in light of the decision of this Court dated 07.06.2021 and 01.07.2021 of the Division Bench of this Court. It was for the Deputy

Registrar to have examined this issue and thereafter if there was any genuine dispute which affected the elections only then it could have referred the matter to the Prescribed Authority in terms of Section 25(1) of the Act of 1860.

54. It has further been urged by Dr. Misra that insofar as the election of Devendra Pal Verma is concerned, it was prior to expiry of the term, of the Committee of Management of the last undisputed election. The alleged other three elections as set up by the factions headed by Bhuwan Tiwari, Vivek Singh and Ram Ratan Chaturvedi were apparently void and non-est since they were all allegedly set up by persons who were not Members of the General Body of the Arya Pratinidhi Sabha and were also not members of their respective districts.

55. It has been emphasized by Dr. Misra that Shri Bhuwan Tiwari and Shri Vivek Singh had been expelled as their primary Membership had been terminated, hence, there was no way that these persons being strangers to the Society, could have set up any rival elections against the petitioner.

56. Insofar as Shri Ram Ratan Chaturvedi is concerned, even his election prima-facie is mired by inherent contradiction inasmuch as certain Members, who had been elected in the alleged Committee of Vivek Singh and Bhuwan Tiwari also find place in the alleged election claimed by Ram Ratan Chaturvedi.

57. In circumstances, where in the three alleged elections, claimed by three separate contesting parties, certain members have been shown to be commonly elected and are part of the three rival Committees, this in itself

is prima-facie proof that the three alleged elections were ex-facie, tainted and it has deliberately been placed before the Deputy Registrar to obligate and to create an artificial cloud over the election of the Committee dated 21.03.2021 led by Shri Devendra Pal Verma.

58. It is also urged that in exercise of powers under Section 25(1) of the Act of 1860 merely because some stranger or third party sets up a rival election without establishing its basis to say that the person so claiming had any bonafide interest then it will not automatically amount an election dispute between rival factions to goad the Deputy Registrar to refer the matter to the Prescribed Authority.

59. It is further submitted that if the order passed by the Deputy Registrar is seen in the aforesaid context, it would indicate that he has merely referred to the judgments passed by this Court dated 07.06.2021 and 01.07.2021 and thereafter noticing the four rival factions claiming their elections, without adverting to anything further the matter has been remitted to the Prescribed Authority which appears to be a complete mechanical exercise of jurisdiction and the order does not deal with the issue of Membership and other relevant issues as had been noticed by the High Court in its order dated 07.06.2021 which renders the impugned order void for want of compliance and lack of objectivity which establishes the lack of application of judicial mind and renders the order without jurisdiction and liable to be set aside.

60. Dr. Misra while opposing the WRIT-C No.14794/2021 has urged that the said petition is not maintainable as it has been filed by Bhuwan Tiwari who is not a Member. There is nothing on record which could prima-facie

establish the primary Membership of Bhuwan Tiwari, hence, he could not maintain the petition and for the said reasons, he cannot assail the list of Members which had been furnished by Shri Devendra Pal Verma dated 26.03.2021 nor he can indirectly get the recognition for his alleged fake elections, hence, connected petition also deserves to fail.

61. Dr. Misra has relied upon the following decisions to press the propositions that the Deputy Registrar does not act as a mere post office while making a reference under Section 25(1) of the Act of 1860 and he must prima-facie arrive at satisfaction as to whether there is any bonafide dispute or not.

(i) C/M, Raja Tej Singh Vidyalaya and another v. D.I.O.S., Mainpuri and others, (2002) 2 UPLBEC 993; (ii) T.P. Singh v. Registrar/Assistant Registrar Firms, Chits & Societies, (2019) 37 LCD 186; (iii) C/M, Shri Swami Vivekanand Madhyamik Vidyalaya v. State of U.P., (2015) 33 LCD 2383 and (iv) C/M, Kisan Siksha Sadan Bakshi District Basti v. Assistant Registrar Firms, Chits & Societies, Gorakhpur, (1995) 2 UPLBEC 1242.

62. He has further relied upon the following decisions to press that a person who is not a Member of the General Body cannot hold an election nor claim to do so:-

(i) Mani Mandir Sewa Nyas Samiti, Ayodhya v. Registrar, Firms, Societies & Chits, (2014) 32 LCD 1857; (ii) Chris Church McConaghy School Society v. Registrar Firms, Societies & Chits, (2015) 33 LCD 2454; (iii) Shri Ram Laxmi Narayan Marwadi Hindu Hospital, Varansi

v. Assistant Registrar Firms, Societies & Chits, (2000) 3 UPLBEC 2063; (iv) Umesh Chandra & Ors. v. Mahila Vidyalaya Society & Ors., (2006) 24 LCD 1373; (v) Ayaaub Khan Noor Khan Pathan v. State of Maharashtra & Ors., (2013) 4 SCC 465 and (vi) Literacy House Staff Welfare Asso. & Ors. v. Registrar Firms, Societies & Chits, U.P. & Ors., (2006) 29 LCD 1439.

63. He has further relied upon the following decisions to canvass that the Prescribed Authority is not a competent authority to decide the issue of Membership which effects the electoral college in exercise of powers under Section 25(1) of the Act of 1860.

(i) C/M, Jay Ram Verma Kisan Siksha Samiti v. U.P. Zilaadhikari/Prescribed Authority, Ambedkar Nagar passed in Writ Petition No.2203 (M/S) 2015, decided on 18.04.2016; (ii) C/M, Unchahar Madhyamic Vidyalaya, Nevadiya v. State of U.P. & Ors., passed in WRIT-C No.1492/2020, decided on 25.02.2020 and (iii) Indrajit Barua & Ors. v. Election Commission of India, (1985) 4 SCC 722.

64. Lastly, reliance has been placed on a decision of the Apex Court where it was held that once there is an order passed by the Competent Authority, then the same is to be implemented without any reservation.

Commissioner Karnataka Housing Board v. C. Muddaiah, (2007) 7 SCC 689

65. On behalf of the private-respondents, the arguments have been led by Shri Gaurav Mehtrotra learned counsel appearing for the private-

respondent No.6. Defending the order passed by the Deputy Registrar, it has been submitted that the Deputy Registrar as per the Scheme of the Act of 1860 (as amended in the State of U.P.) is not invested with jurisdiction to adjudicate the dispute involving conflicting claims of the Management Committee of a Society. All such conflicts and claims necessarily involves an adjudication of an election claimed by any of warring/rival Committee and for such adjudication, the powers are vested in the Prescribed Authority.

66. It is further submitted that Section 25(1) of the Act of 1860 clearly provides that any dispute regarding election of the office bearers or any dispute in respect of election or continuance in office of an office bearer can be adjudicated by the Prescribed Authority.

67. It is urged that factual matrix of the instant case is a classic example where four rival election claims have been presented and once the same was before the Deputy Registrar who in light of the dispute as evident from the record available with him was required only to form a prima-facie subjective satisfaction and thereafter he is obligated to refer the matter to the Prescribed Authority.

68. In the instant case, where there are multiple claims set up by the rival factions and certain Members of the Committee are common in more than one faction, this apparently indicates that there is an election dispute and it also falls within the scope as mentioned in Section 25(1) of the Act of 1860 relating to the continuance in office of a Committee Member hence it was required to be referred to the Prescribed Authority.

69. In such circumstances, the Deputy Registrar cannot enter into the issue of fact whether any particular Member of the Committee so elected or the entire Committee as elected, is justified or not, but if there is a prima-facie indication that a particular Member or a Committee as a whole, as elected, suffers from any controversy then it necessarily falls within the parameter of Section 25(1) of the Act of 1860 and is required to be referred to the Prescribed Authority.

70. Shri Mehrotra taking his submissions forward submitted that upon reference made by the Deputy Registrar to the Prescribed Authority under the Act of 1860, it would not only adjudicate regarding the election of the Committee as a whole or of continuance in office of any particular Member of the Committee so elected but the Prescribed Authority is also invested with powers to consider the issue of Membership or the correctness of the list of Members of the General Body which necessarily would be required as an ancillary adjudication as it would affect the election. Hence, it cannot be said that the Prescribed Authority cannot look into the issue of Membership nor there is an embargo in this regard.

71. It has further been urged that there is difference in exercise of powers by the Deputy Registrar while adjudging the list of Members in exercise of powers under Section 4-B (as amended in the State of U.P.) of the Act of 1860. The said provision has been incorporated by an Amendment in the year 2013 which enjoins a duty that at the time of registration/renewal of the Society, a list of Member of the General Body of that society is required to be filed with Deputy Registrar and he is required to examine the correctness of the list of the Members. Under the aforesaid Section 4-B

while examining the correctness of the list of the Members, the Deputy Registrar is not required to adjudicate the Membership dispute but insofar as the provisions of Section 25(1) of the Act of 1860 is concerned, where there are rival claims of different Committees then the Registrar would be justified in referring the dispute to the Prescribed Authority who is required to decide the Membership dispute as an ancillary issue which affects the election of a particular Member of the Committee or of the Committee as a whole, as the case may be.

72. In support of his aforesaid submissions, he has relied upon the following decisions of this Court in (i) **Committee of Management Shri Vidur Sewa Ashram & 7 others v. State of U.P. & 4 other, 2018 (5) ADJ 717**; (ii) **Kishan National Education Trust, Pratapgarh and another v. Prescribed Authority (S.D.M.) and others**, WRIT-C No.23628/2014, decided on 14.09.2018, (iii) **C/M Anjuman Kherul Almin Allahganj and another v. State of U.P. and 2 others**, Special Appeal Defective No.1286/2013, decided on 18.12.2013; (iv) **C/M Al-Jamiatul Ghausiaarabic College Samiti Utraula and another v. State of U.P. and others, 2017(35) 2018 LCD 2080**; (v) **Prabhu Narayan Union Club and Another v. State of U.P. and 3 others**, WRIT-C No.10742/2020, decided on 15.10.2020; (vi) **C/M Baba Prem Das Junior High School through Manager and others v. Registrars, Firms, Societies & Chits and others**, Writ Petition No.28607 (M/S) of 2021, decided on 07.12.2021.

73. Shri Mehrotra has further urged that the order impugned passed by the Deputy Registrar dated 23.04.2022 has been passed in exercise of jurisdiction as conferred on the Deputy Registrar and it in no manner,

causes prejudice to the petitioner inasmuch as he has a forum available for raising all his disputes and grievances, which needless to say, can be adjudicated by the Prescribed Authority on its own merits.

74. It is submitted that while invoking powers of this Court under Article 226 of the Constitution of India apart from indicating a legal wrong, the petitioner is also required to indicate what prejudice has been caused. In case, even if there is some legal infraction but it is not occasioned by any prejudice or failure of justice then the Court will be justified in not interfering with the matter and the present case is of such kind where the indulgence of this Court is not required to interfere with the impugned order. In support of the aforesaid proposition, learned counsel has relied upon the decision of the Apex Court in **Sarv U.P. Gramin Bank v. Manoj Kumar Sinha, (2010) 3 SCC 556** and of this Court in **Surendra Kumar Verma v. State of U.P. and others, 2002 SCC OnLine All 188**.

75. It is also submitted by Shri Mehrotra that the directions which were contained in the judgment of this Court dated 07.06.2021 which was affirmed by the Division Bench vide order dated 01.07.2021 is to be seen as the issues which were to be required to be adjudicated while considering the rival claims, however, it would not mean that it would amount to investing powers in an Authority who otherwise does not possess such powers in terms of the Scheme of the Act of 1860 nor can it mean that such powers can be usurped from Competent Authority, who is actually required to deal with the controversy.

76. It is further urged that the Court while passing the order dated 07.06.2021 noticed that the issues which were before the Deputy Registrar

and required adjudication had not been considered in the correct perspective and the order passed by the Deputy Registrar, which was under challenge in writ petitions decided by the order dated 07.06.2021, was on account of the fact that it was non-reasoned and had been passed without considering the material before it. In such circumstances, the matter was relegated to the authority concerned to look into the disputes based on the material available before it and to decide the same by a reasoned and speaking order. The Court had also observed that any observation made in the order dated 07.06.2021 may not be considered as an expression of opinion on merit.

77. In is also urged that now if the impugned order dated 23.04.2022 is seen in the aforesaid light, it would reveal that taking note of the observations of the High Court made in the order dated 07.06.2021 and the order of the Division Bench of this Court dated 01.07.2021 also noticing the rival claims, the Deputy Registrar in its proper exercise of jurisdiction found that it was legislatively handicapped to adjudicate such conflicting disputes and had rightly referred the matter to the Prescribed Authority and in such circumstances, it cannot be said that the order of the Deputy Registrar suffered from any palpable error of jurisdiction or that it failed to comply with the orders passed by the High Court dated 07.06.2021 and 01.07.2021 respectively. In this regard, he has placed reliance on the decisions of the Apex Court in (i) **Jagmittar Sain Bhagat and others v. Director, Health Services, Haryana and others, (2013) 10 SCC 136** and (ii) **Mathevan Padmanabhan alias Ponnann (Dead) through LRs v. Parmeshwaran Thampi and Others, 1995 Suppl (1) SCC 479.**

78. Shri Mehrotra has also urged that the reliance placed by the learned counsel for the petitioner on the decision of this Court in **T.P. Singh, Senior Advocate v. Registrar/Assistant Registrar, Firms Societies & Chits, Teliyarganj & 4 Others**, does not help the case of the petitioner as that related to the provisions of Section 4-B and it is not in respect of Section 25 of the Act of 1860.

79. It has lastly been urged by Shri Mehrotra that the issue regarding the fact that the elections as set up by the petitioner Devendra Pal Verma were also called in question and there are observations made in the judgment and order dated 07.06.2021 which was affirmed by the Division Bench in its judgment and order dated 01.07.2021 and noticing it the writ petition of Shri Devendra Pal Verma was dismissed and his review petition bearing No.94/2021 was also dismissed by means of the judgment and order dated 16.08.2023, hence, in the aforesaid circumstances, the issue relating to four conflicting claims by different factions was illustratively a copybook situation to attract the exercise of powers under Section 25(1) of the Act of 1860 to refer the matter to the Prescribed Authority, as has been done in the instant case and as such there is no error which may warrant any interference of this Court, consequently, the petition deserves to be dismissed and the proceedings pending before the Prescribed Authority be expedited.

80. Shri Nadeem Murtaza, learned counsel for the private-respondent No.5 has adopted the submissions of Shri Mehrotra.

81. Shri Ratnesh Chandra, learned counsel appearing for Bhuwan Tiwari i.e. private-respondent No.4, who is also the petitioner in connected WRIT-

C No.14794/2021 has additionally argued that the alleged election as set up by Shri Devendra Pal Verma dated 21.03.2021 also suffers from various discrepancies inasmuch as Shri Devendra Pal Verma is also not a Member of the Society as his primary Membership had been terminated, hence, he could not have participated or be elected as an office bearer of the Management Committee.

82. It has further been urged by Shri Chandra that the allegations leveled against Shri Bhuwan Tiwari are absolutely false inasmuch as lawful elections were held on 20.02.2021 wherein Shri Bhuwan Tiwari was elected as the Secretary. It is also submitted that Shri Bhuwan Tiwari was bonafide Member of Arya Pratinidhi Sabha, Lucknow Ganesh Ganj and a certificate dated 04.02.2020 was issued which evidenced the aforesaid fact.

83. It has been urged that the reference made by the learned counsel for the petitioner relating to Regular Suit No.651/2021 has no bearing to the instant proceedings inasmuch as that suit had been filed against Gayatri Dixit and Sunil Kumar who at the relevant time were interfering in the functioning of Shri Bhuwan Tiwari as Secretary, hence, the same was neither against Shri Devendra Pal Verma nor against any of the opposite parties, who are contesting the instant two petitions, hence, non-mentioning of the said suit at the behest of the Shri Bhuwan Tiwari would not amount to any concealment.

84. It is further urged that as per the contention of the learned counsel for the petitioner that the election dated 21.03.2021 was duly circulated in the magazine called Arya Mitra also does not have any bearing inasmuch as in light of Section 5 of the Press Registration Act, 1867, there was no proper

registration and without such registration, the said newspaper cannot be circulated nor it could have any legal bearing on the alleged elections of Shri Bhuwan Tiwari nor can it clothe the alleged election of Shri Devendra Pal Verma with any legitimacy. Thus, the alleged election as set up by the petitioner Shri Devendra Pal Verma is bad in the eyes of law and rather the election of Shri Bhuwan Tiwari dated 20.02.2021 is one which is required to be recognized. In such circumstances, the petition of Devendra Pal Verma bearing WRIT-C No.3418/2022 be dismissed while the connected WRIT-C No.14794/2021 of Shri Bhuwan Tiwari be allowed.

85. The Court has heard the learned counsel for the parties at length and also perused the material on record including the written submissions filed by the respective parties.

86. The crux of the submission of the learned counsel for the petitioner is that the order impugned passed by the Deputy Registrar dated 23.04.2022 is non-speaking and has been passed in mechanical exercise of powers vested in him. It is also urged that since the matter was remitted to the Deputy Registrar in furtherance of the order passed by the High Court dated 07.06.2021 and affirmed by the Division Bench vide order dated 01.07.2021, hence, the least that was expected of the Deputy Registrar was to have addressed the issues raised by the parties, even if at all, tentatively, and then he should have given his considered view as to whether the matter required to be referred to the Prescribed Authority in terms of Section 25(1) of the Act of 1860 or not.

87. On the other hand, the contention of the counsel for the private respondent is that the Deputy Registrar noticing that there were four rival

claims made by the office bearer of the managing committee of the Arya Pratinidhi Sabha based on four different election, this in itself was sufficient to refer the matter in terms of Section 25(1) of the Act of 1860 and it cannot be said that there was any error committed by the Deputy Registrar while passing the impugned order dated 23.04.2022.

88. In the aforesaid context, if the submission of the parties are examined in light of the facts and circumstances, it would reveal that this Court in terms of its judgment dated 07.06.2021 while remitting the matter to the Deputy Registrar noted the dispute which was raised by the contesting parties in the earlier round of litigation which included continuance in office of certain members of the Sabha. At that point of time, there was a direct conflict between Dr. Dheeraj Singh's Committee and dispute raised by one Dr. Vishal Singh who claimed himself to be the Officiating Secretary. The issue as to whether Dr. Dheeraj Singh had been removed on the basis of no confidence motion passed against him which was the subject matter of a meeting said to have taken place on 16.03.2020, the issue of membership of Dr. Dheeraj Singh as to whether he was removed from the primary membership of the Arya Samaj Bulandshahar, the issue regarding termination of primary membership of Shri Devendra Pal Verma, inter alia, the impact of the aforesaid issues on the alleged committee who is to represent the Arya Pratinidhi Sabha, was to be examined and determined by a reasoned and speaking order.

89. However, during the pendency of the matter before the Deputy Registrar, Dr. Dheeraj Singh had expired and in light thereof the private respondent Shri Ram Ratan Chaturvedi claims to have been elected as the

President of the committee of management which was also an issue to be considered.

90. The facts relating to the earlier round of litigation has already been noticed by this Court in the preceding paragraphs and at this stage, the controversy which has arisen is to determine as a matter of fact whether the Deputy Registrar by simplicitor noticing that four separate persons have put in their claims on the basis of four separate election claiming right of managing committee of the Arya Pratinidhi Sabha was enough to refer the matter in terms of Act of 1860 or the Deputy Registrar was required to apply its judicial mind to the facts and circumstances to determine as to whether there was any genuine and bonafide dispute regarding the election of the committee of management or relating to continuance in office of any office bearer of such committee.

91. In this regard, it will be relevant to notice certain decisions which have been cited by the parties. This Court in **Committee of Management, Raja Tej Singh Vidyalaya v. District Inspector of Schools, 2000 SCC OnLine All 14** wherein the Court has noticed the scope and powers of the Deputy Registrar, conferred on him, in terms of the Society Registration Act. The relevant portion of the said decision reads as under:-

Powers of the Registrar

10. The Registrar under the Societies Registration Act includes Additional, Joint Deputy or Assistant Registrar on whom the powers under the Societies Registration Act are delegated (Section 21). The Registrar, under the Societies Registration Act, can—

- (i) register a society, consider objections against the same (Section 3);*
- (ii) consider change in name and objects of a society (Section 12-B);*
- (iii) cancel the registration of a society (Section 12-D)*
- (iv) apply/refer for dissolution of a society (Section 13 and 13- A);*
- (v) call for information for from a society (section 21);*

- (vi) order for audit of a society (S. 23);
- (vii) investigate any affair of a society (Section 24);
- (viii) call for a meeting to hold election in, case elected term is over (Section 25(2));
- (ix) call for objection and decide the same if the names of governing body is different than the previous one, if not certified by the previous members (Section 4);
- (x) refer doubt or dispute regarding election to the prescribed authority (Section 25(1));

Explanation III.— The State Government may prescribe the procedure for hearing a decision of doubts or disputes in respect of such elections and make provision in respect of any other matter relating to such elections for which insufficient provision exists in this Act or in the rules of the society.

11. The Registrar, under the Societies Registration Act, has wide powers. He is the overall incharge a final authority, except in the following circumstances:

- (a) When any question arises if a society is to be registered or its registration is to be renewed. He has to refer it to the State Government (Section 3-B).
- (b) His order cancelling registration is appealable to the Commissioner (Section 12(2)).
- (c) Only a Court can dissolve a society (Section 13-D).
- (d) The registrar can neither decide any doubt, nor dispute regarding an election. He cannot decide continuance of office bearers. It is within the jurisdiction of the prescribed authority (Section 25(1)).

12. In this case we will examine the powers of the Registrar particularly under clauses (ix) and (x) of the paragraph 9 and exception (d) of paragraph 10. A Registrar cannot dissolve a society; a Court does it. He cannot decide a doubt about an election or an election dispute or about continuance of an office bearer in a society. The Prescribed Authority decides it under Section 25(1) of the Societies Registration Act. The Registrar cannot under the garb of exercising other powers, decide the aforesaid dispute indirectly.

13. Jurisdiction : The Registrar (Proviso to Section 4) As Regards The Prescribed Authority (Section 25)

14. Every society has a governing body (committee of management) entrusted with management of the affairs of the society. This governing body is known by different names in different societies. Section 44 of the Societies Registration Act contemplates that a society has to submit a list of its governing body (committee of management) with the Registrar. Section 4(2) of the Societies Registration Act contemplates that the memorandum of a society including alteration, extension or abridgement of purpose should also be filed along with the list of governing body; it has to be certified by three members. The proviso to Section 4(1) of the Societies Registration Act states that in case any member in the list of governing body is different from the last submission of the list (which can happen only if a new election has been held) then old office bearers should also countersign the list. The purpose of Section 4 is that the correct list of governing body (committee of management) of a society should be maintained and it may not be disputed. Its Proviso contemplates that in case old office bearers do not countersign the list

then the registrar may issue public notice inviting objections and decide the same. What is the purpose of such decision? What is the scope of his jurisdiction?

15. The jurisdiction of the Registrar under the proviso to Section 4 of the Societies Registration Act is to see if there is any dispute; whether the dispute is a bona fide dispute or not; whether it is a dispute for the sake of it.⁵ But, if there is a dispute, then his jurisdiction ends; the matter has to be referred to the prescribed authority under Section 25 of the Societies Registration Act. He cannot in garb of deciding objections decide dispute within the jurisdiction of the Prescribed Authority under Section 25 of the Societies Registration Act.

16. The prescribed authority can neither entertain a dispute by himself nor can he decide a dispute on reference by one member. He can only decide if it is referred by the registrar, or by 1/4th of the members (i.e. at least two members) of a society.

17. The legislature thought that in case less than 1/4th of the members of a society are raising a dispute, then it is not a bona fide dispute; not worth investigating. In order to decide if there is a bona fide dispute, the Registrar may also decide:

** if the persons raising disputes are members of a society or not;*

** or decide if a person presenting the papers is entitled to present the papers for renewal or not.*

18. But he can do so only if he does not have to decide—

** a doubt, or a dispute about an election; or*

** continuance of any office bearer.*

19. In case he has to decide any doubt or dispute about election, or continuance of an office bearer, it becomes bona fide dispute and his jurisdiction ceases. He has to refer the matter to the prescribed authority. The Prescribed Authority has pre-emptive jurisdiction in this regard.

92. A Division Bench of this Court in **T.P. Singh v. Registrar/Assistant Registrar Firms, Chits & Societies, (2019) 37 LCD 186** has held as under:-

25. A plain reading of above provision shows that at the time of registration or renewal, a list of members of General Body of Society has to be filed by Assistant Registrar. Thereafter whenever there is any change in said list, same has to be informed to Registrar by submitting a modified list of members of General Body. When such a modified list is submitted to Registrar, in our view, examination allowed to be made by Registrar in respect of correctness of list of members of General Body in sub-section (1) would also include removal of member(s) for the reason, when modified list is communicated to Registrar, whether modification is on account of induction or removal in any manner; both aspects and correctness thereof can be and must be examined by Registrar.

26. The incidental question which immediately crops up is the extent of authority of Registrar of such examination. Whether it is an indepth examination which may be termed as adjudication of dispute or it is a summary inquiry subject to adjudication of dispute by a Court of Law.

27. On this aspect various judicial precedents have been relied by parties and we may examine the same at length so as to complete our search to answer the questions formulated above.

37. Court also observed that in making inquiry under Section 4-B of Act, 1860, Registrar is not a Post Office but supposed to act administratively by applying his mind on the facts and documents placed before him. Division Bench also referred to Supreme Court judgment in *A.P. Aboobaker Musaliar v. District Registrar (G), Kozhikode*, (2004) 11 SCC 247 and observed that when more than one returns are filed before Registrar, it may not hold an elaborate enquiry but bound to satisfy himself *prima facie* as to which return is to be accepted. Inquiry made by Registrar is not final and aggrieved party can always take up the matter before a Competent Court. Court also held that term “membership” has been defined under Act, 1860 and it indicates that a member of a Society shall be a person who, having been admitted therein according to rules and regulations, paid subscription, signed the roll or list of members and has not resigned in accordance with such rules and regulations. Hence, upholding action taken by Deputy Registrar, Court in para 55 of judgment observed:

“The original records were deposited by the appellant. The Deputy Registrar has undertaken exercise to verify the membership on the basis of agenda, proceedings, membership register and passbook of the bank account etc., and found that there was nothing illegal in the induction of those members and proceeded to accept the membership under Section 4-B of the Act on 17.10.2014.”

(emphasis added)

38. This judgment makes it clear that under Section 4-B of Act, 1860, Registrar is not supposed to make adjudication of dispute of correctness of membership like a Court but whenever a list is submitted or there is any change in the list of members and any objection is raised or otherwise, Registrar has to *prima facie* satisfy himself that change has been made in accordance with provisions of bye-laws and *prima facie* genuine. For this purpose, Registrar may examine agenda, minutes of meeting and other relevant steps taken by Society. To this extent, an inquiry can be made by Registrar to find out whether list of members or change in list of members is correct or not.

46. In *Allahabad High School Society, Allahabad v. State of U.P.*, 2011 (4) ADJ 341, a learned Single Judge (Hon'ble V.K. Shukla, J.) considered correctness of decision dated 24.7.2010 taken by Assistant Registrar annulling resolution dated 28.5.2007 passed by Allahabad High School Society, Allahabad, registered under Act, 1860. It examined power of Registrar on the validity of amendment made in the bye-laws. Court observed that Registrar is not a mere post office but can examine whether alleged resolution making amendment in bye-laws is forged, fictitious or otherwise patently illegal. Court also said that though amendment in bye-laws except for the change in the name do not require Registration but all changes in the rules are mandatorily required to be intimated to Registrar, who has to maintain record and hence when it is brought to its notice that there is any manipulation, maneuvering etc., he can examine the said issue. Similar view was taken by Division Bench in *Allahabad High School Society, Allahabad v. State of U.P.*, 2011 (4) ADJ 887, which in fact, a judgment in appeal against Single Judge judgment

in Allahabad High School Society, Allahabad v. State of U.P., 2011 (4) ADJ 341 and Division Bench confirmed view taken by learned Single Judge. We find that the matter was taken by Allahabad High School Society, Allahabad to Supreme Court and Supreme Court dismissed appeal vide judgment reported in (2011) 6 SCC 118.

53. *The discussion made by us and facts stated above show that Society in question, in the present case, held a meeting with agenda to consider letters of petitioner and thereupon read those letters as constituting a misconduct, justifying termination of membership and resolved to terminate membership of petitioner. This resulted in change in the list of members of Society and hence was communicated to Assistant Registrar. Petitioner filed objection raising various issues including issue of membership of some other persons as well as some office bearers of Society. It may be noticed that a person, filing objection before Assistant Registrar, may raise a whole gamut of issues to Assistant Registrar which may be a combination of issues, some within jurisdiction of Assistant Registrar and some beyond but then the Registrar/Assistant Registrar can always discern substantive issues which are within the scope of scrutiny and within his jurisdiction and can respond to those aspects. It is the substance and not the tenor of language or draft of letter by Objector, which has to be seen by Assistant Registrar/Registrar who is a statutory authority supposed to look into the matter in exercise of statutory power conferred under Section 4-B of Act, 1860. It is true that Registrar/Assistant Registrar may not go into a detailed adjudication of a disputed question of fact like a Civil Court and remedy obviously would be available to the party concerned to take recourse to Civil Court but the mandate contained in the Statute regarding scrutiny, to the extent it is provided, has to be observed and discharged. Registrar/Assistant Registrar is obliged to examine the question of correctness of alteration or change or modification in the list of members when an objection is taken. Cancellation/termination/removal of membership is a mode of alteration of list of General Body of Society. Section 4-B of Act, 1860 talks of correctness of list of members, which can be examined by Registrar/Assistant Registrar. Documents, which are supposed to be furnished to Registrar/Assistant Registrar are also specifically mentioned therein and from those documents whatever facts discern, may be seen to find out whether Society, in a bona fide manner has followed its own procedure laid down in Bye laws. For example, if abruptly a resolution is passed without there being any agenda on a particular issue and bye-laws require circulation of agenda to the members before meeting containing subject, it is apparent that action taken by Society is not in accordance with bye-laws and thus its decision would not be correct and can be interfered by Registrar/Assistant Registrar. Similarly, from documents relating to fee, if it is found that requisite fee has not been paid by a person inducted as member though deposit of fee is one of the conditions to become a member of Society, Registrar/Assistant Registrar can interfere and declare induction of such member to be illegal and declare resolution to this effect, bad in law. Similarly, if Society claims that fee has been deposited but from bank passbook, this claim is not found correct, Registrar/Assistant Registrar can again interfere. These are a few illustrations only. This interference includes declaration of resolution bad or illegal, and, mere fact that request has been made that resolution should be cancelled or be declared illegal, by itself, would not deprive Registrar/Assistant Registrar from entering into scrutiny to the extent it is mandated by Section 4-B of Act, 1860 otherwise the very objective and purpose of insertion of Section 4-B of*

Act, 1860 would stand defeated.

93. Another Division Bench decision of this Court in **Special Appeal No.337 of 2022 (Ajai Kumar Singh v. State of U.P. & Others)** decided alongwith bunch of writ petitions on 10.08.2022 while noticing the provisions of Section 4-B of the Act 1860 as amended in the State of U.P. has held as under:-

"15. On behalf of respondents, Sri G.K. Singh, learned Senior Counsel submits that the list of 130 members, which has been referred to in the order of the prescribed authority, dated 26.4.2011, has to be necessarily discarded as there is a serious dispute with regard to existence of such a list which has also been noticed by the prescribed authority in his order itself. It is also urged that subsequent orders of the Assistant Registrar also noticed the fact that no undisputed list of 130 members existed on record and that is why the Assistant Registrar while passing the order dated 23.7.2011 restricted the membership to 93 persons only. It is also argued that once the elections were conducted in the year 2011 on the basis of order dated 23.7.2011 and the challenge laid to the order of the Assistant Registrar has failed with no relief being granted in the writ petition, filed against such order, it would not be open for the petitioners to challenge such order, nor the Assistant Registrar can go behind such order, and he has committed no illegality in referring to and relying upon the list of 93 admitted members. A division bench judgment of this Court in Special Appeal No. 355 of 2019 has also been placed before the Court in order to submit that while exercising powers under [Section 4-B](#) of the Act of 1860, the admitted list of members are not liable to be reopened and only subsequent changes made therein including deletion or admission of new members alone are required to be examined by the Assistant Registrar. It is in this context that the controversy raised in the present writ petition needs to be examined."

"18. The order of the prescribed authority, dated 18.12.1987 is a short order and appears to have been passed on the basis of some settlement which has been arrived at between the parties. The order of the prescribed authority, dated 18.12.1987, reads as under:-

"सम्बन्धित वाद के निस्तारण के बावत उभय पक्ष के विद्वान अधिवक्तओ की बहस सुना एवं पत्रावली पर उपलब्ध कागजातों का अवलोकन किया। पक्षों ने अदालत को अवगत कराया कि अब College Management के बावत पक्षों के बीच कोई विवाद नहीं है। पहले Membership को लेकर पक्षों के बीच विवाद था लेकिन अब इस विषय पर स्थिति बहुत ही स्पष्ट है। स्वयं इतर पक्ष ने स्वीकार किया कि कुल 130 सदस्यों की सूची जो विजय नारायन द्वारा प्रेषित की गयी है, वह सही है तथा बहुमत उन्ही का है। इतर पक्ष ने यह भी स्वीकार किया कि कुल 130 सदस्यों द्वारा निर्मित कमेटी उन्हें मान्य है। इनके द्वारा प्रबन्ध संचालन भी उन्हें मान्य है। इस तरह से पत्रावली पर उपलब्ध कागजातों के आधार पर इस निर्णय पर पहुँचा जाता है कि अब उ०मा०विद्यालय नेवढ़िया जौनपुर के अध्यक्ष श्री उदरेज एवं प्रबन्धक श्री विजय नारायन तिवारी घोषित किये जाते हैं। कुल 130 सदस्यों की कमेटी भी वैध घोषित की जाती है। इस

कमेटी द्वारा पदाधिकारी जो समप्रति है या घोषित किये जायेंगे व भी वैध माने जायेंगे।

तदनुसार आदेश का क्रियान्वयन हो वाद आ०का० पत्रावली द०८० हो।
आदेश की एक प्रति स० रजिस्ट्रार को प्रेषित हो।"

"19. According to petitioners, the list of 130 members is an enclosure to this order whereas the respondent states that no such list exists or is enclosed with the order. The Court need not enter into the factual issues as to whether the list allegedly annexed alongwith Annexure 3 is a part of the order of prescribed authority in view of the serious dispute on facts raised by the parties. Nevertheless, the order of SDM is not in dispute which does refer to a list of 130 members submitted by Vijay Narayan Tiwari and the fact that such list of 130 members was accepted by the parties. The subsequent order of the prescribed authority dated 26.4.2011 notices the dispute regarding the list of 130 members but in the operative portion of the order a specific direction has been issued to conduct elections on the basis of surviving members from the list of 130 members and 93 members. The operative portion contained in the order of the prescribed authority is not in issue. The subsequent order of the Assistant Registrar, dated 23.7.2011, proceeded to determine the list of 93 members and the elections were also held in the year 2011, accordingly. It is true that a writ petition filed against such order has been disposed of in terms of the order passed in the writ petition relating to constitution of managing committee of the educational institution, but there is apparently no consideration on merits with regard to compliance of the direction contained in the order of the SDM, dated 26.4.2011. The subsequent order of the Assistant Registrar primarily proceeds upon the list of members finalized on 23.7.2011 and also the fact that writ petition filed against such order has been disposed of without interfering with such order. The disposal of the writ petition, in view of the order passed in the leading writ petition relating to committee of management cannot be construed as an approval of the order of Assistant Registrar dated 23.7.2011. It is true that the term of the elected committee being three years, the order has substantially lost its relevance, but when it comes to determination of list of valid members, all aspects relating to membership would have to be examined. The order of the prescribed authority acknowledging the list of 130 members, therefore, cannot be brushed aside without there being any independent consideration with regard to claim of such members. Even the list of 93 members, which has been accepted by the Assistant Registrar, merely proceeds on the premise that previous elections were held from the list of such members. This may be a relevant fact but the Assistant Registrar cannot be absolved from undertaking the statutory exercise expected of him in terms of Section 4-B of the Act of 1860 when there is a serious challenge to the membership of the society. It is apparently to get over such disputes that Section 4-B has been inserted by way of amendment and this is a fit case in which the Assistant Registrar ought to have called for the original records and determined the list of members before registering the list of 93 members. The order of the Assistant Registrar is absolutely silent with regard to the factors specified in Section 4-B even with regard to the list of 93 persons which has been accepted by him. Apart from the fact that such members had participated in the last elections, there is no other material supporting their claim of membership. Section 4-B statutorily mandates the Assistant Registrar to refer to the original records to examine the correctness of the list of members of General Body of such society on the basis of the register of members of the General Body and minutes book thereof, cash book, receipt book of membership fee and bank pass-book

of the society. The order of the Assistant Registrar is absolutely silent with regard to examination of claim of membership with reference to the statutory factors enumerated in Section 4-B. In a given case where the membership is not disputed, it is always open for the Assistant Registrar to rely upon the list of undisputed members who have participated in previous elections, but in a case where claim of membership is seriously disputed and the orders of the prescribed authority are open to interpretation, the safest course for the Assistant Registrar would be to examine the original records and return an independent finding with regard to claim of membership. So far as the division bench judgment of this Court in Special Appeal No. 355 of 2019, relied upon by the respondents are concerned, this Court finds that the observations made therein were in the context of facts of that case as the previous elections were held on the basis of 63 members and there was apparently no serious challenge laid to it. In the facts of the present case, however, such is not the case. The election of the year 2011 held on the basis of 93 members was challenged and there is no apparently no adjudication on merits of the claim. The writ petition was disposed of in terms of the direction issued to constitute the managing committee of the educational institution. A special appeal is reportedly pending. Technically the respondents may be justified in asserting that no interference has been made by this Court in the order of the Assistant Registrar, but such disposal cannot be construed as an act of approval of the order passed by the Assistant Registrar. The subsequent dispute of membership of society, therefore, will have to be resolved in accordance with law. The disposal of the writ petition in the year 2013, therefore, will not foreclose the claim of petitioners, nor would it absolve the Assistant Registrar from the statutory responsibility imposed upon him under Section 4-B of the Act of 1860."

94. The same principles as noticed in above mentioned decisions have been reiterated by this Court in **Christ Church McConaghy School Society, Lucknow v. Registrar Firms, Societies and Chits, Lucknow and others 2015 (33) LCD 2454**.

95. From the perusal of the aforesaid decisions, it can clearly be culled out that a list of members of the governing body has to be submitted in terms of Section 4-B of the Act 1860; **(i)** At the time of registration of the society; **(ii)** at the time of renewal; and **(iii)** at the time when there is a change in the list of members of the general body which may be on account of several reasons including in a case of induction, removal or death of any member.

96. Once a situation arises where the Deputy Registrar is confronted with different set of list of general body members, it ought to have applied its mind to sift the grain from the chaff instead of mechanically referring the dispute to the Prescribed Authority in terms of the Act of 1860. These decisions as noted above have been relied upon by the counsel for the petitioner to buttress his submissions whereas, on the other hand, the counsel for the private respondent has relied upon the decision on (1) **2017 (35) LCD 2080, the committee of management Jamyatul Hausia Arabic College Samiti Uttraula**, (2) **the committee of management Anjuman Khairul Almeen Allaganj and others v. State of U.P. & others 2014 (2) AWC 1205**, (3) **Kisan National Education Trust, Pratapganj and another v. Prescribed Authority SDM and two others 2019(1) ADJ 817**.

The relevant portion of judgment reads as under:-

"62. It is apparent that wrong reception of any vote which is void or improper, refusal or rejection of a valid vote could materially affect the result of the election and such elections could be set aside if any doubt or dispute is raised in respect of the said election or continuance in office of the office bearers of the Society. In this case improper rejection of a valid vote or improper reception of a invalid vote could be a valid ground for setting aside an election and for the said purpose, the determination of electoral college was an incidental or ancillary issue which needed to be decided by the Prescribed Authority, while deciding any doubt or dispute in respect of any election.

67. Now the question arises "whether in determining the doubt or dispute regarding elections under Section 25(1)(c), the summary power exercised by the Prescribed Authority to determine the membership would also effect subsequent elections held on the basis of the same electoral college?"

(4) **The committee of management Shri Vidhur Sewa Ashram and others v. State of U.P. & others 2018 (5) ADJ 717**. The relevant paragraphs of the said report read as under:-

"31. The main issue which requires adjudication in the present petition is whether the reference application of the respondents 4 and 5, with the

signature of 165 members, out of whom 8 were found dead, was maintainable keeping in mind that the election under challenge was held with a general body comprising of 686 members, as determined by the Assistant Registrar in exercise of power under Section 25 (2) of the Act, 1860. Incidental to the above issue are two issues: (a) whether the prescribed authority while considering the question of maintainability of the reference application could have sat over /discarded the determination of general body/electoral college made by the Assistant Registrar in exercise of his power under Section 25 (2) of the Act, 1860; and (b) If so, whether the decision of the prescribed authority in respect of the composition of the general body is legally sustainable.

32. The issue which calls for adjudication first is whether the prescribed authority while considering the question of maintainability of the reference application could have sat over /discarded the determination of general body/electoral college made by the Assistant Registrar in exercise of his power under Section 25 (2) of the Act, 1860."

"37. Section 4-B has been inserted in Act, 1860 by U.P. Act No. 23 of 2013 with effect from 9.10.2013. Section 4-B of the Act, 1860 provides that at the time of registration/renewal of a society, list of members of general body of that society shall be filed with the Registrar mentioning the name, father's name, address and occupation of the members. The Registrar is enjoined upon to examine the correctness of the list of members of the general body of such society on the basis of the register of members of the general body and minutes book thereof, cash book, receipt book of membership fee and bank pass book of the society. Sub-section (2) of Section 4-B provides that if there is any change in the list of members of the general body of the society on account of induction, removal, registration or death of any member, a modified list of members of general body, shall be filed with the Registrar.

38. Section 4-B though does not specifically empower a Registrar to adjudicate membership dispute but membership issue can be incidentally decided while examining correctness of the list of members submitted. However, even this section does not attach finality to the order of the Registrar. Therefore it is open to an aggrieved party to invoke Civil Court's jurisdiction in respect of membership claim."

"40. Sub-section (2) of Section 25 of the Act, 1860 provides that where by an order made under sub-section (1), an election is set aside or an office-bearer is held no longer entitled to continue in office or where the Registrar is satisfied that any election of office-bearer of a society has not been held within the time specified in the rules of that society, he may call a meeting of the general body of such society for electing such office bearer or office bearers, and such meeting shall be presided over and be conducted by the Registrar or by any officer authorized by him in this behalf. Sub-section (3) of Section 25 of the Act, 1860 provides that where a meeting is called by the Registrar under sub-section (2), no other meeting shall be called for the purpose of election by any other authority or by any person claiming to be an office bearer of the society."

प्रकरण की सुनवाई के दौरान उभय पक्षों द्वारा प्रस्तुत प्रपत्रों, लिखित अभिकथनों एवं पत्रावली में उपलब्ध प्रपत्रों का अधोहस्ताक्षरी द्वारा परीक्षण किया गया। पत्रावली के अवलोकन से यह अवधारित होता है कि संस्था की प्रबन्ध समिति का चुनाव दिनांक 27.03.2016 को कराया गया था, जिसका कार्यकाल दिनांक 26. 03.2021 तक था। माननीय उच्च न्यायालय के निर्णय एवं आदेश दिनांक-07.06. 2021 के पूर्व संस्था की अन्तरिम सभा (प्रबन्धसमिति) के तीन अलग-अलग निर्वाचन कार्यवाहियां क्रमशः दिनांक-20.02.2021,

07.03.2021 एवं दिनांक-21.03.2021 कार्यालय में पंजीकृत की जानें हेतु प्रस्तुत की गयीं। संस्था की अन्तरंग सभा (प्रबन्धसमिति) के कथित निर्वाचन दिनांक 20.02.2021 में आचार्य स्वदेश को संस्था। प्रधान पद एवं श्री भुवन तिवारी को मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है। कथित निर्वाचन दिनांक 07.03.2021 में श्री राजीव रंजन मिश्रा को प्रधान - पद पर एवं श्री विवेक सिंह को मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है। इसी प्रकार कथित निर्वाचन दिनांक-21.03.2021 में श्री देवेन्द्र पाल वर्मा द्वारा संस्था में प्रधान पद पर एवं श्री पंकज जायसवाल द्वारा मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है।

"42. Section 25 of the Act, 1860, as inserted in the State of U.P., creates a forum for settlement of disputes pertaining to election of office bearers of a society as also in respect of their continuance, in a summary manner. To effectively settle the dispute, clause (c) of the proviso to sub-section (1) of Section 25 of the Act, 1860, empowers the Prescribed Authority to assess whether the result of the election has been materially affected by the improper acceptance or rejection of any nomination or by the improper reception of any vote which is void, which implies that the Prescribed Authority has power to decide issue as regards membership of the society. Whether a reference is with the strength of one-fourth of the members or not becomes a jurisdictional fact, which has to be necessarily determined by the Prescribed Authority. While determining the existence of jurisdictional fact, the Prescribed Authority can arrive at its own conclusion in respect of membership of the society. Such conclusion can be arrived at on the basis of the evidence/material placed before it keeping in mind the relevant parameters including the bye-laws/rules of the society and the documents of the nature mentioned in Section 4 B of the Act, 1860. As no finality has been provided to the incidental determination of membership by the Registrar in exercise of his power to hold an election meeting under Section 25 (2) of the Act, notwithstanding any such determination of the issue made by the Registrar, the Prescribed Authority, while exercising its power under Section 25 (1) of the Act, can determine the electoral college/general body of the society for the purpose of ascertaining whether the reference application is maintainable."

"48. Before proceeding to consider the aforesaid issue, it would be apposite to first consider whether by order of this Court dated 12.1.2012 in Writ C No. 25704 of 2011 the voter list which returned the committee of the college in the year 2000 was declared final or it was provisional, subject to induction/expulsion of members by the committee which was in control as per its term."

97. On the strength of aforesaid judgments, the proposition which can be culled out is that the Prescribed Authority while dealing with an issue of an election can as an ancillary issue examine, determine and can also adjudicate the issue of membership as that would impact the electoral college which may have an impact on whether there has been a rightful reception of vote or there has been denial of a bonafide vote which would

impact the result of the election.

98. Apparently having taken a glance at the conspectus of the decision which has been noticed above, it is clear that the Deputy Registrar is not to act as rubber stamp authority. Even if at all, he desired to refer a matter to the Prescribed Authority doubting an election or continuance in office of an office bearer, he still had to apply its judicial mind to the controversy before him to ascertain as to whether there is any bonafide dispute or not.

99. Illustratively, there can be a case wherein election is held for constituting a committee of management. In case of any dispute, as per the provisions of Section 25(1) of the Act 1860 1/4th members of general body can request the Registrar to refer the disputes relating to the election to the Prescribed Authority. Where such number of members approach the Registrar with the request for reference and they bring glaring defaults or practices which may have vitiated the election to the notice of the Deputy Registrar, who can ascertain from the material before him whether the matter requires to be referred or not. If the number of members do not constitute 1/4th of the general body then in such case it may not be legally feasible to refer the matter.

100. However, there can be another situation where even though there may not be strength of 1/4th members of the general body, but in order to thwart a duly elected committee few erring members can create rival elections and put a stake before the Registrar. In such a situation if the Registrar merely noticing that there are multiple stakes refers such disputes to the Prescribed Authority in a mechanical manner then it may have an adverse impact on a duly elected committee. It is to avoid such a situation that it is required of

the Deputy Registrar that even if he refers the matter to the Prescribed Authority then he must apply his mind to ensure that the complaints which have come before him actually reflects some bonafide dispute relating to the elections and it may be referred to the Prescribed Authority for adjudication.

101. Similarly, there may be a case where the rival faction, who sets up its election on behalf of certain members, who are not the member of the general body as per the last list nor there being any adequate prima-facie material to indicate their induction, but if at behest of such persons, the election of another Committee is put under cloud, without preliminary screening, then it may cause prejudice. There may be another case where the alleged election is claimed by a rival faction and it is said to have been held after the expiry of the undisputed term of the earlier committee of management and that too without the sanction of the Deputy Registrar.

102. Thus, in the aforesaid illustrative circumstances, if the Deputy Registrar does not even ascertain *prima facie* facts and proceeds without tentative screening then he would be doing injustice as then a validly elected committee of management would be placed under some doubt at the behest of some unscrupulous members/persons and if this dispute is not sorted at the threshold and expeditiously then it would impact not only the current term of a validly elected committee but it would also result in carrying forward the said disputes for subsequent years or even future terms.

103. It is for the aforesaid reason that it is expected that the Deputy Registrar must scrupulously exercise its power or else it may result in grave

consequences which may have a cascading effect in the future years and may result in an eclipse over committee of management of the society for years at an end.

104. In light of the above discussion, if the facts of the case at hand is seen, it would indicate that last undisputed election took place in the year 2016 and since then there have been conflicting claims between the respective parties which gave rise to several petitions which has been noticed by this Court in background facts, and considering the judgment of this Court dated 07.06.2021 wherein the Deputy Registrar was required to examine certain issues as delineated in the judgment dated 07.06.2021, but neither it has been touched nor its impact has been noticed by the Deputy Registrar. Had those issues been addressed even tentatively and if its impact would have been assessed by the Deputy Registrar by a speaking and reasoned order and in that relevant context and stage if the Deputy Registrar would have arrived at a conclusion that the matter required a reference it could have been done validly, but unfortunately it has not been done, leading to further complication.

105. Here, four rival factions have set up their claim based on elections of different dates. One faction is led by Shri Devendra Pal Verma, who claims on the basis of an election said to have been held on 21.03.2021. The other claim is laid by a Committee of which Shri Bhuwan Tiwari is said to be the Secretary and his election is dated 20.02.2021. The third claim is laid by Shri Vivek Singh who claims to be the Secretary elected on the basis of an election dated 15.03.2021. The fourth rival claim has been laid by Shri Ram Ratan Chaturvedi who claims that initially his committee had been

constituted on 27.08.2021 but when Dr. Dheeraj Singh, its President expired, thereafter Shri Chaturvedi was elected as the President and Miss Jaya Tiwari was elected as a Secretary.

106. From the *prima facie* perusal of the list of the governing body Members which has been submitted before the Deputy Registrar by the aforesaid four faction, something which strikes the attention is that in the claim laid by the faction led by Shri Bhuwan Tiwari, as per the election dated 20.02.2021, he has filed a list of elected members which, inter-alia, includes the name of Shri Swadesh, Shri Gyanendra Gandhi, Smt. Shashi Bala Chopra, Shri Vivek Singh, Shri Vishal Singh and Dr. Dheeraj Singh amongst others.

107. Similarly, the faction led by Shri Vivek Singh who claims his election to have been held on 7/8.03.2021, in his list, it includes the names of Dr. Dheeraj Singh, Shri Vishal Singh, Shri Vivek Singh, Smt. Shashi Bala Chopra and Shri R.R. Chaturvedi, who are shown as office bearers.

108. Similarly in the election said to have been held on 27.08.2021 wherein Dr. Dheeraj Singh was the President and upon his death Shri R.R. Chaturvedi became the President, his committee of member also includes the name of Shri Virendra Ratnam, Shri Gyanendra Gandhi (who was also a member in the committee of management of the faction led by Shri Bhuwan Tiwari), Shri Rajeev Ranjan Mishra (who is said to be the President of the faction led by Shri Vivek Singh in pursuance of the alleged election held on 07.03.2021), Smt. Shashi Bala Chopra who needless to say is a common office bearer in the alleged committee led by Shri Bhuwan Tiwari, Shri Vivek Singh and Shri Jeevan Singh as well as Shri Ram Ratan

Chaturvedi who is common in the committee of Dr. Dheeraj Singh and also Shri Vivek Singh.

109. Once these lists were available before the Deputy Registrar at least he should have seen that some members, who were in the committee of management, as noticed above, were common in the three factions. What would be the impact of these turncoats, who appear to be persons of all seasons. Whether it would be possible to give recognition to the aforesaid list furnished by Shri Bhuwan Tiwari, Shri Vivek Singh and Shri Ram Ratan Chaturvedi relating to their respective elections with these turncoats present in the committee of all the three factions and the alleged election of Dr. Dheeraj Singh's faction is dated 27.08.2021, while the term of the last undisputed committee held in the year 2016 had come to an end on 27.03.2021.

110. It was also incumbent upon the Deputy Registrar to have examined that where bitter litigation was being fought in the earlier round of litigation which was the subject matter of the two writ petitions which came to be decided on 07.06.2021 and by then none of the warring factions had brought on record any fact relating to the alleged elections nor the standing counsel representing the Deputy Registrar had brought the facts to the notice of the Court. This fact of poor assistance was also noticed by this Court in its judgment dated 07.06.2021.

111. Even the alleged election claimed by Shri Devendra Pal Verma is said to have been held on 21.03.2021 and all its office bearer were practically elected unopposed while at that point of time Shri Devendra Pal Verma was already contesting the termination of his primary membership

which came to be decided on 07.06.2021 and his review was dismissed by this Court on 16.08.2023. In the aforesaid background, it should have been seen that Arya Pratinidhi Sabha has its own set of bye-laws which also provides for a procedure for the election. It ought to have been *prima facie* seen as to whether there was compliance of the bye-laws in holding the alleged election in order to test the veracity of the alleged elections claimed by the four warring factions only for the purpose to satisfying itself whether there was a bonafide dispute or not.

112. In the factual quagmire noticed above, now if the impugned order dated 23.04.2022 passed by the Deputy Registrar is perused and for the ease of reference it reads as under:-

प्रकरण की सुनवाई के दौरान उभय पक्षों द्वारा प्रस्तुत प्रपत्रों, लिखित अभिकथनों एवं पत्रावली में उपलब्ध प्रपत्रों का अधोहस्ताक्षरी द्वारा परीक्षण किया गया। पत्रावली के अवलोकन से यह अवधारित होता है कि संस्था की प्रबन्ध समिति का चुनाव दिनांक 27.03.2016 को कराया गया था, जिसका कार्यकाल दिनांक 26. 03.2021 तक था। माननीय उच्च न्यायालय के निर्णय एवं आदेश दिनांक-07.06. 2021 के पूर्व संस्था की अन्तरिम सभा (प्रबन्धसमिति) के तीन अलग-अलग निर्वाचन कार्यवाहियां कमशः दिनांक-20.02.2021, 07.03.2021 एवं दिनांक-21.03.2021 कार्यालय में पंजीकृत की जानें हेतु प्रस्तुत की गयीं। संस्था की अन्तरंग सभा (प्रबन्धसमिति) के कथित निर्वाचन दिनांक- 20.02.2021 में आचार्य स्वदेश को संस्था। प्रधान पद एवं श्री भुवन तिवारी को मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है। कथित निर्वाचन दिनांक 07.03.2021 में श्री राजीव रंजन मिश्रा को प्रधान पद पर एवं श्री विवेक सिंह को मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है। इसी प्रकार कथित निर्वाचन दिनांक-21.03.2021 में श्री देवेन्द्र पाल वर्मा द्वारा संस्था में प्रधान पद पर एवं श्री पंकज जायसवाल द्वारा मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है।

प्रकरण की सुनवाई को दौरान संस्था की अन्तरंग सभा (प्रबन्धसमिति) का कथित निर्वाचन दिनांक-27.08.2021 को कराया गया, जिसमें डा० धीरज सिंह प्रधान पद पर एवं डा० जया तिवारी के मंत्री पद पर निर्वाचित होने की दावेदारी की गयी है। यहाँ यह उल्लेखनीय है कि प्रकरण की सुनवाई के दौरान एक पक्षकार डा० धीरज सिंह का निधन दिनांक-22.10.2021 को हो जाने से उनके द्वारा प्रस्तुत कथित निर्वाचन कार्यवाही दिनांक-27.08.2021 की अन्तरंग सभा

(प्रबन्धसमिति) में निर्वाचित कोषाध्यक्ष डा० राम रतन चतुर्वेदी को रिक्त प्रधान पद पर दिनांक-28.11. 2021 की कार्यवाही में चुना गया।

उपरोक्त वर्णित विवंचना से यह स्पष्ट रूप से अवधारित होता है कि संस्था की अन्तरंग सभा (प्रबन्धसमिति) के चार पक्षकारों द्वारा कथित निर्वाचन कार्यवाहियां कमशः दिनांक-20.02.2021, 07.03.2021, 21.03.2021 तथा दिनांक-27. 08.2021 कार्यालय में अलग-अलग दिनांक में प्राप्त हुई हैं तथा उक्त चारों कथित निर्वाचन कार्यवाहियों में संस्था की अन्तरंग सभा (प्रबन्धसमिति) में पृथक-पृथक पदाधिकारी सदस्य दशयि गये हैं, जिनकी वैधानिकता पर विचारण करने का अधिकार सो०रजि०अधि० 1860 की धारा-25 (1) के अन्तर्गत विहित प्राधिकारी / उपजिलाधिकारी में निहित है।

अतः सो०रजि०अधि० 1860 की धारा-25 (1) के अन्तर्गत प्रकरण विहित प्राधिकारी/उपजिलाधिकारी सदर, लखनऊ को इस आशय से सन्दर्भित किया जा रहा है कि पक्षकारों को सुनने के उपरान्त संस्था की अन्तरंग सभा (प्रबन्धसमिति) के निर्वाचन के सम्बन्ध में निर्णय पारित करते हुए कृत कार्यवाही से अधोहस्ताक्षरी को भी अवगत कराने का कष्ट करें।।

113. At this stage, it will also be relevant to notice the observations made by the Apex Court in **Cyril Lasrado (Dead) by LRs and another v. Juliana Maria Lasrado and another, (2004) 7 SCC 431**, which reads as under:-

"11. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable.

12. Even in respect of administrative orders Lord Denning, M.R. in Breen v. Amalgamated Engg. Union [(1971) 1 All ER 1148 : (1971) 2 QB 175 : (1971) 2 WLR 742 (CA)] observed : (All ER p. 1154h) "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree [1974 ICR 120] it was observed: "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

114. Now, adjudging the order impugned on the touchstone of the decision which have been noticed herein above it would be found that the order passed by the Deputy Registrar is completely bereft of reasons. It will be significant to note that in the earlier round of litigation when this Court had passed the judgment dated 07.06.2021 it had clearly stated that all the issues raised were to be considered by the Deputy Registrar who was to decide the matter after affording an opportunity of hearing to the parties concerned by a reasoned and speaking order but then again the Deputy Registrar has committed the same error; inasmuch as he has quoted the paragraphs from the judgment dated 07.06.2021 and 01.07.2021 including the subsequent events regarding the claim made by the four rival faction but whether the claim *prima facie* made by the four warring faction had any *prima facie* substance to their respective claims or not ought to have been noticed at the threshold. It did not even find that there was a genuine and a bona fide disputes which enabled the Deputy Registrar to form a *prima facie* subjective satisfaction as to whether the conflicting claims had some basis to refer to the the matter to the Prescribed Authority.

115. This Court is conscious of the fact that in exercise of its jurisdiction under Article 226/227 of the Constitution of India, this Court cannot enter into the disputed question of fact which may require evidence. For the aforesaid reasons, this Court is not making any observations on merit as otherwise it may prejudice the case of either of the parties.

116. Hence, without expressing any opinion on merits of the respective claim of election by the warring fractions, but this Court is satisfied to the

extent that the order passed by the Deputy Registrar dated 23.04.2022 has been passed without forming any subjective satisfaction and it suffers from the vice of being a non-reasoned order and such an order qualifies to be termed as a rubber stamp order and thus it cannot be sustained.

117. Accordingly, a writ in the nature of certiorari is issued and the order dated 23.04.2022 is quashed. The matter shall stand remitted to the Deputy Registrar, who shall after affording an opportunity of hearing to all the concerned parties and after examining the records and submissions of the respective parties and taking note of the observations made by the Court in this judgment, shall decide the matter afresh by a reasoned and a speaking order.

118. The Deputy Registrar shall take up the matter expeditiously and the parties are also directed to cooperate in early hearing, so that the entire exercise can be completed within a period of four months, from the date, a copy of this order is placed before the Deputy Registrar concerned. Any party who does not cooperate shall do so at their own peril and the Deputy Registrar shall be well within his right to proceed to comply with the order as per the time line fixed.

119. The Writ Petitions bearing WRIT-C No.3418 of 2022 is accordingly **allowed** as a consequence the relief claimed in Writ Petition being WRIT-C No.14794 of 2021 cannot be granted hence it is dismissed. However, there shall be no order as to costs.

Order Date :- 18 September, 2024
Rakesh_ank/-