

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 257 of 2025

Appellant :- Committee of Management, Indian Club, Agra, City
Agra, District Agra and another

Respondent :- State of U.P. and 2 others

Counsel for Appellant :- Vinod Kumar Singh

Counsel for Respondent :- C.S.C., Kushagra Vaibhav Singh

Hon'ble Arun Bhansali, Chief Justice

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Vinod Kumar Singh, learned counsel for the petitioners-appellants and Shri Kushagra Vaibhav Singh, learned Standing Counsel for State-respondent Nos. 1 and 2.

2. The present intra-Court appeal has been filed assailing the judgment and order dated 21.03.2025 whereby the learned Single Judge has dismissed Writ C No. 7317 of 2015 (Committee of Management, Indian Club, Agra and another vs. State of U.P. and 2 others). The said petition was filed by the appellants challenging the order dated 23.01.2025 whereby the Assistant Registrar, Firms, Societies and Chits, Agra Region Agra had declared the Society as time barred with further directions to the office bearers of the Society to produce list of members of the General Body so as to verify the same for the purposes of holding elections. An

additional direction regarding replacement of the Chartered Accountant to submit some inquiry report was also issued.

3. Shorn of unnecessary details, the brief facts of the case are that the petitioners-appellants had submitted list of office bearers before the Assistant Registrar for the purposes of its registration under the Societies Registration Act, 1860 (in short 'the Act') and while examining the same, Assistant Registrar observed that the list was based upon elections allegedly held on 28.07.2024, however no such election proceedings had been produced in his office. The officer further observed that, as a matter of fact, after the last elections were held on 20.03.2019, neither election proceedings pertaining to the years 2020, 2021, 2022 and 2023 nor proceedings for cessation of membership of the complainant-respondent No. 3 allegedly held on 08.07.2024 were produced.

4. Learned Single Judge, while reproducing the findings of the Assistant Registrar to the aforesaid effect, arrived at a conclusion that the petitioners were not able to demonstrate any perversity in the said findings and on consideration of the argument advanced by the appellants qua powers exercisable by an Assistant Registrar under Section 25 of the Act, learned Single Judge observed that reference to the prescribed authority under Section 25(1) of the Act can be made only when there is a genuine election dispute and that the Assistant Registrar does not act as a mere post office.

5. Learned counsel for the appellants vehemently argued that Assistant Registrar had exceeded his statutory power, inasmuch as, no circumstances under Section 25(2) of the Act ever existed

and the findings nullifying the elections held by the appellants are wholly without jurisdiction. By referring to Clause 17 of the Memorandum of Association of the petitioners-society which, in fact, is a club, submission has been made that the Managing Committee shall hold office on yearly basis or until its successors are duly elected at the annual general meeting and since it was the appellant-Committee that was elected on yearly basis, the Assistant Registrar was not justified in issuing directions as regards holding of fresh elections or determination of membership and other allied directions and that the appellants would be competent to hold fresh elections. Further submission is that there being no provision in the Memorandum of Association to declare the society as time barred, the Assistant Registrar passed the order contrary to the bye-laws and the learned Single Judge has ignored this aspect of the matter. To buttress his submissions, reliance has been placed on Division Bench judgement of this Court in **Vinod Kumar Varshney vs. State of U.P. and others, 2017 (3) ESC 1529**.

6. Per contra, learned Standing Counsel supported the order impugned and submitted that once the petitioners-appellants failed to produce election proceedings of any year after elections were held on 20.03.2019, the Assistant Registrar was well within his power to decline to register list of office bearers based on elections and, therefore, learned Single Judge has rightly dismissed the writ petition.

7. Having heard learned counsel for the parties and having carefully perused the record, we find that term of the society, as

per Clause 17 of Memorandum of Association, is one year. The said clause is reproduced as under:-

“17. The Managing Committee shall hold office from 1st April to 31st March each year or until their successors have been duly elected at the annual general meeting.”

8. There is no dispute about the fact that elections were held on 20.03.2019. As regards further elections, though submissions have been made that the same were held in the years 2020, 2021, 2022, 2023 and lastly on 28.07.2024, learned counsel for the appellants could not dispute that while submitting the list of office bearers based upon on the last elections held on 28.07.2024, neither the proceedings thereof nor those in relation to any previous elections were produced before the Assistant Registrar.

9. Sections 4, 4-A and 4-B of the Act, as applicable in the State of U.P., empower the Registrar, which term includes Assistant Registrar, to examine correctness of the list of members of the General Body of the Society. A composite reading of the said provisions reflects that the Assistant Registrar is obliged to record his satisfaction based upon the records qua valid office bearership. As far as Section 25(1) is concerned, Assistant Registrar can make a reference to the prescribed authority only when any doubt or dispute in respect of election or continuance in office of an office bearer exists. As per sub-section (2) of section 25 where by an order made under sub-section (1) of Section 25, an election is set aside or an office bearer is held no longer entitled to continue in office or where the Assistant Registrar is satisfied that any election of the office bearers of a Society has not been held within

the time specified in the rules of the 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 authorised by him in this behalf, and the provisions in the rules of the Society relating to meetings and elections shall apply to such meeting and election with necessary modifications.

10. In the instant case, when the matter came up before the Assistant Registrar pursuant to the complaint made by respondent No. 3 and he proceeded to examine the validity of the list of office bearers produced by the appellants, he went through the record and found that after 20.03.2019, no proceedings of any election allegedly held on yearly basis were filed and, therefore, he issued directions in consonance with Section 25(2) of the Act. Submissions of the appellants based upon interpretation of Section 25(2) of the Act or judgment in **Vinod Kumar Varshney** (supra) are not acceptable in as much as even in that case, the Division Bench has held that the Registrar has power and jurisdiction to call a meeting for the purposes of holding of elections, if he is satisfied that the election has not been held within the time specified in the rules of the society and as far as right of the Committee of Management to convene a meeting for the purposes of holding elections after expiry of its term, it has been held that 'such right continues till such time the Registrar passes an order under Section 25(2) of the Act, after which no further meeting can be convened.' It has further been held that 'the Committee of

Management even after expiry of its term can convene a meeting unless it is specifically barred under the rules of the society.'

11. Though, Clause 17 of the Memorandum of Association provides that Managing Committee shall hold office until its successors have been duly elected, the clause has to be read harmoniously with reference to words "from 1st April to 31st March each year". It would mean that satisfaction has to be recorded by the Assistant Registrar to the effect that elections have been held on yearly basis, otherwise he would be well within his competence to declare the society as time barred.

12. We find that the conclusion drawn by the learned Single Judge as regards no perversity in the findings recorded by the Assistant Registrar qua non-production of any election proceedings, is in consonance with the material on record and before us also, the appellants have failed to demonstrate that such findings are perverse.

13. In view of above discussion, we do not find any good ground to interfere with the order of learned Single Judge. Consequently, the appeal fails and is, accordingly, **dismissed**.

Order Date :- 9.4.2025

Sazia

(Kshitij Shailendra, J)

(Arun Bhansali, CJ)