

Court No. - 32

Case :- WRIT - C No. - 13093 of 2025

Petitioner :- Committee Of Management, Swargiya Kanchan Singh Bhooli Devi And 2 Others

Respondent :- State Of Uttar Pradesh And 4 Others

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- C.S.C., Sanjay Srivastava

Hon'ble Saral Srivastava, J.

1. Personal affidavit filed today on behalf of respondent no.2/3 is taken on record.

2 . Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Umang Srivastava, learned counsel for the petitioners, Sri Jitendra Singh, learned Additional Chief Standing Counsel for the State and Sri Arvind Srivastava, learned counsel for private respondent.

3. The petitioners by means of the present writ petition have assailed the orders dated 26/27.09.2024 and 27.02.2025 passed by the Deputy Registrar, Firms, Societies and Chits, Kanpur Region, Kanpur.

4. This Court on 30.04.2025 passed the following order:-

"1. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Siddharth Khare, learned counsel for the petitioners, Sri Sanjay Srivastava, learned counsel for respondent nos.4 and 5, Sri I.P. Srivastava, learned Additional Chief Standing Counsel for the State-respondents and perused the records.

2. Challenging the orders dated 26/27.09.2024 and 27.02.2025 passed by the Deputy Registrar, Firms, Societies and Chits, Kanpur Region, Kanpur, counsel for the petitioners contends that this Court has directed by judgment and order dated 08.11.2024 passed in Writ-C No.36817 of 2024 to consider the objections of the petitioners. Thus, it was incumbent upon the Deputy Registrar to comply with the order of this Court dated 08.11.2024 in letter and spirit. It is submitted that the Deputy Registrar has failed to comply with the mandate of this Court passed in Writ-C No.36817 of 2024, dated 08.11.2024.

3. Let respondent no.2, who is personally impleaded as respondent no.3 in the array of the parties, appear in person before this Court and explain as to how he could justify the impugned orders 26/27.09.2024 and 27.02.2025.

4. Put up this case as fresh on 02.05.2025."

5. Pursuant to the order of this Court dated 30.04.2025, Deputy Registrar, Firms, Societies and Chits, Kanpur Region, Kanpur is present before this Court, who has been duly identified by Sri Jitendra Singh, learned Additional Chief Standing Counsel.

6. In the affidavit, it is stated that earlier complaint filed by the petitioners was withdrawn, and since no application was filed, therefore, in the light of the aforesaid fact, the representation of the petitioner was decided.

7. The petitioners in paragraph nos.13 to 17 of the writ petition have made following averments:-

"13. That it subsequently, came to light that Dharamvir Singh had resorted to fabrication of papers and submitted proceedings before the Deputy Registrar claiming resignation of Dharam Pal Singh, petitioner No.2, from the office of the Manager/Secretary. Upon acquiring knowledge thereof the petitioner No.2 filed his objections dated 16.08.2022 before the Deputy Registrar.

14. That shortly after filing of the aforesaid representation, father of the petitioner No. 2 fell seriously ill and ultimately expired.

15. That since no action had been taken by the Deputy Registrar on the basis of objections dated 16.08.2022, the petitioner No.2 filed further representation dated 13.08.2022 before the Deputy Registrar, Firms, Societies & Chits, a true copy of which is annexed as Annexure No.11 to this writ petition. In support of the aforesaid representation, Dharam Pal Singh, petitioner No.2, filed his notorial affidavit dated 10.08.2024.

16. That apart from the aforesaid two affidavits of Naresh Singh and two affidavits of Rajesh Singh Sengar were also filed before the Deputy Registrar, Firms, Societies & Chits on 09.08.2024.

17. That apart from the aforesaid, affidavits of Vishal Singh, Anang Pal Singh, Kanhai Singh, Vikram Singh, Ram Singh, Ramita Singh and Jayesh Thakur were also filed before the Deputy Registrar Firms, Societies & Chits."

8. Perusal of the averments made in the paragraph nos.13 to 17 of the writ petition, extracted above, discloses that petitioners have categorically alleged that resignation of the petitioners was forged, and several affidavits have been filed indicating that petitioners removal was illegal.

9. The Deputy Registrar has not controverted to the averments made in paragraph nos.13 to 17 of the writ petition. The Deputy Registrar being the quasi judicial authority is expected to act judicially without being influenced by any extraneous consideration and pass the order in accordance with law.

10. When this Court by order dated 08.11.2024 in Writ-C No.36817 of 2024 has directed the Deputy Registrar to decide the controversy after hearing all the concerned parties, it is expected of the Deputy Registrar that while deciding the controversy he will act judicially and not cursorily and causally. It is also expected of him that he shall abide by the orders passed by this Court in letter and spirit whereas finding recorded by him in the impugned order discloses that he has acted in a most causal manner in rejecting the representation of the petitioner.

11. The aforesaid fact is established from the finding returned by the Deputy Registrar in the impugned order. Relevant extract of the impugned order is reproduced herein below:-

"यहाँ पर यह उल्लेखनीय है कि तत्समय सोसाइटी रजिस्ट्रीकरण (उ०प्र० संशोधन) अधिनियम 2021 प्रभाव में था। जिसके अन्तर्गत प्रबन्ध समिति के विवादों के निस्तारण की अपील अधिनियम की धारा 4-1 (क) के अन्तर्गत आयुक्त कानपुर मण्डल, कानपुर के समक्ष योजित कर अनुतोष प्राप्त किया जा सकता था।

धारा 4(1-क)-इस धारा के अधीन कृत किसी आदेश के विरुद्ध अपील, ऐसा आदेश संसूचित किये जाने के दिनांक से एक माह के भीतर उस मण्डल, जिसकी अधिकारिता के भीतर सोसाइटी का मुख्यालय स्थित है, के आयुक्त के समक्ष की जा सकती है। परन्तु यह कि अपीलार्थी अपीलार्थी प्राधिकारी ऐसी अवधि के अवसान के पश्चात् अपील स्वीकार कर सकता है। यदि अपीलार्थी अपीलार्थी प्राधिकारी का यह समाधान कर देता है कि उसके पास ऐसी अवधि के भीतर अपील न करने का पर्याप्त हेतुक था।

परन्तु याची श्री धर्मपाल सिंह द्वारा ऐसी कोई भी अपील संस्थित नहीं की गयी है। श्री धर्मपाल सिंह याची द्वारा मा० उच्च न्यायालय के आदेश दिनांक 08.11.2024 के अनुपालन में अपना कोई भी विस्तृत प्रत्यावेदन प्रस्तुत नहीं किया गया है। साथ ही अपने पत्र दिनांक 16.12.2024 के माध्यम से अपनी पुरानी शिकायत को मात्र दोहराया गया है और न ही इस सम्बन्ध में कोई मूल अभिलेख प्रस्तुत किये गये हैं। वर्णित स्थिति में याची श्री धर्मपाल सिंह को कोई भी अनुतोष सम्भव नहीं है।

उपरोक्त तथ्यों व उनकी विवेचना के आधार पर मा० उच्च न्यायालय इलाहाबाद में योजित रिट याचिका संख्या 36817/2024 में पारित आदेश दिनांक 08.11.2024 के अनुपालन में याची श्री धर्मपाल सिंह द्वारा प्रस्तुत प्रत्यावेदन पर कार्यालय पोर्टल पर पंजीकृत वाद संख्या केएपी/डी10000540 में उन्हें कोई भी अनुतोष प्रदान नहीं किया जा सकता है। तदनुसार उनके द्वारा दाखिल वाद मा० उच्च न्यायालय इलाहाबाद के आदेश के क्रम में निस्तारित किया जाता है।"

12. When once this Court has directed the Deputy Registrar to decide the claim, there was no occasion for him to record a finding that petitioners have alternative remedy of appeal.

13. Further, when petitioners have already submitted complaint, it was the duty of the Deputy Registrar to decide the objections of the petitioners by reasoned and speaking order whereas impugned order is silent and non-speaking.

14. Sri Arvind Srivastava, learned counsel for the private respondent also could not dispute the fact that order impugned is non-speaking.
15. In such view of the fact, the impugned order is set aside.
16. Before parting with the judgement, this Court may note that the conduct of the Deputy Registrar is very casual. Earlier also he passed the order illegally which this Court has stayed in Writ-C No.36817 of 2024 and remitted the matter to him to decide the claim afresh.
17. Now again, the Deputy Registrar has cursorily passed the order without even looking to the records of the case which shows that he has least respect for the orders of this Court, and he is not discharging his duties sincerely.
18. In view of the aforesaid fact, this Court disapproves the conduct of the Deputy Registrar and directs the Disciplinary Authority to record in his service book with regard to his inefficiency in discharging his duties.
19. Sri Ashok Khare, learned Senior Counsel for the petitioners submits that the Deputy Registrar is not acting fairly and the aforesaid fact reflects that he for extraneous reason deciding the dispute casually and cursorily, and therefore, the matter may not be remitted to him and be remitted to some other Deputy Registrar of adjoining district.
20. In such view of the fact, the matter is transferred to the Deputy Registrar, Firms, Societies and Chits, Agra Region, Agra, who shall decide the claim strictly in accordance with law within a period of two months after giving due notice and opportunity of hearing to all the concerned parties from the date he receives record of the case.
21. The respondent no.2-Deputy Registrar, Firms, Societies and Chits, Kanpur Region, Kanpur is directed to remit the record of the case to the Deputy Registrar, Firms, Societies and Chits, Agra Region, Agra within a period of three weeks from today.
22. Since, the earlier order dated 27.09.2024 was also not sustainable in law which is evident from the finding returned by this Court in Writ-C No.36817 of 2024 and again the Deputy Registrar has acted casually in passing the fresh order, therefore, in such view of the fact, the order dated 27.09.2024 is also set aside.

23. The writ petition is ***allowed*** subject to observations made above. There shall be no order as to costs.

Order Date :- 2.5.2025
Sattyarth