



HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - C No. - 20655 of 2024

Sitaram Rastogi and another		
		Petitioner(s)
	Versus	
State of UP and 6 others		
		Respondent(s)
Counsel for Petitioner(s)	:	Anjali, J.P. Singh, Pramod Kumar Singh, Santosh Kr. Singh Paliwal
Counsel for Respondent(s)	:	C.S.C., Prabhakar Awasthi, Ram Pravesh Pandey, Vashishtha Dhar Shukla

WITH

WRIT - C No. - 11375 of 2024

Sitaram Rastogi		
		Petitioner(s)
	Versus	
State of UP and 2 others		
		Respondent(s)
Counsel for Petitioner(s)	:	Arvind Kumar Rai, J.P. Singh, Santosh Kr. Singh Paliwal, Vimal Kumar Rai
Counsel for Respondent(s)	:	C.S.C.

RESERVED ON :- 21.01.2026
DELIVERED ON :- 20.04.2026

HON'BLE MANJIVE SHUKLA, J.

1. The aforementioned both the writ petitions are related to a society namely, Shri Harihar Sanskrit Pathshala, Bazaar Gosain, Azamgarh and fate of Writ-C No. 11375 of 2024 depends on the decision of Writ-C No.

20655 of 2024, therefore, both the writ petitions are being decided by a common judgment.

2. Heard Shri J.P. Singh and Shri Santosh Kumar Singh Paliwal, learned counsels for the petitioners, learned Standing Counsel for the State-respondents, Shri Prabhakar Awasthi, learned Senior Advocate assisted by Shri R.P. Pandey, learned counsel for Respondent No's. 6 & 7 and Shri V.K. Ojha, learned Advocate holding brief of Ms. Anjali Singh, learned counsel for the intervener.

3. The captioned Writ-C No. 11375 of 2024 has been filed by the petitioner inter alia, praying therein for the following relief(s):-

i) to issue a writ, order or direction in the nature of mandamus directing the Respondent No.3 to hold the election of the Managing Committee of the Sri Harihar Sanskrit Pathshala 'Bazar Gosai, Azamgarh, within stipulated time as fixed by this Hon'ble Court in compliance of the order dated 02.12.2023 passed by the Assistant Registrar Firms, Societies and Chits, Azamgarh Division, Azamgarh (Respondent No. 2) passed under Section-25(2) of Society Registration Act, 1860 from the valid voter list as determined by Assistant Registrar Firms, Societies and Chits, Azamgarh Division, Azamgarh."

4. The captioned Writ-C No. 20655 of 2024 has been filed by the petitioners inter alia, praying therein for the following relief(s):-

"(i) to issue a writ, order or direction in the nature of Certiorari quashing the order impugned dated 30.05.2024 passed by the Respondent No. 2/3 (copy of impugned order is enclosed as Annexure No.1 to this petition).

(ii) to issue a writ, order or direction in the nature of mandamus commanding the Respondent No. 2/3 to hold elections in accordance with order dated 02.12.2023 and the undertaking given before this Court on 17.05.2024 within the time to be specified by the Hon'ble Court;"

5. The facts of the case, in brief, are that Shri Harihar Sanskrit Pathshala, Bazar Gosain, Azamgarh (hereinafter referred to as 'the Society') is a Society registered under the Societies Registration Act, 1860 and is run under its approved By-Laws. On November 10, 2010, registration of the Society was renewed on the application dated November 10, 2010 submitted by the then Manager, Shri Ramakar Dubey. Thereafter, a list of office bearers of the Committee of Management of the Society for 2010-11 and list of members of general body of the Society for 2010-11

were filed. As per By-Laws of the Society, term of its Committee of Management is one year. The elections of the Committee of Management of the Society took place on October 01, 2013 wherein, Shri Ramakar Dubey was elected as Manager and Petitioner No. 1 i.e. Mr. Sitaram Rastogi was elected as Deputy Manager. List of office bearers of the Committee of Management of the Society was filed in the office of the Assistant Registrar and it was duly registered. Shri Ramakar Dubey i.e. Manager of the Society died on November 17, 2013 and therefore, the casual vacancy in the office of Manager was filled in by electing Petitioner No. 1 as Manager and a revised list of office bearers of the Committee of Management of the Society was filed in the office of the Assistant Registrar. The term of the Committee of Management of the Society elected in the elections held on October 01, 2013 came to an end on October 01, 2014. Thereafter, various election proceedings were filed in the office of the Assistant Registrar but none of the elections were recognized and ultimately, in the year 2022, rival sets of elections i.e. one election submitted by Petitioner No. 1, another election submitted by Shri Sadanand Tiwari and third election submitted by Shri Ram Naval Pandey, were placed before the Assistant Registrar, Firms, Societies & Chits, Azamgarh. The aforesaid three elections were considered by the Assistant Registrar and ultimately, he passed an order on June 18, 2022 wherein he recorded a finding that after elections dated October 01, 2013, whose term expired on October 01, 2014, no valid election of the Committee of Management of the Society took place, therefore, the Committee of Management of the Society had become time barred and accordingly, he directed for elections of the Committee of Management of the Society under Section 25(2) of the Societies Registration Act, 1860 and in furtherance thereof, declared a tentative list of 14 members of the general body of the Society and invited objections from all the persons concerned.

6. Against the tentative list of members of general body of the Society declared by the Assistant Registrar, Firms, Societies & Chits, Azamgarh

Division, Azamgarh vide his order dated June 18, 2022, Respondent No. 7 i.e. Shri Giresh Kumar Pandey filed an application on July 11, 2022 and Respondent No. 6 i.e. Shri Ved Prakash Pandey along with Shri Sharad Vrat Pandey, Shri Ram Vilas, Shri Abhay Shukla, Shri Vijay Narayan, Shri Ravikant and Shri Sudhakar Pandey filed an application on July 12, 2022. In both the aforesaid applications dated July 11, 2022 & July 12, 2022, a common case was placed before the Assistant Registrar that forty Special Members (Vishisht Sadasya) were inducted in the general body of the Society vide a resolution passed by the Committee of Management of the Society on October 28, 2013 and the induction of said forty members was duly communicated by the then Manager of the Society i.e. by Shri Ramakar Dubey, therefore, the names of said forty persons may also be included in the list of members of general body of the Society for the purposes of elections to be held under Section 25(2) of the Societies Registration Act, 1860. Along with the aforesaid objections, Shri Sadanand Tiwari and Petitioner No. 1 i.e. Shri Sitaram Rastogi also filed their objections.

7. The Assistant Registrar, Firms, Societies & Chits, Azamgarh Division, Azamgarh issued notice to Respondent No. 6, Petitioner No. 1 and Shri Sadanand Tiwari for hearing on the objections. After hearing on the objections, the Assistant Registrar passed a detailed order on December 02, 2023 whereby, list of eleven members of the general body of the Society was finalized and election officer was appointed for holding elections of the Committee of Management of the Society from the said list.

8. The Respondent No. 7 filed an application on December 07, 2023 before the Assistant Registrar which was received in his office on December 08, 2023 wherein, he submitted that he had filed objections on July 11, 2022 against the tentative list of the members of the general body issued vide order dated June 18, 2022 but he was not issued notice for hearing and without hearing him, the list of members of the general body has been finalized vide order dated December 02, 2023, therefore,

the said order is liable to be recalled, as the same is hit by the violation of the principles of natural justice. The Respondent No. 7 also submitted an application on December 11, 2023 before the Commissioner, Azamgarh Division, Azamgarh for a direction to the Assistant Registrar to hear him and thereafter, finalize the list of members of the general body of the Society. The Commissioner, Azamgarh Division, Azamgarh on December 11, 2023 directed the Assistant Registrar to conduct an enquiry in the matter and submit a report.

9. Since, in spite of finalization of the list of members of the general body of the Society vide order dated December 02, 2023, elections of the Committee of Management of the Society did not take place, the Petitioner No. 1 filed a writ petition bearing Writ-C No. 11375 of 2024 with a prayer that the authorities may be directed to hold elections of the Committee of Management of the Society in terms of the order dated December 02, 2023 within a fixed timeframe. This Court passed an order on 08.04.2024 in Writ-C No. 11375 of 2024 whereby, learned Standing Counsel appearing for the State was directed to take categorical instructions as to why elections pursuant to order dated December 02, 2023 have not taken place. The Writ-C No. 11375 of 2024 came up before the Court on May 08, 2024 and since the Assistant Registrar in the instructions provided to learned Standing Counsel did not specify the time within which elections shall be completed, this Court directed learned Standing Counsel to take instructions as to within what time elections would be completed. On May 17, 2024, Shri Abhishek Tripathi, Assistant Registrar, Firms, Societies & Chits, Azamgarh Division, Azamgarh appeared before the Court and submitted that, in all probability, he will complete the elections pursuant to order dated December 02, 2023, by July 15, 2024. Accordingly, the Court, on May 17, 2024, passed the order which is delineated as under:-

“1. In compliance of this Court’s order dated May 08, 2024, Sri Abhishek Tripathi, Assistant Registrar, Firms, Societies and Chits, Azamgarh has appeared before this Court and has stated that in all probability, he will complete the elections pursuant to order dated December 02, 2023 by 15.07.2024.

2. Accordingly, list this matter on 18.07.2024.

3. It is made open for the Assistant Registrar that if due to some unavoidable circumstances, he is unable to complete process of election by 15.07.2024, he may move application for further extension of time.”

10. Thereafter, the Assistant Registrar, Firms, Societies, and Chits, Azamgarh Division, Azamgarh has passed an order on May 30, 2024, whereby, on the application given by Respondent No. 7, he has reviewed his earlier order dated December 2, 2023, and has passed a fresh detailed order whereby he has declared a final list of 51 members of the society for the purposes of elections to be held under Section 25(2) of the Societies Registration Act, 1860. The aforesaid order dated May 30, 2024, has been challenged by the petitioners in Writ-C No. 20655 of 2024, and this Court, on June 21, 2024, passed an interim order whereby the effect and operation of the order dated May 30, 2024, has been kept in abeyance. It has also been informed that, pursuant to the order dated May 30, 2024, elections of the Committee of Management of the society have taken place, but those elections have not been given effect to in view of the aforesaid interim order dated June 21, 2024. The aforesaid interim order dated June 21, 2024 was challenged by Respondent No's. 6 and 7, i.e. Mr. Ved Prakash Pandey and Mr. Giresh Kumar Pandey, by filing Special Appeal No. 634 of 2024 and in the said Special Appeal, the Division Bench of this Court has passed the following order:-

“1. Heard Sri Prabhakar Awasthi, learned counsel for the appellants, Sri J.P. Singh, learned counsel for Respondent Nos. 1 & 2 and Sri Ankit Gaur, learned counsel for State-Respondents.

2. This appeal is directed against the order dated June 21, 2024 passed by learned Single Judge in Writ C No. 20655 of 2024. The writ petition was filed aggrieved of the action of the Assistant Registrar, Firms, Societies and Chits, Azamgarh, whereby a list of members of the Society in question was finalized on 30.05.2024 and elections were held.

3. The primary submission made is that in the Writ C No. 11375 of 2024 on 17.08.2024, the Assistant Registrar appeared before the Court and made certain submissions and his action dated 30.05.2024 was in teeth of his undertakings/submissions made before the Court on May 17, 2024.

4. The learned Single Judge after hearing the parties found that the order dated 30.05.2024 was in teeth of the order dated May 17, 2024 passed in Writ C No. 11375 of 2024 and consequently, stayed the action pursuant to the order dated 30.05.2024.

5. In the present appeal, submissions have been made seeking to interpret the order dated May 17, 2024 and/or what transpired before the Court on May 17, 2024 in Writ C No. 11375 of 2024.

6. In the firm opinion of this Court, as the parties are seeking to interpret the order dated May 17, 2024 passed in Writ C No. 11375 of 2024 and as to what led to passing of the said order, it would be appropriate that the Writ C No. 20655 of 2024 and Writ C No. 11375 of 2024 are heard by the learned Single Judge, who had passed the order dated May 17, 2024.

7. Both the learned counsel for the parties have no objection to the said aspect of the matter.

8. Consequently, the present appeal is disposed of.

9. List Writ C No. 20655 of 2024 and Writ C No. 11375 of 2024 on 09.08.2024 before the Bench, which has passed the order dated May 17, 2024 in Writ C No. 11375 of 2024, after seeking appropriate nomination.”

11. In the aforesaid circumstances, both the writ petitions, i.e. Writ-C No. 11375 of 2024 and Writ-C No. 20655 of 2024 have come up before this Court and arguments of parties' counsels have been heard.

12. Shri J.P. Singh, learned counsel for the petitioners, has invited attention of this Court towards the array of the parties in Special Appeal No. 634 of 2024 and submits that the interim order dated 21 June 2024, passed in Writ-C No. 20655 of 2024, had been challenged in the Special Appeal by Mr. Ved Prakash Pandey and Mr. Giresh Kumar Pandey, and therefore, it is apparent that both are connected with each other and are agitating the claim of alleged forty members of the general body of the Society. He further submits that against the tentative list of the members of the general body declared vide order dated June 18, 2022, Mr. Ved Prakash Pandey and Shri Giresh Kumar Pandey, though filed separate applications on July 12, 2022 and July 11, 2022 respectively but their claim was one and the same and the said claim of membership of the forty persons had been considered in its threadbare by the Assistant Registrar in its order dated December 02, 2023, therefore, even if Mr. Giresh Kumar Pandey was not issued notice for personal hearing, that does not make any difference on the merits of the case, as Mr. Ved Prakash Pandey was heard in detail and each and every aspect of his claim had been considered and decided by the Assistant Registrar.

13. Shri J.P. Singh, learned counsel for the petitioners, has vehemently argued that it is well-settled, through a catena of judgments of the Hon'ble Supreme Court and of this Hon'ble Court, that any authority exercising its power under a statute does not have the power to review its decision unless the statute expressly so provides. He further submits that once the Assistant Registrar passed an order on December 02, 2023 after considering each and every aspect of the matter on merits and finalized the list of 11 members of the Society, there was no occasion for him to review his order dated December 02, 2023 and to pass a fresh order dated May 30, 2024 as no provision under the Societies Registration Act, 1860 gives power to the Assistant Registrar to review his decision. It has been vehemently argued that the order dated May 30, 2024 is an order without jurisdiction and therefore, is nullity in the eyes of law and any consequential action taken pursuant to order dated May 30, 2024 cannot be allowed to sustain.

14. It has been argued on behalf of the petitioners that from a bare perusal of the order dated December 02, 2023, it clearly comes out that the claim of forty persons for membership of the general body of the Society (which was a common claim raised by Mr. Ved Prakash Pandey and Mr. Giresh Kumar Pandey before the Assistant Registrar) had been considered by the Assistant Registrar and has been rejected vide a detailed order dated December 02, 2023. The Assistant Registrar in its order dated December 02, 2023 had recorded a categorical finding that the said forty persons are claiming membership under the alleged resolution of the Committee of Management of the Society dated October 28, 2013 but neither they were invited to attend any meeting of the Society, nor they ever attended any meeting since year 2013 till the year 2022, and further, the said 40 members, at no point of time, did ever raise their voice and did not submit any application to any authority in respect of their rights to attend the meetings and straight away, through applications dated July 11, 2023 and July 12, 2023, they for the first time raised their claim before the Assistant Registrar, which in fact,

categorically demonstrates that they are claiming membership on the basis of certain forged papers. It has further been argued that once the claim of forty persons regarding their membership in the general body of the Society had been considered and decided on merits, then the said decision cannot be reviewed merely for the reason that one person, i.e. Mr. Giresh Kumar Pandey was not afforded opportunity of hearing by the Assistant Registrar.

15. Learned counsel appearing for the petitioner has vehemently argued that the order dated May 30, 2024 apparently is without jurisdiction as the Assistant Registrar, Firm, Society and Chits, Azamgarh Division, Azamgarh, has reviewed his order dated December 02, 2023, though, under the provisions of the Societies Registration Act, 1860, he does not have the power to do so. It has further been argued that though procedural review of an order passed by a statutory authority is permissible but that power can only be exercised if a party to the proceedings has not been heard at all and his case has not been considered and decided on merits, whereas, from the facts of the present case, it is apparent that Respondent No. 6 i.e. Mr. Ved Prakash Pandey and Respondent No. 7 i.e. Mr. Giresh Kumar Pandey raised identical claims based on identical documents before the Assistant Registrar and Mr. Ved Prakash Pandey was issued notice and heard in detail, and thereafter, a detailed and well-reasoned order dated December 02, 2023 had been passed wherein the claim of membership of forty persons allegedly inducted vide resolution of the Committee of Management of the Society dated October 28, 2013 had been considered in its threadbare and by recording findings on merits, the Assistant Registrar rejected their claim of membership, therefore, the present case does not fall within the ambit of procedural review, and in fact, in the garb of procedural review, the Assistant Registrar has overturned the findings recorded on the merits in the order dated December 02, 2023 and has passed order for including the names of forty persons in the final list of the general body of the Society.

16. It has also been vehemently argued that there cannot be any better example of misuse of the concept of procedural review than the present case where two parties raised identical claim before the Assistant Registrar and one was called for personal hearing but another was not, and the order was passed on their claim on merits, but later on, only for the reason that one person was not called for hearing, in the garb of procedural review, the order dated December 02, 2023 has been reviewed and again an order on merits has been passed on May 30, 2024.

17. Shri J.P. Singh, learned counsel appearing for the petitioners has submitted that in the garb of review or procedural review of an order, the decision taken on merits cannot be reviewed unless it is shown that had the opportunity of hearing been given to a party before passing of the order, he would have placed such materials on the basis of which the findings recorded in the order would not have been arrived at but in the present case, only on a small infirmity in passing the order dated December 02, 2023 that Mr. Giresh Kumar Pandey was not provided opportunity of personal hearing, the findings recorded on the merits of the claim of membership of 40 members have been overturned, which is not permissible in the garb of either review or procedural review. It has also been submitted by the learned counsel appearing for the petitioners that on filing the application by Mr. Giresh Kumar Pandey, the Petitioner No. 1 filed objections on December 29, 2023, categorically mentioning therein that the Assistant Registrar, Firms, Societies and Chits, Azamgarh Division, Azamgarh, does not have power to review his decision dated December 02, 2023 but the said objections have not been considered at all by the authority concerned while passing the order dated May 30, 2024.

18. Learned counsel for the petitioners has relied upon the judgments rendered by the Hon'ble Supreme Court in the cases of *Dr. (Smt.) Kuntesh Gupta Vs. Management of Hindu Kanya Mahavidyalaya, Sitapur (U.P.) & Others, (1987) 4 SCC 525; Kalabharati Advertising*

Vs. Hemant Vimalnath Narichania & Others, (2010) 9 SCC 437; The State of West Bengal & Others Vs. Kamal Sengupta & Another, JT 2008 (8) SC 317; the judgment dated 21.01.2020 in the case of *Kalapatru Power Transmission Ltd., Gandhinagar Vs. Maharashtra State Electricity Transmission Co. Ltd. Mumbai, 2020 LawSuit (Bom.) 92*; and the judgment of this Court dated 28.02.2011 rendered in *Civil Miscellaneous Writ Petition No. 10052 of 2011, Khachchan Singh Vs. State of U.P. & others*; to buttress his arguments that the impugned order dated May 30, 2024 is without jurisdiction, as the Assistant Registrar does not have power under the Societies Registration Act, 1860 to review his decision, and further, the case in hand does not fall within the ambit of procedural review of an order passed by a statutory authority.

19. Learned counsel for the petitioners has thus concluded his arguments and has submitted that the writ petitions filed by the petitioners are liable to be allowed and the impugned order dated May 30, 2024 along with the consequential elections, if any, are liable to be quashed and set aside.

20. Shri Prabhakar Awasthi, learned Senior Advocate appearing for Respondent No's. 6 & 7, has argued that the Assistant Registrar, Firm, Societies & Chits, Azamgarh Division, Azamgarh, passed an order on June 18, 2022, whereby elections of the Committee of Management of the Society had been declared time-barred and in exercise of power under Section 25(2) of the Societies Registration Act, 1860, a decision was taken to conduct elections of the Committee of Management of the Society and in furtherance thereof, a tentative list of 14 members of the general body of the Society was declared. The Respondent No. 7, Shri Giresh Kumar Pandey, submitted his objections in the form of an application dated July 11, 2022 before the Assistant Registrar but without providing him an opportunity of hearing, the Assistant Registrar passed an order on December 02, 2023 whereby the list of 11 members of the general body of the Society was finalized. It has further been argued that it is apparent from the face of the order dated December 02,

2023 that it can not sustain in the eyes of law as it has been passed in gross violation of the principles of natural justice for the reason that before passing the said order, Respondent No. 7 was not afforded opportunity of hearing.

21. It has been argued on behalf of Respondent No's. 6 & 7 that once it is clear from a bare perusal of the order dated December 02, 2023 that Respondent No. 7 had filed objections to the tentative list of members issued vide order dated June 18, 2022 and raised a claim that 40 persons, including him and Mr. Ved Prakash Pandey, were inducted as members of the general body of the Society vide resolution of the Committee of Management of the Society dated October 28, 2013, then it was obligatory on the Assistant Registrar to provide an opportunity of hearing to Respondent No. 7, before finalizing the list of members of the general body of the Society whereas, it is apparent from the face of order dated June 18, 2022 that no such opportunity of hearing was afforded to Respondent No. 7 before passing the said order.

22. Shri Prabhakar Awasthi, learned Senior Advocate for Respondent No's. 6 & 7, has argued that Respondent No's. 6 & 7 and thirty-eight other persons i.e. a total of 40 persons, were inducted as special members (विशिष्ट सदस्य) of the Society vide resolution dated October 28, 2013 passed by the Committee of Management of the Society and the then Manager of the Society, Late Ramakar Dubey, informed the said induction of members to the Assistant Registrar vide application dated November 07, 2023, then there could not have been any occasion for the Assistant Registrar to reject the claim of 40 persons in respect of their members, as such the order dated June 18, 2022 on its face is unsustainable. It has been argued that, no doubt, the Assistant Registrar under the Societies Registration Act, 1860 does not have any power to review his decision but if there is any procedural infirmity in the order, then it can be reviewed under the concept of procedural review. It has further been argued that the Hon'ble Supreme Court, vide its various

decisions, had categorically propounded the law that in the cases where a quasi-judicial authority comes to the conclusion that the order passed by him suffers from procedural defect and would have been different had that defect not existed, it can review its order.

23. The learned Senior Advocate appearing for Respondent No's. 6 & 7 has vehemently argued that it is apparent on the face of order dated December 02, 2023 that Respondent No. 7 had filed objections in the form of an application dated July 11, 2022 against the tentative list of members declared vide order dated June 18, 2022 but he was not afforded opportunity of hearing before passing the order dated December 02, 2023, therefore, the Assistant Registrar, on an application moved by Respondent No. 7, has reviewed his order dated December 02, 2023 by passing a fresh order dated 30 May 2024 based on the principle of procedural review, as such the impugned order dated May 30, 2024 does not suffer from either any infirmity or illegality.

24. It has been submitted on behalf of Respondent No's. 6 & 7 that after passing of the order dated December 02, 2023, Respondent No. 7 filed an application before the Assistant Registrar praying for a review of the order and also filed an application before the Commissioner, Azamgarh Division, Azamgarh for a direction to the Assistant Registrar to look into the entire matter again after providing opportunity of hearing to Respondent No. 7 and while the matter of review was pending before the Assistant Registrar, Petitioner No. 1 filed Writ-C No. 11375 of 2024, wherein this Court directed the learned Standing Counsel appearing for the state to take instructions as to why elections have not been completed in terms of the order dated December 02, 2023 and the Assistant Registrar provided instructions to learned Standing Counsel that after completion of the review proceedings, he would complete the elections and thereafter the order dated May 30, 2024 has been passed, and the elections of the Committee of Management of the Society have been conducted. It has further been submitted that once the order dated December 02, 2023 has been reviewed by passing an order dated May

30, 2024 and the elections of the Committee of Management of the Society have been conducted, there is no occasion for this Court to interfere in the matter.

25. It has been pointed out by learned Senior Advocate appearing for Respondent No's. 6 & 7 that Respondent No's. 6 & 7 along with 38 other persons i.e. a total of 40 persons were inducted as members by the Committee of Management of the Society vide resolution dated October 28, 2013 and it is admitted by Petitioner No. 1 in the orders passed by the Assistant Registrar that the original registers of the proceedings of the Committee of Management of the Society have been taken away by the then Principal of the college, therefore, there was no occasion for the Assistant Registrar to discard the claim of the 40 persons in respect of their membership, which was granted to them vide resolution dated October 28, 2013.

26. Shri Prabhakar Awasti, learned Senior Advocate, has thus concluded his arguments by submitting that the order dated 30 May 2024 has been passed by the Assistant Registrar applying the principle of procedural review, therefore, there is neither any illegality nor infirmity in the said order, accordingly, the writ petitions filed by the petitioners are liable to be dismissed by this Court.

27. Learned Senior Advocate appearing for Respondent No's. 6 & 7, to buttress his arguments, has relied upon the judgments of the Hon'ble Supreme Court rendered in the case of *M/S Haryana Suraj Malting Ltd. Vs. Phool Chand, 2018 (16) SCC 567*; and the judgment and order dated 08.01.2019 passed by this Court in *Writ-C No. 375 of 2019, Nagar Palika Parishad, District – Ghazipur Vs. Union of India & 3 others*.

28. Sri V. K. Ojha, learned Advocate holding brief of Ms. Anjali Singh, learned counsel for the intervener, has argued that Mr. Sadanand Tiwari had already challenged the order dated June 18, 2023 by filing Writ-C No. 22464 of 2022, which is pending before this Court, therefore, unless

the said writ petition is decided, this court may not permit any election of the Committee of Management of the Society.

29. I have heard learned counsels appearing for the parties including learned counsel for the intervener and have perused the documents available in the record of the writ petitions placed before this Court.

30. It is apparent that Respondent No's. 6 & 7 in Writ-C No. 20655 of 2024 have not challenged the order dated June 18, 2022 whereby the elections of the Committee of Management of the society had been declared time-barred and tentative list of 14 members of the general body of the society was published and objections were invited except that the order dated June 18, 2022 has been challenged by the intervener, Mr. Sadanand Tiwari, by filing a separate Writ-C No. 22464 of 2022, wherein, as of now, no interim order has been passed by this Court. Thus, it is manifest that this Court, while deciding the Writ-C No.11375 of 2024 and Writ-C No. 20655 of 2024, is to adjudicate the validity of the proceedings carried out by the Assistant Registrar, Firms, Societies and Chits, Azamgarh Division, Azamgarh, after June 18, 2022.

31. The Assistant Registrar after considering the entire facts and circumstances of the case and after affording opportunity of hearing to the concerned parties, had passed an order on June 18, 2022, whereby elections of the Committee of Management of the Society had been declared as time-barred and further, the Assistant Registrar, in exercise of his power under Section 25(2) of the Societies Registration Act, 1860, proceeded to hold elections of the Committee of Management of the Society, and in that process, a tentative list of 14 members of the general body of the Society was declared and objections against the said tentative list were invited.

32. The objections against the aforesaid tentative list of members of the Society, declared vide order dated June 18, 2022, were filed by Petitioner No. 1 i.e. Mr. Sitaram Rastogi, Mr. Sadanand Tiwari, Respondent No. 6 i.e. Mr. Ved Prakash Pandey and Respondent No. 7

i.e. Mr. Giresh Kumar Pandey, and also by other persons. The Respondent No. 7 i.e. Mr. Giresh Kumar Pandey filed his objections through an application dated July 11, 2022 and Respondent No. 6 i.e. Mr. Ved Prakash Pandey along with Mr. Sharad Vrat Pandey, Mr. Ram Vilas, Mr. Abhay Shukla, Mr. Vijay Narayan Pandey, Mr. Ravikant, and Mr. Sudhakar Pandey filed their objections vide application dated July 12, 2022. It is of utmost importance to take note of the fact that objections raised by Mr. Giresh Kumar Pandey through his application dated July 11, 2022 and the objections raised by Mr. Ved Prakash Pandey through his application dated July 12, 2022 were one and the same, and their claim was that 40 persons, including them, have been inducted as special members (Vishishta Sadasya) of the general body of the Society vide resolution dated October 28, 2013 passed by the Committee of Management of the Society, therefore, the names of said 40 persons must be included in the list of members of the general body of the Society to be used in the elections to be held under the order dated June 18, 2022. It is also noteworthy that Respondent No's. 6 & 7 in their objections claimed that they along with 38 other persons were inducted as members of the general body of the Society vide resolution dated October 28, 2013 passed by the Committee of Management of the Society whose manager was Mr. Ramakar Dubey and he duly informed the said induction of the members to the office of the Assistant Registrar vide his letter dated November 07, 2013.

33. It is also of the utmost importance for this Court to consider that Mr. Giresh Kumar Pandey i.e. Respondent No. 7 and Mr. Ved Prakash Pandey i.e. Respondent No. 6, from the very beginning, have raised one and the same claim in respect of membership of the 40 persons, and that fact also gets fortified through subsequent actions, as they have collectively challenged the order dated June 21, 2024, passed by this Court in Writ-C No. 20655 of 2024, by filing Special Appeal No. 634 of 2024. Thus, from the conduct of Respondent No's. 6 and 7, by filing common objections against the tentative list before the Assistant

Registrar and thereafter, collectively contesting the case before this Court in Special Appeal No. 634 of 2024, it is crystal clear that both have raised an absolutely common issue of the validity of the membership of 40 persons allegedly inducted vide resolution dated October 28, 2013. The Court finds that pursuant to the order dated June 18, 2022, the Respondent No's. 6 & 7 filed two separate applications dated July 12, 2022 and July 11, 2022 respectively, whereby they raised common objections and issues in respect of the claim of 40 persons regarding their membership of the general body of the Society. The Assistant Registrar, Azamgarh Division, Azamgarh, while hearing the objections, did not issue notice for personal hearing to Respondent No. 7 but notice to Respondent No. 6 for personal hearing was issued and he was heard. The Assistant Registrar, in its order dated December 2, 2023, had considered the entire objections raised in respect of the alleged membership of 40 persons, including the membership of Respondent No's. 6 & 7, granted by the alleged resolution dated October 28, 2013, and thereafter, after considering the matter in its entirety, recorded a categorical finding that the claim of membership of 40 persons is not tenable in the eyes of law. For ready reference, the relevant extracts of the order passed by the Assistant Registrar on December 2, 2023, are reproduced as under:-

“श्री गिरीश कुमार पाण्डेय द्वारा समिति के व्यवस्थापक/प्रबन्धक के रूप में प्रार्थना पत्र दिनांक 11.07.2022 एवं उक्त के साथ संलग्न कर कार्यालय को प्रस्तुत प्रार्थना पत्र दिनांक 07.07.2022 समस्त संलग्नकों सहित छायाप्रति में प्रस्तुत करते हुए निम्नलिखित सूची के अनुसार समिति के साधारण सभा का विधिमान्य सदस्य होने, पूर्व अध्यक्ष, उपाध्यक्ष व प्रबन्धक आदि द्वारा निहित हित में अपने अधिकार का दुरुपयोग करते हुए समिति विरोधी गतिविधियों में संलग्न होने के कारण साधारण सभा के हम सदस्यगण को समिति के बैठकों की सूचना न दिये जाने, इसलिए पूर्व में आहूत बैठकों में सम्मिलित होने से हम सदस्यगण के वंचित होते रहने, हमारे अधिकारों का जानबूझकर हनन किये जाने का कथन करते हुए एवं साधारण सभा के सदस्य की सूची के रूप में 40 व्यक्तियों की सूची प्रार्थना पत्र पर टंकित करते हुए समितिहित में आवश्यक कार्यवाही किये जाने हेतु अनुरोध किया गया। श्री वेद प्रकाश, श्री शरद्व्रत पाण्डेय, श्री रामविलास, श्री अभय शुक्ल, श्री विजय नारायण, श्री रविकान्त, श्री सुधाकर पाण्डेय के संयुक्त हस्ताक्षरों से समिति के साधारण सभा के सदस्य के रूप में आपत्ति दिनांक 12.07.2022 प्रस्तुत करते हुए कार्यालय आदेश दिनांक 18.06.2022 द्वारा सलग्न सूची के 14 सदस्य एवं हम सभी साधारण सभा के 40 सदस्यों के विधिमान्य सदस्य होने, समिति के पूर्व अध्यक्ष, उपाध्यक्ष, प्रबन्धक आदि द्वारा निहित हित में अपने अधिकारों का दुरुपयोग करते हुए

समिति विरोधी गतिविधियों में सम्मिलित होने के कारण साधारण सभा के हम सभी सदस्यों को बैठक के सन्दर्भ में सूचना न दिये जाने, साधारण सभा की सूची में हम 40 सदस्यों का नाम भी प्रस्तुत न किये जाने, इसलिए पूर्व में आहूत बैठकों में साधारण सभा के हम सदस्यगण के वंचित होते रहने, जानबूझकर हमारे अधिकारों का हनन किये जाने का कथन करते हुए एवं साधारण सभा सूची के रूप में 40 व्यक्तियों का नाम व विवरण प्रार्थना पत्र पर टंकित करते हुए हम सभी 40 सदस्यीय साधारण सभा की सूची के साथ ही आदेश दिनांक 18.06.2022 द्वारा निर्गत 14 सदस्यीय साधारण सभा के सदस्य अर्थात् कुल 54 सदस्यीय साधारण सभा के सदस्यों के आधार पर अग्रिम कार्यवाही किये जाने हेतु अनुरोध किया गया है। आपत्ति दिनांक 12.07.2022 के साथ संलग्न कर आदेश दिनांक 18.06.2022 छायाप्रति, नोटरी शपथ पत्र श्री अभय शुक्ल, श्री विजय नरायन, श्री रविकान्त, श्री शरद्व्रत पाण्डेय, श्री रामविलास, श्री सुधाकर पाण्डेय, श्री वेदप्रकाश प्रस्तुत है। संलग्न शपथ पत्रों के शपथकर्ताओं द्वारा समिति का विधिमान्य सदस्य होने, समिति में कोई प्रबन्धकीय विवाद न होने, कोई प्रबन्धकीय विवाद किसी मा० न्यायालय में लम्बित न होने, केन्द्र सरकार / राज्य सरकार / सांसद/विधायक निधि से कोई वित्तीय सहायता / अनुदान प्राप्त न होने, कोई तथ्य गोपन न किये जाने, समिति को काली सूची में न रखे जाने, समिति के अपने उद्देश्यों के अनुरूप कार्य किये जाने, समिति के परिसम्पत्तियों से प्रत्यक्ष या अप्रत्यक्ष लाभ न लिये जाने, कार्यालय आदेश दिनांक 18.06.2022 के साथ संलग्न समिति के साधारण सभा की 14 सदस्यीय सूची पर आमन्त्रित आपत्ति के क्रम में निम्नलिखित समिति के 40 साधारण सभा के सदस्यों के तरफ से आज दिनांक 12.07.2022 को निम्नवत् सूची प्रस्तुत किये जाने, यदि उपरोक्त बिन्दु व कथन गलत पाये जाये तो सोसाइटी पंजीकरण अधिनियम 1860 के अधीन कार्यवाही किये जाने, मुझे कोई आपत्ति नहीं होगी का कथन किया गया है।"

“कार्यालय को प्रस्तुत उक्त आपत्ति / प्रपत्रों के निस्तारण के क्रम में कार्यालय पत्रांक 816, दिनांक 25.08.2022 श्री सदानन्द तिवारी, श्री सीताराम रस्तोगी व श्री रामनवल को प्रेषित करते हुए एवं सुनवाई हेतु तिथि नियत करते हुए नियत तिथि को उपस्थित होकर अपना-अपना पक्ष प्रस्तुत किये जाने हेतु निर्देशित किया गया। कार्यालय नोटिस दिनांक 25.08.2022 के क्रम में सुनवाई की कार्यवाही करते हुए नियत तिथि दिनांक 28.09.2022 को उपस्थित पक्षकारों की सहमति से पत्रावली आदेशार्थ संरक्षित करते हुए पक्षकारों की सहमति से पत्रावली आदेशार्थ संरक्षित करते हुए पक्षकारों को समिति का मूल अभिलेख जमा किये जाने हेतु दिनांक 10.10.2022 तक का समय प्रदान किया गया। उक्त के उपरान्त श्री वेदप्रकाश पाण्डेय के प्रार्थना पत्र एवं पूर्व प्रस्तुत प्रार्थना पत्र दिनांक 11/12.07. 2022 के निस्तारण के क्रम में उक्त को सुनवाई का अवसर दिया जाना समुचित प्रतीत होने की स्थिति में सुनवाई की कार्यवाही पुनः प्रारम्भ करते हुए कार्यालय पत्रांक 1128. दिनांक 31 10.2022 श्री सदानन्त तिवारी, श्री सीताराम रस्तोगी, श्री रामनवल व श्री वेदप्रकाश पाण्डेय को प्रेषित करते हुए तथा सुनवाई हेतु तिथि नियत करते हुए नियत सुनवाई में प्रतिभाग कर अपना-अपना पक्ष प्रस्तुत किये जाने हेतु निर्देशित किया गया। सुनवाई गतिमान रहने की अवधि में ही तत्कालीन सहायक निबन्धक के स्थानान्तरण के फलस्वरूप कार्यवाही स्थगित रहने तथा उक्त का संज्ञान होने पर कार्यालय पत्रांक 1577 दिनांक 10.01.2023 श्री सदानन्द तिवारी, श्री सीताराम रस्तोगी, श्री रामनवल, श्री वेदप्रकाश को प्रेषित करते हुए एवं सुनवाई हेतु तिथि नियत करते हुए नियत तिथि को अपने-अपने ससाक्ष्य लिखित अभिकथन एवं समिति के मूल अभिलेखों सहित उपस्थित होकर अपना-अपना पक्ष प्रस्तुत किये जाने हेतु निर्देशित किया गया। कार्यालय नोटिस के क्रम में प्रकरण में सुनवाई हेतु तिथियां नियत करते हुए नियत सुनवाई

दिनांक 26.07.2023 को श्री सीताराम रस्तोगी, श्री वेदप्रकाश पाण्डेय, श्री रामनवल पाण्डेय के प्रतिनिधि अधिवक्ता के माध्यम से उपस्थित रहने, श्री सदानन्द तिवारी के उपस्थित न रहने, उपस्थित पक्षकारों की सहमति से पत्रावली आदेशार्थ संरक्षित करते हुए पक्षकारों को अपना-अपना लिखित बहस व मूल अभिलेख जमा किये जाने हेतु 10 दिनों का समय प्रदान किया गया।"

“श्री वेदप्रकाश पाण्डेय द्वारा प्रस्तुत प्रार्थना पत्र / आपत्ति दिनांक 12.07.2022 दिनांक 10.10.2022, दिनांक 23.03.2022 व दिनांक 27.06.2023 के सम्मिलित अवलोकन से श्री वेदप्रकाश पाण्डेय व अन्य के प्रार्थना पत्र / आपत्ति दिनांक 12.07.2022 द्वारा 40 सदस्यों के विधिमान्य सदस्य होने, 40 सदस्यों की विधिमान्य सूची अंकित कर प्रस्तुत किये जाने के साथ मात्र पूर्व अध्यक्ष, उपाध्यक्ष, प्रबन्धक द्वारा निहित हित में अपने अधिकारों का दुरुपयोग कर साधारण सभा के सदस्य (वेदप्रकाश पाण्डेय व अन्य) को कभी भी बैठक की सूचना न दिये जाने, साधारण सभा की सूची में उक्त 40 का नाम प्रस्तुत न किये जाने, समिति की बैठकों में प्रतिभाग किये जाने से वंचित हो जाने व आपत्तिकर्ता के अधिकारों का जानबूझकर हनन किये जाने का कथन मात्र किया गया है जबकि पत्र दिनांक 10.10.2022 द्वारा तत्कालीन प्रबन्धक श्री रमाकर दूबे द्वारा मौखिक रूप से अवगत कराये जाने का तथा उक्त मौखिक सूचना के आधार पर दिनांक 02.07.2013 से दिनांक 14.07.2013 तक सदस्यता शुल्क व सहायतार्थ धनराशि जमा किये जाने, बैठक दिनांक 28.10.2013 द्वारा सदस्यता प्रदान किये जाने, तत्कालीन प्रबन्धक द्वारा सदस्यता प्रमाण पत्र व रसीद निर्गत किये जाने का कथन किया गया है। श्री वेदप्रकाश पाण्डेय के आपत्ति दिनांक 23.03.2022 द्वारा सर्वप्रथम सदस्यता हेतु तत्कालीन प्रबन्धक को आवेदन पत्र प्रस्तुत किये जाने का कथन किया गया है। इसी तरह श्री वेदप्रकाश पाण्डेय के आपत्ति दिनांक 27.06.2023 द्वारा सर्वप्रथम सदस्यता रजिस्टर पर हस्ताक्षर करवाये जाने/ किये जाने का कथन किया गया है। श्री वेदप्रकाश पाण्डेय द्वारा प्रस्तुत उक्त प्रार्थना पत्रों/ आपत्ति/अभिकथन के अवलोकन से श्री वेदप्रकाश पाण्डेय के पत्र दिनांक 12.07.2022 व दिनांक 10.10.2022 द्वारा सदस्यता हेतु आवेदन पत्र दिये जाने एवं सदस्यता रजिस्टर पर हस्ताक्षर किये जाने का कोई कथन नहीं किया गया है तथा श्री रागनवल पाण्डेय व श्री 'सीताराम रस्तोगी के आपत्ति के खण्डन में पत्र दिनांक 23.03.2023 द्वारा सर्वप्रथम सदस्यता हेतु आवेदन पत्र प्रस्तुत किये जाने एवं आपत्ति दिनांक 27.06.2023 द्वारा सर्वप्रथम सदस्यता रजिस्टर पर हस्ताक्षर किये जाने का कथन किया गया है। श्री वेदप्रकाश पाण्डेय द्वारा कार्यालय को प्रस्तुत उक्त प्रार्थना पत्रों/आपत्ति/अभिकथन के सम्मिलित अवलोकन से श्री वेदप्रकाश पाण्डेय व अन्य द्वारा पञ्चवर्ती सोच की उपज प्रपत्र एवं कथन कर सदस्यता का दावा किये जाने की स्थिति स्पष्ट परिलक्षित होती है। उक्त के अतिरिक्त श्री वेदप्रकाश पाण्डेय व अन्य द्वारा वर्ष 2013 में तत्कालीन प्रबन्धक श्री रमाकर दूबे द्वारा उपलब्ध करायी गयी सूचना के आधार पर सदस्यता शुल्क / सहायतार्थ राशि जमा किये जाने, तत्कालीन प्रबन्धक द्वारा रसीद एवं प्रमाण पत्र निर्गत किये जाने, तत्कालीन प्रबन्धक द्वारा साधारण सभा की बैठक दिनांक 28.10.2013 द्वारा सदस्यता प्रदान किये जाने से अवगत कराये जाने का एवं सदस्यता रजिस्टर पर हस्ताक्षर कराये जाने का कथन किया गया है। यहाँ यह उल्लेखनीय है कि तत्कालीन प्रबन्धक श्री रमाकर दूबे का निधन दिनांक 17.11.2013 को हो गया है। इस तरह तत्कालीन प्रबन्धक के निधन के लगभग 9 वर्ष उपरान्त तत्कालीन प्रबन्धक के मौखिक सूचना पर सदस्य बने/बनाये जाने का कथन करते हुए एवं तत्कालीन प्रबन्धक मृतक दिनांक 17.11.2013 के निधन के 09 वर्ष उपरान्त मृतक प्रबन्धक के हस्ताक्षरों से सदस्यता शुल्क रसीद व सदस्यता प्रमाण पत्र प्रस्तुत करते हुए समिति के साधारण सभा का सदस्य बनने / बनाये जाने का कथन पूर्णतः प्रश्रवाचक है। यहाँ यह उल्लेखनीय है कि

वर्ष 2013 में श्री रमाकर दूबे के प्रबन्धक रहने की अवधि में श्री रामनवल पाण्डेय समिति के अध्यक्ष एवं श्री सीताराम रस्तोगी समिति के उपप्रबन्धक रहें तथा तत्कालीन प्रबन्धक श्री रमाकर दूबे के निधन के उपरान्त उपप्रबन्धक श्री सीताराम रस्तोगी समिति के प्रबन्धक चयनित हुए तथा रहें। तत्समय श्री रामनवल पाण्डेय के अध्यक्ष होने, श्री सीताराम रस्तोगी के उपप्रबन्धक होने तथा श्री रमाकर दूबे के निधन से श्री सीताराम रस्तोगी के प्रबन्धक चयनित होने का तथ्य कार्यालय अभिलेखों / पत्रावली से पुष्टित है। कार्यालय अभिलेखों व पत्रावली से पुष्टित तत्कालीन अध्यक्ष श्री रामनवल पाण्डेय, तत्कालीन उपप्रबन्धक श्री सीताराम रस्तोगी व श्री रमाकर दूबे के निधन से रिक्त स्थान पर चयनित प्रबन्धक श्री सीताराम रस्तोगी द्वारा शपथ पत्र समर्थित आपत्ति प्रस्तुत करते हुए श्री वेदप्रकाश पाण्डेय व अन्य के समिति का सदस्य बने/बनाये जाने, दिनांक 28.10.2013 को साधारण सभा की कोई बैठक होने एवं उक्त के द्वारा सदस्यता स्वीकृत किये जाने, तत्कालीन प्रबन्धक श्री रमाकर दूबे द्वारा सदस्यता शुल्क की रसीद व सदस्यता प्रमाण पत्र निर्गत किये जाने व श्री वेदप्रकाश पाण्डेय सहित 40 के समिति का सदस्य होने के कथनों व सम्बन्धित प्रपत्रों का खण्डन करते हुए उक्त 40 को समिति का सदस्य बना/बनाया गया न होने तथा उक्त की दर्शायी गयी सदस्यता फर्जी होने का कथन किया गया है। श्री रामनवल पाण्डेय व श्री सीताराम रस्तोगी के खण्डन के प्रतिउत्तर में श्री वेदप्रकाश पाण्डेय द्वारा श्री रामनवल पाण्डेय व श्री सीताराम रस्तोगी के विरुद्ध समिति पर कब्जा किये जाने व एकाधिकार स्थापित किये जाने व निहित हित में असत्य आपत्ति किये जाने का कथन मात्र किया गया है। तत्कालीन अध्यक्ष व उपप्रबन्धक के शपथ पत्र समर्थित खण्डन के आलोक में श्री वेदप्रकाश पाण्डेय द्वारा समिति के साधारण सभा के बैठक दिनांक 28.10.2013 व उक्त के द्वारा सदस्यता स्वीकृति का किया जा रहा कथन अपुष्टित होने की स्थिति में स्वीकार किये जाने योग्य नहीं है।

यहाँ यह उल्लेखनीय है कि सोसाइटी पंजीकरण अधिनियम 1860 के अधीन धारा-4 (बी) का समावेश करते हुए दिनांक 09.10.2013 से उक्त को लागू एवं प्रभावी किया गया है। धारा-4(बी) (1.2.3) के व्यवस्था के अनुसार समिति के पंजीकरण / नवीनीकरण के समय साधारण सभा के सदस्यों की सूची प्रस्तुत किये जाने तथा प्रस्तुत सूची के शुद्धता का परीक्षण समिति के अभिलेख यथा सदस्यता पंजिका, कार्यवाही पंजिका, कैशबुक, सदस्यता शुल्क रसीद बुक व बैंक पासबुक के आधार पर किये जाने, साधारण सभा के सदस्यों की सूची में सदस्यता वृद्धि या किसी प्रकार का परिवर्तन होने की स्थिति में उक्त परिवर्तन के एक माह के अन्दर साधारण सभा के सदस्यों की उपान्तरित सूची दाखिल किये जाने, उक्त दाखिल किये जाने वाले साधारण सभा के सदस्यों की सूची पर सोसाइटी के दो पदाधिकारी व दो कार्यपालक सदस्यों का हस्ताक्षर अंकित होने की व्यवस्था प्राविधानित है। श्री वेदप्रकाश पाण्डेय व अन्य द्वारा साधारण सभा की बैठक दिनांक 28.10.2013 द्वारा श्री वेदप्रकाश पाण्डेय सहित 40 को सदस्यता प्रदान किये जाने के कथन के आलोक में समिति के साधारण सभा में दिनांक 28.10.2013 को 40 सदस्यों की वृद्धि के कथन के आलोक में उक्त सदस्यता वृद्धि/सदस्य बनाये जाने की कार्यवाही पर सोसाइटी पंजीकरण अधिनियम 1860 की धारा-4 (बी) के व्यवस्था लागू एवं प्रभावी होने की स्थिति पूर्णतया स्पष्ट है। श्री वेदप्रकाश पाण्डेय व अन्य द्वारा दिनांक 28.10.2013 को कथित सदस्यता स्वीकृति एवं सदस्यता वृद्धि सर्वप्रथम श्री वेदप्रकाश पाण्डेय व अन्य के प्रार्थना पत्र दिनांक 12.07.2022 एवं श्री गिरेश यथासूचित प्रबन्धक के प्रार्थना पत्र दिनांक 11.07.2022 द्वारा कार्यालय को प्रस्तुत है। उक्त प्रार्थना पत्र दिनांक 11.07.2022 व दिनांक 12.07.2022 द्वारा प्रस्तुत प्रपत्रों पर कार्यालय आदेश दिनांक 18.06.2022 द्वारा प्रसारित समिति के साधारण सभा के 14 सदस्यीय सूची में अंकित किसी सदस्य द्वारा या कार्यालय पत्रावली में उपलब्ध समिति के प्रबन्धसमिति की तत्कालीन वार्षिक सूची में अंकित किसी सदस्य का हस्ताक्षर अंकित नहीं है। यहाँ यह उल्लेखनीय है कि कार्यालय आदेश पत्रांक 2700, दिनांक 20.11.2014 द्वारा समिति के

प्रबन्धसमिति की सूची वर्ष 2014-15 पंजीकृत है। उक्त के विपरीत तत्कालीन पदाधिकारियों द्वारा श्री वेदप्रकाश पाण्डेय सहित 40 की दर्शायी गयी सदस्यता व सदस्यता स्वीकृति सम्बन्धी कार्यवाही दिनांक 28.10.2013 का खण्डन किया जा रहा है। श्री वेदप्रकाश पाण्डेय व अन्य द्वारा सोसाइटी पंजीकरण अधिनियम 1860 की धारा-4 (बी) के अधीन समिति के अभिलेख प्रस्तुत न करते हुए समिति के अभिलेखों का संरक्षक समिति के पंजीकृत नियमावली के अनुसार समिति के व्यवस्थापक / प्रबन्धक के होने, उक्त के द्वारा ही प्रस्तुत किये जा सकने का कथन किया गया है। तत्कालीन उपप्रबन्धक एवं तत्कालीन प्रबन्धक श्री रमाकर दूबे के निधन से रिक्त प्रबन्धक पद पर चयनित प्रबन्धक श्री सीताराम रस्तोगी द्वारा समिति के अभिलेखों के समिति द्वारा संचालित विद्यालय के प्रधानाचार्य श्री हरिहर शुक्ल के लेकर चले जाने, आज तक वापस न किये जाने, तत्सम्बन्ध में उच्चाधिकारियों के यहां शिकायत किये जाने का लिखित कथन किया गया है। श्री वेदप्रकाश पाण्डेय के आपत्ति द्वारा श्री रामनवल पाण्डेय एवं श्री सीताराम रस्तोगी द्वारा उक्त 40 बने/बनाये गये सदस्यों को सदस्यता से वंचित किये जाने के नियत से निजी स्वार्थ में समिति पर एकाधिकार स्थापित किये जाने हेतु समिति के अभिलेखों को गायब कर दिये जाने तथा विद्यालय प्रधानाचार्य पर असत्य आरोप लगाये जाने का कथन किया गया है। कार्यालय पत्रावली के अनुसार कार्यालय आदेश दिनांक 18.06.2022 के निर्गमन के क्रम में सम्पादित सुनवाई के क्रम में श्री सीताराम रस्तोगी द्वारा प्रार्थना पत्र दिनांक 19.01.2022 प्रस्तुत करते हुए उक्त कथन किया गया है तथा उक्त के साथ विद्यालय प्रधानाचार्य को प्रेषित पत्र दिनांक 10.06.2022, जिला विद्यालय निरीक्षक, आजमगढ़ को प्रेषित पत्र दिनांक 09.09.2020 की छायाप्रति संलग्न कर प्रस्तुत किया गया है। यहाँ यह उल्लेखनीय है कि दिनांक 19.01 2022 को कार्यालय पत्रावली में श्री वेदप्रकाश पाण्डेय व अन्य 39 का कोई अस्तित्व नहीं था। उक्त स्थिति में ऐसे सदस्य या सदस्यता जिसका कि कार्यालय पत्रावली में दिनांक 19.01 2022 तक कोई अस्तित्व ही नहीं था को सदस्यता से वंचित किये जाने के दुर्भावना से प्रार्थना पत्र दिनांक 29.01.2022 प्रस्तुत कर उक्त के द्वारा असत्य कथन किये जाने का न तो कोई औचित्य है और न, ही तत्समय श्री सीताराम रस्तोगी द्वारा दुर्भावनावश उक्त कथन किये जाने की जा रही आपत्ति का ही कोई औचित्य है। किसी भी स्थिति में सोसाइटी पंजीकरण अधिनियम 1860 की धारा-4 (बी) के व्यवस्था के अधीन सम्बन्धित अभिलेखों के उपलब्ध न होने की स्थिति में श्री वेदप्रकाश पाण्डेय व अन्य 39 की सदस्यता व बैठक दिनांक 28.10.2013 द्वारा सदस्यता प्रदान किये जाने का किया जा रहा कथन पुष्टि के अभाव में एवं धारा-4 (बी) के व्यवस्था के अनुरूप स्वीकार किये जाने योग्य नहीं है। उक्त के अतिरिक्त श्री वेदप्रकाश पाण्डेय सहित दर्शाये गये 40 सदस्यों का सदस्यता शुल्क समिति के बैंक खाते में जमा होने के पुष्टि के अभाव में सोसाइटी पंजीकरण अधिनियम 1860 की धारा-15 के प्रतिकूल श्री वेदप्रकाश पाण्डेय सहित 40 की सदस्यता स्वीकार किये जाने योग्य नहीं है। श्री वेदप्रकाश पाण्डेय द्वारा स्वयं सहित 40 की सदस्यता शुल्क रसीद एवं सदस्यता प्रमाण पत्र छायाप्रति में पत्रावली में प्रस्तुत है एवं प्रार्थना पत्र दिनांक 05.08.2023 के साथ संलग्न कर मूल रूप में प्रस्तुत है। उक्त सदस्यता शुल्क रसीद दिनांक 02.07.2013 से दिनांक 14.07.2013 तक की तिथियों में श्री रमाकर दूबे प्रबन्धक के हस्ताक्षरों से निर्गत दर्शायी गयी है तथा सदस्यता शुल्क धनराशि रूपया 100 व सहायतार्थ धनराशि अलग-अलग प्राप्त करते हुए रसीद निर्गत किया जाना दर्शाया गया है। प्रस्तुत सदस्यता प्रमाण पत्र दिनांक 31.10.2013 की तिथि में श्री रमाकर दूबे प्रबन्धक के हस्ताक्षर से निर्गत है तथा उक्त प्रमाण पत्र में ही रसीद क्रमांक एवं उक्त की तिथि, भुगतान की धनराशि, सदस्यता श्रेणी का विवरण अंकित है। श्री सीताराम रस्तोगी व श्री रामनवल पाण्डेय द्वारा उक्त के प्रति आपत्ति करते हुए उक्त को पूर्णतया फर्जी होने एवं श्री रमाकर दूबे के फर्जी हस्ताक्षर से तैयार कर प्रस्तुत किये जाने का कथन किया गया है। समिति वर्ष 1970 की पंजीकृत है तथा पंजीकरण के समय स्मृति पत्र पर अंकित

हस्ताक्षर एवं पंजीकरण के 43 वर्ष पश्चात् सदस्यता प्रमाण पत्र पर अंकित हस्ताक्षर पर कुछ भिन्नता कि सम्भावना समय के प्रवाह से सम्भावित है। कार्यालय पत्रावली में उपलब्ध श्री रमाकर दूबे के नवीनीकरण प्रार्थना पत्र 09.11.2010 एवं उक्त के साथ संलग्न श्री रमाकर दूबे का फोटोयुक्त मूल नोटरी शपथ पत्र व अन्य प्रपत्रों पर अंकित दर्शाया गया है। यद्यपि कि श्री रमाकर दूबे के हस्ताक्षर से प्रस्तुत उक्त नवीनीकरण प्रार्थना पत्र व उक्त के साथ संलग्न शपथ पत्र दिनांक 25.10.2010 व अन्य प्रपत्रों पर अंकित श्री रमाकर दूबे के हस्ताक्षर एवं श्री वेदप्रकाश पाण्डेय व अन्य द्वारा प्रस्तुत सदस्यता शुल्क रसीद (दिनांक 02.07.2013 से दिनांक 14.07.2013) व सदस्यता प्रमाण पत्र दिनांक 31.10.2013 पर अंकित दर्शाया गया श्री रमाकर दूबे का हस्ताक्षर एवं कार्यालय पत्रावली में उपलब्ध श्री रमाकर दूबे के नवीनीकरण प्रार्थना पत्र एवं उक्त के साथ संलग्न शपथ पत्र व अन्य प्रपत्रों पर अंकित दर्शाया गया श्री रमाकर दूबे के हस्ताक्षर में नगी आंखों से देखे जाने पर एकरूपता परीलक्षित नहीं होती है। तथापि अधोहस्ताक्षरी के स्तर से उक्त बिन्दु पर मत स्थिर किया जाना सम्भव नहीं हो पा रहा है। श्री वेदप्रकाश व अन्य के प्रार्थना पत्र दिनांक 12.07.2022 द्वारा निम्नवत् कथन किया गया है:-

"श्री हरिहर संस्कृत पाठशाला, बाजार गोसाई, आजमगढ़ के पूर्व श्रीमान् अध्यक्ष एवं श्रीमान् उपाध्यक्ष व श्रीमान् प्रबन्धक महोदय आदि लोभ एवं स्वार्थ से ग्रसित होकर एवं अधिकार का दुरुपयोग करते हुए एवं समिति विरोधी गतिविधियों में संलिप्त होने के कारण हम सभी साधारण सभा के सदस्यगणों के कभी भी बैठक के सन्दर्भ में सूचना नहीं देते थे तथा साधारण सभा की सूची में हम सभी 40 सदस्यों का नाम भी प्रस्तुत नहीं करते रहे हैं। इसलिए पूर्व में आहूत बैठकों में सम्मिलित होने से हम सभी साधारण सभा के सदस्यगण वंचित होते रहे हैं। इस प्रकार हमारे अधिकारों का हनन जानबूझकर किया जाता रहा है।"

श्री वेदप्रकाश पाण्डेय के आपत्ति दिनांक 10.10.2022 के बिन्दु संख्या 02 के अनुसार विद्यालय के प्रधानाचार्य द्वारा विद्यालय के सूचना पट्ट पर कार्यालय आदेश दिनांक 18.06.2022 की प्रति चस्पा किये जाने पर आदेश की जानकारी हुई, उक्त के पूर्व सुनवाई के सम्बन्ध में कोई जानकारी न होने का कथन किया गया है परन्तु श्री वेदप्रकाश व अन्य द्वारा उक्त प्रार्थना पत्र दिनांक 12.07.2022 या सुनवाई के क्रम में प्रस्तुत अभिकथन/आपत्ति/लिखित बहस द्वारा कहीं भी यह स्पष्ट नहीं किया गया है कि समिति के पदाधिकारियों द्वारा उक्त 40 को बैठक की सूचना न दिये जाने, साधारण सभा की सूची में उक्त 40 का नाम प्रस्तुत न किये जाने, समिति के बैठकों में प्रतिभाग करने से वंचित रहने का संज्ञान श्री वेदप्रकाश सहित उक्त 40 को कब और कैसे हुआ है। यहाँ यह उल्लेखनीय है कि श्री वेदप्रकाश पाण्डेय व अन्य द्वारा दिनांक 28.10.2013 को समिति के सदस्यता प्रदान किये जाने एवं सदस्यता रजिस्टर पर हस्ताक्षर अंकित किये जाने का कथन किया गया है। श्री वेदप्रकाश पाण्डेय के उक्त कथन एवं श्री वेदप्रकाश पाण्डेय व अन्य के प्रार्थना पत्र दिनांक 12.07.2022 द्वारा किये गये कथन के आलोक में श्री वेदप्रकाश पाण्डेय व अन्य के वर्ष 2013 से ही समिति के बैठकों की सूचना समिति के पदाधिकारियों द्वारा न दिये जाने, बैठकों में प्रतिभाग किये जाने से वंचित कर दिये जाने व साधारण सभा के सदस्यों की सूची में नाम सम्मिलित न किये जाने की स्थिति में भी श्री वेदप्रकाश पाण्डेय सहित 40 के द्वारा वर्ष 2013 से लेकर वर्ष 2022 तक विगत 09 वर्षों में समिति का सदस्य होने व समिति के पदाधिकारियों द्वारा बैठकों की सूचना न देकर समिति की बैठकों में प्रतिभाग किये जाने से बाधित / वंचित कर दिये जाने की स्थिति में श्री वेदप्रकाश पाण्डेय सहित 40 के द्वारा विगत 09 वर्षों में क्या कार्यवाही की गयी। यहाँ यह उल्लेखनीय है कि दिनांक 07.07.2022 व दिनांक 11/12.07.2022 के पूर्व श्री वेदप्रकाश पाण्डेय सहित 40 के द्वारा कभी कोई पत्र/प्रार्थना पत्र/आपत्ति कार्यालय को प्रस्तुत नहीं है और न ही श्री वेदप्रकाश पाण्डेय व अन्य द्वारा वर्ष 2013 में समिति की सदस्यता प्रदान किये जाने कथन किये जाने के उपरान्त भी विगत 09 वर्षों में अपने

सदस्यता या समिति के पदाधिकारियों द्वारा बैठकों की सूचना न दिये जाने व समिति के बैठकों में प्रतिभाग किये जाने से बाधित / वंचित किये जाने के सम्बन्ध में कोई पत्र/प्रपत्र/आपत्ति कार्यालय को प्रस्तुत किये जाने का कोई कथन ही किया गया है। वर्ष 2013 से सदस्यता का दावा करने वाले साथ ही समिति के पदाधिकारियों द्वारा समिति के बैठकों की सूचना न देकर समिति के बैठकों में प्रतिभाग किये जाने से वंचित कर दिये जाने व स्वयं के अधिकारों का हनन किये जाने का कथन करने वाले श्री वेदप्रकाश पाण्डेय सहित 40 के द्वारा विगत 09 वर्षों में समिति के सदस्यता के सम्बन्ध में या बैठक की सूचना प्राप्त न होने के सम्बन्ध में या बैठक में प्रतिभाग किये जाने से बाधित किये जाने या समिति के साधारण सभा की सूची में नाम सम्मिलित न किये जाने के सम्बन्ध में किसी भी स्तर पर कभी किसी स्तर पर आपत्ति प्रस्तुत न किये जाने के आलोक में श्री वेदप्रकाश पाण्डेय व अन्य द्वारा वर्ष 2013 में सदस्य बनाये जाने का किया जा कथन व दर्शायी जा रही सदस्यता पूर्णतः पश्चवर्ती सोच व कागजी कार्यवाही की उपज होने के आधार पर स्वीकार किये जाने योग्य नहीं है।"

34. The extracts of the order dated December 2, 2023, which have been reproduced in this order, categorically reveal that the issue of membership of 40 persons, which was raised by Respondent No's. 6 and 7, was considered in its thread-bare and the Assistant Registrar had recorded a categorical finding that the version put forward by Mr. Giresk Kumar Pandey i.e. Respondent No. 7 and Mr. Ved Prakash Pandey i.e. Respondent No. 6 does not appear to be trustworthy, as it is not only improbable but impossible that the 40 persons, who were inducted as members of the general body of the Society vide resolution dated October 28, 2013, were never informed about any meeting of the general body of the Society and they did not participate in any meeting of the Society and further, they did not raise any voice regarding their claim of membership from October 28, 2013 till July 11/12, 2022, therefore, their claim of membership is not tenable and thus had rejected their claim.

35. This Court is of the view that by now, it is a well-settled proposition of law that quasi-judicial authorities do not have power to review their orders unless there is any statutory provision in that regard. However, there is an exception that if there is any procedural informality connecting to the roots of the issues involved, then the quasi-judicial authorities can review their orders based on the principle of procedural review.

36. Now, this Court proceeds to take into consideration the judgments cited by both the parties. The Supreme Court in its judgment rendered in the case of **Dr. (Smt.) Kuntesh Gupta (Supra)** had categorically held that the quasi-judicial authorities cannot review their decision unless the power of review is expressly conferred on them by the statute under which they derive their original jurisdiction. For ready reference, Paragraph No. 11 of the judgment is extracted as under:-

“11. It is now well established that a quasi-judicial authority cannot review its own order, unless the power of review is expressly conferred on it by the statute under which it derives its jurisdiction. The Vice-Chancellor in considering the question of approval of an order of dismissal of the Principal, acts as a quasi-judicial authority. It is not disputed that the provisions of the U.P. State Universities Act, 1973 of the Statutes of the University do not confer any power of review on the Vice-Chancellor. In the circumstances, it must be held that the Vice-Chancellor acted wholly without jurisdiction in reviewing her order dated January 24, 1987 by her order dated March 7, 1987. The said order of the Vice-Chancellor dated March 7, 1987 was a nullity.”

37. In another judgment rendered by the Hon’ble Supreme Court in the case of Kalabharati Advertising (Supra), it had been categorically held that the quasi-judicial authority cannot review its decision unless the same is expressly provided in the statute. For ready reference, Paragraph No’s. 12, 13 & 14 of the judgment are extracted as under:-

“12. It is settled legal proposition that unless that statute/rules so permit, the review application is not maintainable in case of judicial/quasi-judicial orders. In the absence of any provision in the Act granting an express power of review, it is manifest that a review couldn’t be made and the order in review, if passed, is ultra vires, illegal and without jurisdiction. (Vide Patel Chunibhai Dajibha Vs. Narayanrao Khanderao Jambekar and Harbhajan Singh Vs. Karam Singh.)

13. In Patel Narshi Thakershi Vs. Pradyuman Singhji Arunsinghji, Majro Chandra Bhan Singh Vs. Iatafat Ullah Khan, Kuntesh Gupta (Dr.) Vs. Hindu Kanya Mahavidyalaya, State of Orissa Vs. Commr. O Land Records and Settlement and Sunita Jain Vs. Pawan Kumar Jain this Court held that the power of review is not an inherent power. It must be conferred by a law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any

order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.

14. Therefore, in view of the above, the law on the point can be summarised to the effect that in the absence of any statutory provision providing for review, entertaining an application for review or under the garb of clarification/modification/correction is not permissible.”

38. The Hon’ble Supreme Court in the case of *The State of West Bengal (Supra)* and this Court in its judgment rendered in the case of *Khachchan Singh (Supra)* had also categorically held that the power of review of its decision cannot be exercised by a quasi-judicial authority unless the said power had been expressly conferred on it by the statutory provision.

39. The High Court of Bombay in its judgment rendered in the case of *Kalpataru Power Transmission Ltd. (Supra)* had categorically held that if the order passed by the quasi-judicial authority suffers from procedural infirmities then it can review the said decision on the principal of procedural review provided the parties seeking procedural review is able to demonstrate that the procedural illegality/irregularity went to the root of the matter and had invalidated the proceedings itself. For ready reference, Paragraph No’s. 26, 27, 33, 35 & 42 of the judgment are extracted as under:-

“[26] This Court negated the contention that the High Court under Article 215 would not have plenary jurisdiction including procedural review relating to the errors apparent on the face of the record. It is held by this Court in the said judgment that the provisions of the Arbitration Act do not exclude the powers of High Court to exercise its plenary powers and to exercise procedural review in case of errors apparent on the face of the record causing miscarriage of justice or shows grave and palpable errors committed by it. This Court distinguished the earlier judgment in case of M/s. Madhav Structural Engineering Ltd. (supra) and also in case of Rosy Blue (India) Pvt. Ltd. (supra), in the facts of that case, this Court found that the State Government had raised issue of limitation only in respect of the claim nos.3 to 5 and not in respect of claims nos.1 and 2. This Court however had set aside the award also in support of claim nos. 1 and 2 on the ground of limitation on its own.

[27] This Court accordingly held that procedural review can be exercised by Court under plenary jurisdiction. The provisions of Code of Civil

Procedure, 1908 can be applied to the proceedings in Court to the extent of the provisions thereof not inconsistent with the provisions of the Arbitration Act. None of the provisions of the Arbitration Act bars High Court for procedural review by exercising plenary jurisdiction. This Court accordingly recalled the judgment and order passed by this Court in so far as the claim nos. 1 and 2, in that matter which were held as time barred by the said judgment by exercising plenary jurisdiction.

.....[33] In so far as the judgment of Supreme Court in case of Kapra Mazdoor Ekta Union (supra) relied upon by Mr. Sakhare, learned senior counsel for the respondent is concerned, a perusal of the said judgment indicates that the Supreme Court had considered the issue whether Industrial Tribunal/Labour Court has power to exercise procedural review under the provisions of Industrial Disputes Act, 1947 or not and decided the difference between review on merits and procedural review. The Supreme Court in the said judgment held that power of review is not an inherent power and must be conferred by law either expressly or by necessary implication where a Court or quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or quasi-judicial authority is vested with power of review by express provision or by necessary implication. Procedural review however belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate, proceeds to do so, but in doing so ascertains whether it has committed a procedural illegality that went to the root of the matter and invalidates the proceedings itself, and consequently the order passed therein.

.....[35] The question now arises for consideration of this Court is whether the review petitioners have applied for procedural review or seeks review of the judgment and order passed by this Court on merit. A perusal of the judgment referred to aforesaid clearly indicates that the Court has inherent or implied powers to set aside a palpably wrong order passed under a misapprehension by it and if found erroneous and vitiated by an error of procedure or mistake which went to the root of the matter and invalidate the entire proceedings. I shall now proceed to decide whether review petitioner has demonstrated any such error of procedure or mistake which went to the root of the matter and whether in the facts of this case, Court shall exercise powers of procedural review under plenary jurisdiction or not.

.....[42] Mr. Doctor, learned senior counsel for the review petitioner tried to find fault with the observations made and the conclusion drawn by this Court even in paragraphs 74 and 75 of the said judgment on merits. In my view the observations/findings recorded therein do not disclose procedural error and thus cannot be corrected by exercising procedural review under plenary jurisdiction. There is difference between power of

Court to exercise procedural review by exercising plenary jurisdiction and power of review by exercising powers under Order XLVII Order 1 of the Code of Civil Procedure, 1908 on the grounds set out therein. This Court thus cannot recall the observations/findings recorded therein and the conclusion drawn in paragraphs 74 and 75 based on the judgments of Supreme Court referred to aforesaid and based on facts."

40. Learned Counsel appearing for Respondent No's. 6 & 7 has relied upon judgment rendered by the Hon'ble Supreme Court in the case of ***M/s Haryana Suraj Malting Ltd. (Supra)*** wherein it has been held that if the order passed by the quasi-judicial authority suffers from procedural infirmity / illegality, then the same can be reviewed under the principal of procedural review. For ready reference, Paragraph No. 29 of the judgment is extracted as under:-

"29. Kapra Mazdoor Ekta Union v. Birla Cotton Spinning and Weaving Mills Ltd. and Another, (2005) 13 SCC 777 is a decision by a Bench of 3 Judges which has also referred to Grindlays (supra). It is a case where the award was made on 12.06.1987 and published on 10.08.1987 The recall application was made on 07.09.1987, before the expiry of the 30 days period provided under Section 17A. It is also to be noted that the application for recall of the award was with a prayer for raising an additional issue. To quote from paragraph-20 of the judgment. "...The recall of the award of the Tribunal was sought not on the ground that in passing the award the Tribunal had committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the award, but on the ground that some matters which ought to have been considered by the Tribunal were not duly considered. Apparently the recall or review sought was not a procedural review, but a review on merits. Such a review was not permissible in the absence of a provision in the Act conferring the power of review on the Tribunal either expressly or by necessary implication." Therefore, Kapra (supra) is distinguishable on facts and on the question of law dealt with therein: it was a case of substantive review whereas, setting aside an ex parte award is a matter of procedural review. In the case of procedural review, as held in Kapra (supra), the party has to establish that the procedure followed by the court or the quasi-judicial authority suffered from such illegality that it vitiated the proceeding and invalidated the order made therein, inasmuch as the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be reheard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found

*to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. In **Grindlays Bank Ltd. v. Central Govt. Industrial Tribunal** it was held that once it is established that the respondents were prevented from appearing at the hearing due to sufficient cause, it followed that the matter must be reheard and decided again."*

41. From the judgments referred herein above, it can be called out that, in normal circumstances, quasi-judicial authorities do not have any power to review their decisions unless there is a categorical provision in the statute to do so but procedural review of the orders passed by the quasi-judicial authorities is permissible.

42. This Court is of the view that for invoking procedural review of an order passed by the quasi-judicial authority, the person seeking review is under obligation to satisfy the authority that, had there not been a procedural error, the decision of the authority would have been otherwise. Now, coming to the facts of the present case, it is apparent that the issues raised by Respondent No. 6 & 7, in their objections raised before the Assistant Registrar vide their letters dated July 12, 2022 and July 11, 2022, were one and the same: i.e. they raised the claim of 40 persons as members of the general body of the Society, inducted through alleged resolution of the Committee of Management of the Society dated October 28, 2013. The said claim had been decided by the Assistant Registrar in his order dated December 02, 2023 in its thread-bare, though the Respondent No. 7 was not provided opportunity of hearing.

43. Once, the claim raised by Respondent No. 7 was considered by the Assistant Registrar in the order dated December 2, 2023 in its threadbare and findings had been recorded on the merits of the said claim, there cannot be any occasion for Respondent No. 7 to claim for procedural review of the order dated December 2, 2023, only on the ground that he was not afforded opportunity of hearing prior to passing of the order dated December 02, 2023. This Court also takes note of the fact that Respondent No. 7, while filing the application for procedural review

either before the Assistant Registrar or before the Commissioner, Azamgarh Division, Azamgarh did not demonstrate as to if the opportunity of hearing would have been given to him, how that could have made any difference to the decision taken by the Assistant Registrar on December 2, 2023.

44. It is settled proposition of law that mere saying that a party has not been afforded opportunity of hearing cannot be a ground for procedural review unless it is demonstrated that, had the opportunity of hearing been afforded, the result of the proceedings would have been altogether different. In the case at hand, the Assistant Registrar, on the ground that Respondent No. 7 was not afforded opportunity of hearing while passing the order dated December 2, 2023, has in fact, considered the entire matter again on merits and has overturned his findings recorded on merits in respect of the membership of 40 persons in the order dated December 2, 2023 and has passed a fresh order dated May 30, 2024, which is not permissible under the garb of procedural review. It is a well-settled proposition of law that while exercising the power of review, only error apparent on the face of the record can be corrected but in the garb of review, entire matter cannot be reheard and fresh findings on merits of the case cannot be recorded.

45. For the reasons aforesaid, this Court is of the view that the case of Respondent No. 7 does not fall in the scope of the procedural review, as his entire case was already considered by the Assistant Registrar in his order dated December 2, 2023 and therefore, the Assistant Registrar, Azamgarh Division, Azamgarh, lacked the authority to hear the entire matter afresh in the garb of procedural review and pass the impugned order dated May 30, 2024 thereby upholding the claim of membership of 40 members, which stood rejected vide earlier order dated December 2, 2023. Accordingly, the impugned order dated May 30, 2024, cannot be allowed to sustain, as the same is without jurisdiction.

46. So far as the argument raised by learned counsel for Respondent No's. 6 & 7 that the Assistant Registrar, Azamgarh Division, Azamgarh, while providing instructions to learned Standing Counsel appearing for the State in Writ-C No. 11375 of 2024 stating that he is in the process of procedural review of the order dated December 2, 2023 and after concluding the review proceedings he will proceed to complete the elections, is concerned, this Court finds that the Assistant Registrar, pursuant to the order passed by this Court, appeared before the Court on May 17, 2024 and categorically stated that, in all probability, he will complete the elections pursuant to the order dated December 2, 2023, by July 15, 2024. This Court further finds that neither the Assistant Registrar filed any application for recall of the order dated May 17, 2024 passed in Writ-C No. 11375 of 2024 nor any such steps were taken by the Respondent No's. 6 & 7 of Writ C No. 20655 of 2024, therefore, there was no occasion for the Assistant Registrar to travel beyond order dated December 02, 2023. Once the Assistant Registrar made a statement before this court on May 17, 2024 that he shall complete the elections pursuant to the order dated December 02, 2023, then he should have adhered to his statement and if there was any ambiguity in the said statement, he could have approached the Court for recall of that order but no such effort was ever made.

47. The instructions provided by the Assistant Registrar to learned Standing Counsel appearing for the State is internal communication between them and this Court is not concerned as to what was written in the said instructions that too when it is apparent from the order dated May 17, 2024 that the Assistant Registrar was present before the Court in the proceedings of Writ-C No. 11375 of 2024 and he made a categorical statement that in all probability, he shall complete the elections pursuant to the order dated December 02, 2023 by July 15, 2024.

48. Now, this Court proceeds to deal with the argument raised on behalf of Respondent No's. 6 and 7 that pursuant to the order dated 30 May 24,

elections of the Committee of Management of the Society have already been conducted but could not be given effect to due to an interim order passed in Writ-C No. 20655 of 2024, this Court finds it worth consideration that once the order dated 30/05/24 itself has been declared to be an illegal order, having been passed by the Assistant Registrar without jurisdiction, any consequential election is a nullity in the eyes of the law. In regard to the aforesaid, this Court finds it necessary to refer to the Division Bench judgment of this Court dated 24.08.2022 rendered in *Special Appeal No. 306 of 2022, Society-Gramin Siksha Prasar Samiti, Pratapgarh & Another Vs. State of U.P. & Others*, whose relevant paragraph is extracted as under:-

*"26. One of the contentions raised by learned counsel for the respondent no.4 is that since after passing of the impugned orders by the Assistant Registrar the fresh elections have been held therefore without challenging the same the present appeal is not maintainable. Suffice would it be to say that once the basic order goes the superstructure would automatically fall. Applying this well recognized legal principle on the present case, we find that the judgment and order in the instant case was passed by the learned Single Judge on 09.06.2022 and the elections have been held, on the basis of impugned orders challenged in writ petition, subsequent thereto, therefore if the impugned orders are quashed, the subsequent action will automatically fall. Our this view is fortified by the judgment of Hon'ble Supreme Court passed in the case of **State of Punjab Vs. Davinder Pal Singh Bhullar and Others (Supra)**. The Hon'ble Supreme Court in the said case has held that it is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. The relevant paragraphs 107 to 110 are extracted below:-*

"107. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "sublato fundamento cadit opus" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.

*108. In **Badrinath v. State of Tamil Nadu & Ors.**, AIR 2000 SC 3243; and **State of Kerala v. Puthenkavu N.S.S. Karayogam & Anr.**, (2001) 10 SCC 191, this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground*

automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.

109. *Similarly in Mangal Prasad Tamoli (dead) by Lrs. v. Narvadeshwar Mishra (dead) by Lrs. & Ors., (2005) 3 SCC 422, this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.*

110. *In C. Albert Morris v. K. Chandrasekaran & Ors., (2006) 1 SCC 228, this Court held that a right in law exists only and only when it has a lawful origin. (See also: Upen Chandra Gogoi v. State of Assam & Ors., (1998) 3 SCC 381 Satchidananda Misra v. State of Orissa & Ors., (2004) 8 SCC 599; Regional Manager, SBI v. Rakesh Kumar Tewari, (2006) 1 SCC 530; and Ritesh Tewari & Anr. v. State of U.P. & Ors., AIR 2010 SC 3823).*

111. *Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/orders/FIR/ investigation stand automatically vitiated and are liable to be declared non est."*

49. In view of the aforesaid reasons, this Court is of the view that the order dated May 30, 2024 has been passed by the Assistant Registrar, Azamgarh Division, Azamgarh, without having any jurisdiction to do so, as such, the said order, being illegal and without jurisdiction, is unsustainable in the eyes of the law, thus is quashed. The elections, if any, in terms of the order dated May 30, 2024, being consequential in nature, are also quashed and set aside.

50. The writ petitions are **allowed** with a direction to the Assistant Registrar, Azamgarh Division, Azamgarh, to complete the elections of the Committee of Management of the Society strictly in terms of the order dated December 02, 2023 within a period of two months from the date of presentation of certified copy of this order.

(Manjive Shukla,J.)

April 20, 2026

Lokesh Kumar