

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 264 of 2013**

Modern Medical Institute Society, Lalpur, Raipur a society duly registered under the relevant provisions of the Chhattisgarh Society Registrarian Adhiniyam, 1973, through its Authorized Signatory/Vice President Shri Motilal Jhabak, son of Shri Askaran Jhabak, aged about 85 years, resident of Kamasipara, Near Tatyapara, Chowk Raipur.

---- Appellant**Versus**

1. State of Chhattisgarh through its Secretary, Department of Commerce and Industry, DKS Bhawan, (now Mahanadi Bhawan), Mantralaya, Naya Raipur (C.G.)
2. The Special Secretary Department of Commerce and Industry, DKS Bhawan, (now Mahanadi Bhawan), Mantralaya Naya Raipur (C.G.).
3. The Registrar, Firms and Societies, O-5, Anupam Nagar Raipur (C.G.).
4. The Assistant Registrar, Firms and Societies, O-5 Anupam Nagar, Raipur (C.G.).
5. Dr. Harak Jain, son of Shri B. L. Jain, aged about 56 years, resident of Gandhi Chowk, Raipur.

---- Respondents

For Appellant	: Shri B. P. Sharma and Shri Hari Agrawal, Advocates
For Respondent-State	: Shri R. S. Baghel, Deputy Advocate General
For Respondent No. 5	: Dr. N. K. Shukla, Senior Advocate with Shri Ajay Lakra, Advocate

Hon'ble Shri Prashant Kumar Mishra, Acting Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****28/03/2019****Per Prashant Kumar Mishra, Acting Chief Justice**

1. The only question falling for consideration before us is whether order passed by the Assistant Registrar, Firms and Societies, Raipur Division on 26/12/2007 is an order under Section 10(2) of the Chhattisgarh Society Registrarian Adhiniyam, 1973 (for shot "the Adhiniyam, 1973) amenable to the appellate jurisdiction before the State Government under Section 40 of the Adhiniyam, 1973.

2. Although lengthy arguments have been advanced by the appearing parties, we confine ourselves only to the aspect as to whether the order passed by the Assistant Registrar on 26/12/2007 is an order under Section 10(2) of the Adhiniyam, 1973 or not for the reason that the State Government has dismissed the appeal as not maintainable holding that the said order of the Assistant Registrar is not amenable to the appellate jurisdiction.

3. The language employed in Section 10(2) of the Adhiniyam, 1973 would make it explicit that when the amendment to the bye-laws of the Society is forwarded to the Registrar and if the Registrar is satisfied that the amendment is not contrary to this Act or the Rules made thereunder, he may, if he thinks fit, register the amendment. Thus, the registration of amendment is not ministerial or mechanical exercise. It is followed by application of mind in the shape of satisfaction of the Registrar to ascertain that the amendment does not violate any provisions of the Act or the Rules made thereunder. If this be the power conferred upon the Registrar with sufficient guidelines to exercise the power, the exercise becomes a quasi judicial exercise of power and any order passed in exercise of that power would be treated as an order so as to make it amenable to the appellate jurisdiction of the State Government under Section 40 of the Adhiniyam, 1973. It is preciously this finding which the learned Single Judge has recorded in the impugned order. Therefore, we are not inclined to interfere with the impugned order. The appellate authority shall decide the appeal on merits strictly within the parameters of Section 10(2) of the Adhiniyam, 1973 without being prejudiced by our reluctance to entertain the appeal.

4. The writ appeal is dismissed with the aforesaid observation.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge