2026:AHC:211337

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - C No. - 28497 of 2026

Committee Of Management Jan Hitkari Samiti Dubauli And Another .....Petitioner(s)

Versus

State Of U.P. And 3 Others .....Respondent(s)

Counsel for Petitioner(s)	:	Balwant Singh, Chandra Kumar Rai, Sr. Advocate
Counsel for Respondent(s)	:	C.S.C.

Court No. - 38

HON'BLE SIDDHARTH NANDAN, J.

1. Heard Shri Prabhakar Awasthi, learned Senior Counsel assisted by Shri Balwant Singh, Advocate appearing on behalf of petitioner, Shri Ashok Khare, learned Senior Advocate assisted by Shri Chandra Kumar Rai, Advocate appearing on behalf of respondent nos. 3 and 4 and learned Standing Counsel for the respondent-State.

2. The present writ petition has been filed seeking issuance of a writ of *certiorari* for quashing the impugned order dated 17.06.2026 passed by the Respondent No.2; by way of which the incidental issue of the membership of the petitioner i.e. Smt. Satakshi Rai, has been determined and held to be invalid; and consequentially, the registration of the list of members dated 22.09.2020 for the year 2020-21 has also been found to be invalidated.

3. By the said impugned order further, the application moved by the petitioner for the renewal of the society has been rejected; however the application of one Shri Keshav Rai has been allowed.

4. The contention of learned Senior Counsel for the petitioner is that, the Prescribed Authority, vide an order dated 24.05.1999 had found that there is no dispute with respect to

the Manager of the Institution, i.e. the petitioner; and also subsequently, the High Court in its order dated 16.08.2023, passed in Writ-C No. 17199 of 2023, had found that the respondents therein were nowhere in the picture and they, for the first time, had setup some election in the year 2017 and then 2020; and therefore in view of the contradictory stands, and there being no challenge to the list duly registered for the year 2015-16, and even the amended bye-laws not having been assailed, the dispute was relegated to the Assistant Registrar. For ready reference, operative portion of the order dated 16.08.2023 is reproduced below:

"13. In the present case, I find that the respondents were nowhere in picture and they for the first time set up some elections of 2017 and then 2020. Their case suffers from contradictory stands taken before the authorities below. There being no challenge to the list duly registered for the year 2015-16 (which has been certified as list of valid general body vide Annexure-5 to the writ petition) and even the amended bye-laws having not been assailed, I find that dispute, which was raised before the Assistant Registrar was an artificial dispute and the Court does not find any justifiable reason so as to give rise to any occasion where intervention of the Prescribed Authority is required.

14. For all the aforesaid reasons, I find that reference made to the Prescribed Authority by order impugned dated 6.4.2023 is factually as well as legally unsustainable.

15. The writ petition is allowed.

16. The order impugned dated 6.4.2023 is quashed. The original record is returned to learned Standing Counsel for further remittance to the concerned Authority."

5. As there is a chequered history of litigation between the parties, Shri Ashok Khare, learned Senior Counsel appearing on behalf of private respondents has raised a preliminary issue that an appeal lies under Section 4(1-A) of the Societies Registration Act, 1860 against the impugned order and since

the issue of membership has been decided as an incidental issue, the same can also be raised by the petitioner in the appeal. He has further emphasized that the Assistant Registrar, apart from having found that on the date of the membership the petitioner was not an adult, has also taken into account the admitted stand of the petitioner that he had obtained the membership only on 14.06.1999, and accordingly the proceedings in which the petitioner has participated prior to the said date of membership, stands invalidated.

6. In response to the aforesaid, Shri Prabhakar Awasthi, learned Senior Counsel appearing on behalf of petitioner submits that petitioner's membership was in the year 1984 and since he was never put to notice about the aforesaid objection, he could not place on record the documents demonstrating that his membership was since 1984; and only when in the year 1999, the Society was renewed, a fresh exercise was done and even the existing members, were shown to be registered, in the list of members on 14.06.1999 itself; and on being given an opportunity, he could demonstrate from the record that Petitioner was a member, since 1984.

7. In view of the aforesaid, he submits that the Assistant Registrar has exceeded its jurisdiction while determining the issue of membership and it ought to have been a separate exercise, giving due notice to the petitioner.

8. Be that as it may be. Since the respondents had already stated before this Court that they shall not be objecting to the grounds to be raised by the petitioner regarding his membership but only on the merits of the same, since the same has also been decided as an incidental issue, in an appeal to be preferred under Section 4(1-A) of the Act, 1860, this Court deems it appropriate that in the circumstances, since there is a factual determination to be made regarding the membership and the consequential list, which has been registered; and also the fact that this High Court had already recorded a finding that

certain lists were not assailed and the private respondents therein were raising an artificial dispute at a belated stage; this Court deems it appropriate to decide the present writ petition at the admission stage, as no fruitful purpose shall be served keeping the same pending, to which the parties have also agreed; and accordingly by the consent of parties the present writ petition is decided at the admission stage itself.

9. In view of the aforesaid submission of the learned counsel for the respondents, the learned counsel for the petitioner submits that he may be permitted to withdraw the present writ petition with a liberty to file an appeal under Section 4(1-A) of the Act, 1860 and be given the liberty to take all necessary grounds which may be permissible under law before the appellate authority; to which the learned counsel for the respondents has no objection; and accordingly in view of the aforesaid, the present writ petition is permitted to be withdrawn with the aforesaid liberty.

(Siddharth Nandan,J.)

October 8, 2026
Sumit K.

Digitally signed by :-
SUMIT KUMAR
High Court of Judicature at Allahabad