

Court No. - 7

Case :- WRIT - C No. - 40370 of 2018

Petitioner :- C/M Sri Sanatan Dharm Ram Leela Mahotsava Samiti And 5 Others

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Aklank Kumar Jain, Sri Ashok Khare (Senior Advocate)

Counsel for Respondent :- C.S.C., Vineet Kumar Singh

Hon'ble Saumitra Dayal Singh, J.

Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri Aklank Kumar Jain, Advocate for the petitioners, Sri H.N. Singh, learned Senior Advocate assisted by Sri Vineet Kumar Singh, Advocate for the private respondents and the learned Standing Counsel for respondents no. 1 to 3.

The present writ petition is disposed of with the consent of learned counsel for the parties.

Challenge has been made to the order dated 06.11.2018 passed by the Prescribed Authority/Up-Ziladhikari, Sadar, Firozabad and consequential order dated 14.11.2018, passed by the Deputy Registrar, Firms, Societies and Chits, Agra.

The facts giving rise to the present controversy are short. Undisputedly (as has been specifically admitted by counsel for both the sides), the election was held to elect the members of Managing Committee of the society namely Shri Sanatan Dharm Ram Leela Mahotsava Samiti Kotla Road, Firozabad on 22.08.2018. In that election, 11 members were elected by the general body of the above named society, being Sri Brijendra Pal Singh Yadav, Sri Ram Naresh Katara, Pt. Munna Lal Shastri, Sri Nitesh Agarwal Jain, Sri Prabhat Kumar Nagina, Dr. Dilip Yadav, Sri Raksha Pal Singh Yadav, Sri Girraj Kishor Yadav, Sri Shyam Singh, Sri Manoj Yadav and Sri Suresh Chandra Yadav.

It further appears that of the aforesaid 11 persons so elected as members of the Committee of Management, six claimed to have conducted an election to constitute the Committee of Management on 01.09.2018. This election to elect the office bearers of the Committee of Management is claimed to be a forged and fabricated elections by the respondents. That matter became the subject matter of reference. The reference order is dated 01.10.2018. It is also on record of the present petition.

Arising from such reference made, the prescribed authority has

passed the impugned order dated 06.11.2018, wherein, contentions advanced by the respondents have been recorded of certain illegal transactions having been performed by six elected members of the Committee of Management along with five other persons/members of the society, a Trust was found to have been constituted contrary to the interest of the society. On such contentions being advanced, the prescribed authority has reached the conclusion that the present respondents no. 4 to 8 had been rightly expelled on 29.08.2018 by the other five members of the Committee of Management.

Learned Senior Counsel appearing for the petitioners submits that undisputedly the committee of management could not be treated to have been validly constituted till the election of the office bearers. Therefore, the alleged meeting of 29.08.2018 convened by the other five members was wholly illegal and without any jurisdiction. To that extent reasoning contained in the impugned order is wholly fallacious, inasmuch as the only dispute referred to the prescribed authority was with respect to the validity of the election dated 01.09.2018. Only that issue was to be examined by the prescribed authority.

It has further been submitted that it was not open to the prescribed authority to reason that the membership of the petitioners came to an end on account of their conduct vis-a-vis, the trust deed executed by them. That issue fell in the exclusive domain of the society and or its managing committee that may have considered the conduct of the petitioners and taken such action as may, in its collective wisdom, have been considered proper.

The prescribed authority had no jurisdiction to either expel the petitioners from the society or to reach the conclusion that the petitioners were liable to be expelled or that they could not have been elected on 01.09.2018.

Learned Senior Counsel Sri H.N. Singh appearing on behalf of private respondents submits that the execution of the trust deed by the petitioners was an act wholly subversive to the interests of the society. By engaging in such an act that too without any authority or following any procedure exposed the petitioners to expulsion from the society. Therefore, the prescribed authority has not committed any error in annulling proceedings held on 01.09.2018 on the basis of meeting held on 29.08.2018.

Having heard learned counsel for the parties and without making any observation to the merits of the allegations that exist against the petitioners vis-a-vis execution of the trust documents etc., this much is undisputed that the petitioners and

five others (with whom they are in dispute), had been elected to the Committee of Management of the society in an election held by the general body of that society on 22.08.2018. Also, that election is undisputed. It is also admitted between the parties that no election of the office bearers of the society took place on any date before 01.09.2018. Even as to the election of 01.09.2018 it has been strongly disputed by the learned senior counsel for the private respondents that any election had ever taken place. In any case, that dispute pertaining to the election claimed by the petitioners to the office bearers of the Managing Committee of the society held on 01.09.2018 was specifically referred by the Registrar as under the act to the prescribed authority. That reference order is also not in challenge.

The clear position which thus emerges is that up to 01.09.2018 there did not exist a duly elected Committee of Management of the society.

The election dated 01.09.2018 was in dispute before the prescribed authority. Therefore, there arrived no occasion for a meeting of any of the members of the Committee of Management to have taken place on 29.08.2018 such that any elected member of that Committee of Management could be expelled. It would only be after the office bearers of the Committee of Management were elected that a Committee of management would come into existence as may allow for any meeting to be convened or action of expulsion to be taken under the bye laws of the society.

Necessary consequence that arises is that the action claimed in the meeting dated 29.08.2018 was a nullity inasmuch as according to the respondents there was no duly constituted Committee of Management on that date. The prescribed authority also did not have the power to cause expulsion to any member while exercising the jurisdiction to decide a reference made to him under Section 25 as to the validity of election of the office bearers of the society, dated 01.09.2018.

Consequently, the aforesaid impugned orders are set aside. Matter is remitted to the prescribed authority to decide the reference made to it strictly in accordance with law. As to the other allegations made by the respondents with respect to execution of trust deed etc, it shall remain open to the said respondent to approach the Registrar in terms of Section 24 of the Act, who may take appropriate action if required strictly in accordance with law, at this appropriate stage.

The aforesaid exercise (in remand) may be completed as expeditiously as possible preferably within a period of two

months from the date of production of certified copy of this order.

Both sides have undertaken not to seek any undue or long adjournment.

Disposed of.

Order Date :- 13.12.2018
sailesh