

**Court No. - 38**

**Case :-** WRIT - C No. - 61014 of 2013

**Petitioner :-** C/M The Paliwal School Association And Another

**Respondent :-** Deputy Registrar, Firms Societies & Chits And 2 Others

**Counsel for Petitioner :-** Yogendra Kumar Srivastava

**Counsel for Respondent :-** C.S.C., Akank Jain

**Hon'ble Dilip Gupta, J.**

The Committee of Management of Paliwal School Association Shikohabad, Firozabad and Sanjeev Kumar Paliwal claiming himself to be the Secretary, have filed this petition for quashing the order dated 27th September, 2013 passed by the Deputy Registrar, Firms Societies and Chits, Agra (hereinafter referred to as the 'Deputy Registrar') by which he has directed that as the election that was held on 15th July, 2013 in which petitioner No.2- Sanjeev Kumar Paliwal was elected as the Secretary cannot be approved as it was not held in accordance with the Bye-laws of the Society, fresh election should be held under Section 25(2) of the Societies Registration Act, 1860 (hereinafter referred to as the 'Act') as the term of the earlier Committee of Management elected on 29th June, 2008 had come to an end after expiry of four years.

The Prescribed Authority has found as a fact that Sanjeev Kumar Paliwal, who was the out going Secretary of the Committee of Management elected on 29th June, 2008 was appointed as the Election Officer for holding fresh election in which he was not only a candidate for the post of Secretary but was also elected as the Secretary. It is for this reason that the Deputy Registrar decided not to approve the election and ordered for holding of fresh election under Section 25(2) of the Act.

Learned counsel for the petitioners has submitted that under Clause 7(5) of the Bye-laws of the Society, the Secretary could be appointed as the Election Officer as he was required to hold the election.

This clause cannot be interpreted to mean that the outgoing Secretary can be appointed as the Election Officer and nor does it empower the Election Officer to contest in the election for any post.

There is, therefore, no infirmity in the impugned order which may

call for any interference by the Court under Article 226 of the Constitution.

The writ petition is, accordingly, dismissed.

**Order Date :- 19.11.2013**

NSC