

Vindhya Vasini Vs. Prescribed Authority and ors.

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Court : Allahabad

Decided On : Apr-15-2002

Reported in : 2002(2)AWC1623; (2002)3UPLBEC2449

Judge : R.R. Yadav, J.

Acts : [Societies Registration Act, 1860](#) - Sections 25(1)

Appeal No. : C.M.W.P. No. 15358 of 2002

Appellant : Vindhya Vasini

Respondent : Prescribed Authority and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : R.C. Singh, Adv.

Disposition : Writ petition dismissed

Judgement :

R.R. Yadav, J.

1. Heard learned counsel for petitioner and perused the orders impugned dated 22.5.2000 (Annexure-14) and 23.3.2002 (Annexure-15) to the writ petition.

2. It is settled principle of law that a writ of certiorari is maintainable against final order after exhausting all the statutory remedy. Here, in the instant case, 1/4th members of the society has initiated proceeding under Sub-section (1) of Section 25 of the [Societies Registration Act, 1860](#), before the Prescribed Authority. Preliminary objection was raised regarding jurisdiction before the Prescribed Authority. The Prescribed Authority by Impugned orders rejected the preliminary objection. The orders impugned passed by the Prescribed Authority are eminently Just and proper and do not require interference at this stage.

3. It is held that the validity of the election depends upon the actual number of members of the general body of the society registered in Uttar Pradesh entitled to participate in such election under bye-laws of the society. In those cases, where there is a doubt about election between two rival parties, then a reference is to be made to the Prescribed Authority by the Assistant Registrar. Firm, Societies, Chit Fund. In case no reference is made, then 1/4th members of society are entitled to initiate proceeding under Sub-section (1) of Section 25 of the Societies Registration Act and in both situations, the Prescribed Authority is to adjudicate the validity of election alleged to have been held by rival parties with reference to the actual number of members of the general body entitled to participate in such election. The decision relating to number of members of general body entitled to participate in election is incidental for deciding the doubt about validity of election under Subsection (1) of Section 25 of the Societies Registration Act and an argument contrary to it is not acceptable.

4. It is submitted by the learned counsel for petitioner that in the instant case, there are no rival claimants of Committee of Management. However, even if there are no rival claimants relating to election of Committee of Management, even if 1/4th members of the society registered under Societies Registration Act raised an objection under Sub-section (1) of Section 25 of Societies Registration Act, even then the doubt relating to validity of such election is to be decided with reference to the actual number of members of the society entitled to participate in such election by the Prescribed Authority. I am of the view that adjudication about doubt relating to validity of an election before Prescribed Authority under Sub-section (1) of Section 25 of Societies Registration Act without ascertaining the actual number of

members of general body entitled to participate in such election would be practically impossible.

5. The Prescribed Authority has committed no error in passing orders impugned (Annexures-14 and 15 to the writ petition).

6. Consequently, the instant writ petition is hereby dismissed in limine.

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