

**Sandeep Kumar Rathi and ors. Vs. State of U.P. and ors.**

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**Court :** Allahabad

**Decided On :** Nov-29-2007

**Reported in :** 2008(1)AWC662

**Judge :** Rajes Kumar, J.

**Appellant :** Sandeep Kumar Rathi and ors.

**Respondent :** State of U.P. and ors.

**Advocate for Pet/Ap. :** Sri. P. C. Pathak

**Disposition :** Petition dismissed

**Judgement :**

**Rajes Kumar, J.**

1. By means of the present writ petition, petitioners seek the following reliefs:

(a) issue a writ, order or direction in the nature of certiorari calling for the record of the case and to quash the impugned order dated 18.11.2006 passed by the Assistant Registrar Firms Society and Chits Saharanpur (Annexure-18 of this writ petition) ;

(b) issue a writ, order or direction in nature of mandamus commanding/directing the Joint Director of Education, Saharanpur Region, Saharanpur to appoint the

authorised controller over the institution Swami Kalyan Devi Balika Inter College Bhopa District Muzaffarnagar for holding the fresh election ;

(c) issue a writ, order or direction in the nature of mandamus commanding/directing the respondent Nos. 2 and 3 not to approve the alleged election dated 1.10.2006 of the Committee of Management in which respondent No. 9 is elected as Manager during the pendency of the present writ petition ;

(d) issue any such suitable writ, directions or order which this Hon'ble Court may deem just and proper in the interest of justice and proper in the facts and circumstances of the case ; and

(e) to award the costs of the proceedings to the petitioners.

2. Petitioner No. 1 Sandeep Kumar Rathi claimed to be the Deputy Manager of the Committee of Management, Swami Kalyan Dev Balika Inter College, Bhopa, District Muzaffarnagar and petitioner No. 2 Rabindra Singh claims to be a life member and Ex-Treasurer of the Committee of Management.

3. Heard Sri P. C. Pathak, learned Counsel for the petitioners, Sri G. K. Singh, learned Counsel appearing on behalf of respondent Nos. 8 and 9 and learned standing counsel.

4. Learned Counsel for the petitioners submitted that the Assistant Registrar by the impugned order dated 18.11.2006 has illegally approved the membership of 39 new members of the Committee of Management and therefore, the election held on 1.10.2006 in which 39 new members have participated is totally illegal. He submitted that the society had a bank account No. 2766 while a new bank Account No. S.B.C.-150 was opened in Muzaffarnagar District Cooperative Bank Limited, Muzaffarnagar on 19.1.2001 and the membership fee of the said 39 new members have been deposited in the said bank account. He submitted that the entire activity of making the new members have been made behind the back, by respondent No. 7 and thus, the order passed by the Assistant Registrar approving the membership of 39 new members is not justified.

5. Sri G. K. Singh, learned Counsel appearing on behalf of respondent Nos. 8 and 9 submitted that the contentions of the petitioners have no substance. He submitted that the Assistant Registrar in the impugned order has considered the complaint filed by Sri Samay Singh, Satyabrat and Ravindra Singh regarding the new membership. In the order, the dates of the meetings held from time to time in which new members have been taken are referred. It is also stated that in the meeting, the complainants were also present. Membership register was also perused in which the name of the total members were mentioned including the new members. In the said register, the amount given by the members alongwith draft numbers and the dates on which the said drafts were sent to the bank were mentioned. The Assistant Registrar has also considered the cash book in which the Account No. S.B.C.-150 in District Cooperative Bank Limited, Muzaffarnagar was also found incorporated and the entire amount deposited towards new membership fee by the new members have been duly incorporated in the cash book. He submitted that the bank pass book has also been perused and it was found that Account No. S.B.C-150 in District Cooperative Bank Limited, Muzaffarnagar was opened on 19.1.2001 in which the photographs of Sri Ravindra Singh, the then Treasurer, one of the complainant and the Manager Sri Mahabir Singh Rathi were affixed and having regard to the aforesaid facts, membership of 39 new members have been approved.

6. Having heard the learned Counsel for the parties, I have perused the impugned order and the record.

7. I do not find any substance in the argument of the learned Counsel for the petitioners and illegality in the impugned order dated 18.11.2006, passed by the Assistant Registrar, Firm Society and Chits, Saharanpur. The impugned order is a well discussed order, based on the material on record. The approval of 39 new members have been granted after perusing the entire record, namely, bank pass book, cash book and proceeding register. Thus, the conclusion arrived by the Assistant Registrar approving the new membership cannot be said to be perverse or based on no material.

8. Perusal of the order reveals that in a meeting in which new memberships have been considered, complainants were present, bank account No. S.B.C-150 in District Cooperative Bank Limited, Muzaffarnagar was opened on 19.1.2001 with the joint signatures of Ravindra Singh, Treasurer, who was one of the complainant and the Manager Sri Mahabir Singh Rathi in which the membership fee of the new members have been deposited. The said bank account was duly incorporated in the cash book. Thus, having regard to the aforesaid facts, I do not see any reason to interfere with the findings of fact recorded by the Assistant Registrar, Firms Society and Chits, Saharanpur.

9. In view of the above, writ petition is, accordingly, dismissed. Interim order dated 3.1.2007 is hereby vacated. Regional Level Committee is directed to consider the matter relating to the recognition of the new Committee of Management formed in an election held on 1.10.2006.

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