



2026:AHC:53471

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 3312 of 2026

Committee of Management, Samaj Sevak Junior High School and
another

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Satyendra Chandra Tripathi, Shiv Poojan Yadav
Counsel for Respondent(s)	: C.S.C., Rajesh Kumar Singh

With Writ-C No.7344 of 2026

Reserved on 13.3.2026
Delivered on 17.3.2026

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri R.K.Ojha, learned Senior Counsel assisted by Sri S.C.Tripathi, learned counsel for the petitioners and Sri Prabhakar Awasthi, learned Senior Counsel assisted by Sri R.K.Singh, learned counsel for the respondents.

2. This is a bunch of two writ petitions.

3. First Writ Petition No.3312 of 2026, was filed by the Committee of Management, Samaj Sevak Junior High

School, Bhaurakala, District-Muzaffarnagar through its Manager Sri Vikas Kumar.

4. Last election of Committee of Management took place in the year 2022-2023 for a term of 3 years on 12.6.2022, wherein petitioner no.2 has claimed that he was elected as a Manager, whereas one Brajeveer Singh, son of Jagdish was elected as Treasurer.

5. List of Office Bearers was communicated to the Assistant Registrar to register the list under Section 4 of the Societies Registration Act, 1860 (hereinafter referred to as the "Act of 1860").

6. Respondent no.4, claiming himself to be a Treasurer filed a complaint wherein he presented a list of 200 newly inducted members. However, after considering the objection, Assistant Registrar passed an order dated 8.6.2022, wherein the list of newly inducted 200 members was rejected and the list submitted by the petitioners of 146 members was accepted.

7. Nature of aforesaid order indicates that it was passed under Section 4-B of the Act of 1860.

8. In pursuance of above order dated 8.6.2022, Assistant Registrar passed an order dated 18.8.2022 and registered the office bearers of Committee of Management of the year 2022-2023.

9. Contents of aforesaid order states that it was an order passed under Section 4(1) of the Act of 1860. Only the

order dated 18.8.2022 was challenged by respondent no.4 by way of filing an Appeal No.01/2022-23.

10. Aforesaid appeal was apparently filed under Sections 2A and 3A of the Act of 1860 and same was dismissed vide order dated 22.12.2022, since it was not filed under correct provisions of law.

11. Order dated 22.12.2022 was thereafter challenged by respondent no.4 by way of filing Writ-C No.1708 of 2023, which was disposed of vide order dated 1.2.2023, whereby the order dated 22.12.2022 was set-aside and matter was remanded to pass a fresh order after passing an order on delay condonation application.

12. In the aforesaid circumstances, an application for condonation of delay was filed by the said appellant and prayer was also made to treat the appeal to be filed under Section 4 (1-A) of the Act of 1860. From the memo of appeal it would be evident that it was preferred only against an order dated 18.8.2022.

13. Commissioner, Saharanpur Division Saharanpur i.e. respondent no.2 allowed the application for condonation of delay vide order dated 1.5.2025 and admitted the appeal for hearing.

14. In the aforesaid circumstances, impugned order dated 18.9.2025 was passed, whereby order dated 8.6.2022 as well as order dated 18.6.2022 were set-aside.

15. In the first paragraph of impugned order it was mentioned that appeal was filed not only against the order dated 8.6.2022, but also against the order dated 18.8.2022. However, there is nothing on record as to whether prayers made in the original appeal was amended to the extent that order dated 8.6.2022 passed under Section 4-B of the Act of 1860 was also impugned in the appeal.

16. By way of order dated 18.9.2025, appeal was allowed partly and both the orders dated 18.6.2022 and 18.8.2022 were set-aside and matter was remanded to Assistant Registrar to decide the issue of 200 newly inducted members in accordance with law on merit after giving opportunity of hearing to the parties.

17. Order dated 18.9.2025 is under challenge in Writ Petition No.3312 of 2026 filed on 15.1.2026.

18. During pendency of above writ petition, Assistant Registrar on basis of order of remand dated 18.9.2025 (impugned in the first writ petition) passed an order dated 30.1.2025, whereby both lists of 146 and 200 members was accepted. For reference, relevant part of it is reproduced hereinafter:

“निर्णय:-

अतः न्यायालय आयुक्त, सहारनपुर मण्डल, सहारनपुर के पारित आदेश दिनांक 18.09.2025 में प्रदत्त निर्देशों के क्रम में उभय पक्षों को सुना गया। न्यायालय आयुक्त द्वारा पारित उक्त आदेश में अंकित निष्कर्ष में स्पष्ट रूप से उल्लिखित किया गया है कि, "200 नवीन सदस्यों की सूची को स्वीकृत नहीं किया गया जबकि सदस्यों की सदस्यता -रसीदें तथा इन सदस्यों की आपत्तियां एवं शपथ-पत्र पत्रावली पर प्रस्तुत हुए तथा इनका शुल्क बैंक खाते

में जमा होने के साक्ष्य उपलब्ध है।" उक्त के आलोक में 200 नवीन सदस्यों पर संस्था द्वारा कोई ठोस साक्ष्य प्रस्तुत न किए जाने के कारण तथा ब्रजवीर सिंह द्वारा उपरोक्त सदस्यों को बनाने के समर्थन में प्रस्तुत अभिलेखों तथा संस्था की कार्यवाही दिनांक 17.06.2017 के आधार पर उक्त नवीन 200 सदस्यों को स्वीकार करने में कोई विधिक बाधा प्रतीत नहीं होती है।

इसके अतिरिक्त 146 सदस्यों जो कि पूर्व से चले आ रहे हैं तथा तत्कालीन सहायक रजिस्ट्रार द्वारा स्वीकृत हैं तथा चुनाव अधिकारी द्वारा जाँचोपरान्त सही पाये गये हैं एवं उसी सूची के आधार पर विभिन्न चुनाव भी कराया गया है। अतः उक्त 146 सदस्यों को स्वीकार किये जाने में कोई विधिक बाधा प्रतीत नहीं होती है।

अतः उपरोक्तानुसार 200 नवीन सदस्य व 146 पुराने सदस्यों को वैध घोषित किया जाता है तथा संस्था की प्रबन्ध समिति का चुनाव सोसाइटीज रजि० एक्ट 1860 की धारा 25(2) के अन्तर्गत कराये जाने हेतु आदेश पृथक से जारी किया जाएगा।"

19. Order dated 30.1.2025 is under challenge in second Writ Petition No.7344 of 2026.

20. Learned Senior Counsel appearing on behalf of petitioners in both writ petitions submitted that order dated 8.6.2022 passed by Assistant Registrar was never challenged by contesting respondents. Otherwise also, since it was an order passed under Section 4-B of the Act of 1860, no appeal was maintainable.

21. Per contra, learned Senior Counsel appearing for the respondents has tried to convince the Court, however, failed to do so since recently this Court in Writ-C No.8732 of 2026, 2026:AHC:51323, has reiterated position of law that no appeal would be maintainable under Section 4 (1-A) of the Act of 1860 against an order passed under Section 4-B of the Act of 1860. Relevant part of the said judgment is reproduced hereinafter:

"8. In Abhishek Pandey Vs. State of U.P. & Ors, 2025,AHC:213663-D.B, Division Bench of this Court

has held that no appeal would be maintainable against any order U/s 4-B of the Act and since no other position of law is shown to this Court, therefore, Court follows said judgment and therefore, finds that impugned order becomes illegal to the extent to entertain an appeal against an order passed U/s 4-B of the Act. The respondents have failed to provide any contrary position of law despite two days were granted to file written submissions.

9. Even after making above observations, Court finds that there is merit in argument of learned Senior Advocate for respondents that appeal filed U/s 25(d) of the Act would be maintainable against an order passed U/s 25(2) of the Act. Both Appeals were filed under Section 25(2) of the Act and not under Section 4-B of the Act as evident from memo of appeal placed on record.

10. Learned Senior Advocate for petitioners has not raised any argument on merit of the case i.e. whether the order passed on appeals to the extent of Appeals filed U/s 25(2), therefore, impugned order can be legally unsustainable to some extent, however, still it will be more appropriate if impugned order be set aside in entirety, therefore, it is remitted back to concerned respondent to decide the appeal only qua to order passed U/s 25(2) of the Act and its legal consequence shall follow. So far as order passed U/s 4-A of the Act is concerned, concerned private respondents will have a liberty to avail legally available remedy.

11. Writ petition stands disposed of with above observations."

22. In the aforesaid circumstances, Appellate Authority has erred in considering the appeal filed against order dated 8.6.2022, therefore, direction to remand matter to Assistant Registrar to consider the membership of 200 newly inducted members would also become erroneous and is accordingly liable to be set-aside. Ordered accordingly.

23. In the aforesaid circumstances order passed on remand by the Assistant Registrar dated 30.1.2026 which is challenged in connected Writ Petition No.7344 of 2026 is also liable to be set-aside. Ordered accordingly.

24. In the above background, preliminary objection raised by learned counsel for the respondents has no legal basis since impugned order was passed absolutely against the provisions of law.

25. In the aforesaid circumstances, matter is remanded to Appellate Authority to decide the appeal only on basis of memo of appeal wherein only the order dated 18.8.2022 passed by the Assistant Registrar was challenged in order to scrutinize as to whether while passing such order ingredients of Section 4-1 of the Act of 1860 were followed or not.

26. So far as order dated 8.6.2022 is concerned, aggrieved party is at liberty to take legal recourse as available under law.

27. Both the writ petitions are accordingly disposed of.

(Saurabh Shyam Shamsbery,J.)

March 17, 2026

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