



2026:AHC:61269-DB

## HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 155 of 2026

The Committee of Management and another

.....Appellant(s)

Versus

The State of U.P. and 4 others

.....Respondent(s)

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|---------------------------|-----------------------------------------------------------------------|
| Counsel for Appellant(s)  | : R.K. Ojha, (Sr. Ojha) with Rajesh Kumar Singh, Shivendu Ojha        |
| Counsel for Respondent(s) | : C.S.C., Ashok Khare (Sr. Advocate), Parashar Pandey, Himanshu Singh |

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### Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE**  
**HON'BLE KSHITIJ SHAILENDRA, J.**

1. Heard Shri R.K. Ojha, learned Senior Counsel, assisted by Shri Rajesh Kumar Singh, for the petitioners, learned Standing Counsel for the State-respondents no. 1, 2 and 4 and Shri Ashok Khare, learned Senior Counsel, assisted by Shri Parashar Pandey for the respondent no. 5

2. This appeal is directed against order dated 16.01.2026, whereby learned Single Judge has dismissed Writ-C No. 1107 of 2026 filed by the appellants.

3. The writ petition was filed challenging the orders dated 06.12.2025 and 28.12.2025, both passed by the Deputy Registrar, Firms, Societies and Chits, Agra Region, Agra. By the order dated 06.12.2025, a list of 45 members of the society for the year 2017-18 was registered under Section 4 of the Societies Registration Act, 1860 ('the Act') for holding elections of a defunct/time barred Committee/Society with a further direction that election programme would be issued separately. By the order dated 28.12.2025, the Committee of the private respondent was declared as elected 'unopposed'.

4. Learned Senior Counsel appearing for the appellants has made submissions that though two orders were challenged in the writ petition, learned Single Judge has dealt with only one order, i.e. the order dated 06.12.2025 and after recording that the Deputy Registrar has not

committed any procedural irregularity in declaring the electoral college, the writ petition has been dismissed without making any observation regarding the second order impugned.

5. It is further submitted that in the order dated 06.12.2025, the Deputy Registrar had not recorded any cogent reasoning as to why members enrolled over a period of time were contrary to the stipulations contained in the registered Bye-laws and, therefore, the very basis of the elections set up by the respondents was invalid. It is further submitted that merely because membership fees, as per the Bye-laws, is indicated as Rs. 101/-, the very fact that in the lists produced before the Deputy Registrar, indications were made regarding deposit of Rs. 11,000/- and Rs. 501/- by the members, the sums over and above the minimum membership amount, could not be taken as a ground for discarding the lists of validly enrolled members.

6. It is further submitted that though the Deputy Registrar has observed that a procedure has been prescribed in the Bye-laws regarding enrollment of members, after observing that as to when and on which date, members were enrolled and by which office bearer being not clear, a list of 45 members which was issued 7-8 years ago in 2017-18, has been held to be valid, which determination being in ignorance of validly enrolled members and their status, the order dated 06.12.2025 impugned in the writ petition was liable to be set aside.

7. It is further submitted that in the statements of income and expenditure pertaining to different years, due deposit of membership fees and other sums stands reflected and since the financial statements are duly audited by Chartered Accountant, raising doubts on enrollment of members or deposit of fees is without any basis.

8. Per contra, Shri Khare has made submissions that once the appellants had failed to establish before the Deputy Registrar sanctity qua enrollment of members from year 2016 to 2019, the Deputy Registrar was perfectly justified in accepting the list of 45 members based upon which the last elections of 2017-18 had been conducted. It is further submitted that reliance placed on the lists pertaining to years 2021-22, 2022-23, 2023-24

and 2024-25 is wholly misplaced, inasmuch as the dispute is regarding the enrollment of members during the period between 2017 and 2019 and, therefore, the appellants cannot get any advantage of the lists of subsequent years, particularly when the genesis thereof is itself doubtful.

9. Further submission has been made that financial statements relied upon by the appellants pertain to years 2022-23 and 2024-25 which have no relevance and the submission of the appellants that membership fees was deposited in ICICI Bank, Kakadev Branch, Kanpur in the Bank Account No. 413305000609, as pleaded in para-24 of the writ petition, does not stand substantiated from the statement of account of the said bank, which was produced by Shri Khare during the course of arguments.

10. It is also submitted that a categorical finding has been recorded by the Deputy Registrar in the order dated 06.12.2025 that the new members were enrolled during subsistence of managerial dispute and, for this reason also, no sanctity can be attached to the membership relied on by the appellants. Shri Khare, with reference to the Bye-laws, has made further submissions that three different categories of members have been indicated therein, namely, founder members, ordinary members and special members and the indications made in the Bye-laws qua the said different categories has significance in the matter and the contentions of the appellants when tested based upon the said categorization, serious discrepancies come in light.

11. In rejoinder, Shri Ojha submits that on account of tendering resignation by one Dharmpal Singh on 13.03.2019 from the post of Manager/Secretary, appellant no. 2, namely, Dharmveer Singh became Manager/Secretary and, therefore, there was no managerial dispute worth the name which could be treated as an impediment in enrollment of new members.

12. We have considered the submissions made and have perused the material available on record.

13. When the matter was heard on a previous date, the Court, after perusing various lists of members, raised *prima facie* doubts regarding the seriatim in which receipt numbers qua deposit of membership fees was

indicated. The matter was simply adjourned to enable the appellants to verify the same.

14. Based upon the oral observations made by the Court, the learned Senior Counsel for the appellants, today, produced the original counterfoils of various receipts whereby membership fees either pertaining to office bearers or members was sought to be established over a period of time. During the course of examination of the said counterfoils comprised in various booklets, it was noticed by the Court that though membership fees was Rs. 101/-, sums to the tune of Rs. 501/-, Rs. 11,000/-, Rs. 50,000/- and, on one occasion, Rs. 20,00,000/- were deposited.

15. When asked, learned Senior Counsel submitted that though membership fees was indicated as Rs. 101/-, sums deposited by the members and office bearers as per their choice, over and above the same, may not be treated as defect in enrollment and, apart from membership fees, receipts were used to be issued qua other donations etc., and all such sums have been duly indicated in the audit financial statements.

16. The Deputy Registrar, in the order dated 06.12.2025 has mentioned that the membership fees was Rs. 101/-, however, deposits in relation to members indicated at Sl. No. 1 to 7 to the tune of Rs. 11,000/- and from Sl. Nos. 8 to 31, to the tune of Rs. 501/- were made and certain members have not deposited the membership fees. The Deputy Registrar, after observing that the procedure for enrollment of members is prescribed in the registered Bye-laws, did not record any finding as to how and in what manner the procedure prescribed has been violated by the appellants while enrolling the members.

17. The learned Single Judge, while dismissing the writ petition, though took note of the findings recorded by the Deputy Registrar, no discussion was made in the order as to what procedure had been violated by the appellants and the learned Single Judge directly came to the conclusion that perusal of Annexures-15 and 16 can, in no way, demonstrates that the Deputy Registrar has committed any procedural irregularity. Thereafter, the learned Single Judge, based upon two decisions of this

Court, dismissed the writ petition by observing that while proceeding under Section 25(2) of the Act, the Deputy Registrar has to determine electoral college incidentally in a summary manner; he is not required to enter into depth or record evidence regarding membership etc., and is not supposed to go into the merits of the claim of the membership(s) of the society.

18. In our opinion, the learned Single Judge has not appropriately dealt with the record of proceedings and has made observations regarding power of the Deputy Registrar qua verifying the membership aspect. The power being available under the provisions of Section 4(1) and 4-B of the Act, contrary conclusion drawn by the learned Single Judge, cannot be sustained.

19. In any case, based upon the record of proceedings and submissions made, we find that dismissal of writ petition in limine without inviting response from the respondents, was not proper as the same required a response from the respondents and, then, the matter could have been decided. Further, no finding has been recorded regarding consequential elections resulting into the second order impugned, i.e. 28.12.2025 which indicates declaration of an 'unopposed election' in favour of the respondents. For this reason also, the order of the learned Single Judge cannot be sustained.

20. The Special Appeal is, accordingly, **allowed**.

21. The order dated 16.01.2026 passed by the learned Single Judge is hereby **set aside**.

22. Writ-C No.1107 of 2026 is restored on the file of the writ court and the same shall be listed **as a fresh case** before the appropriate Bench **on 09.04.2026**.

23. The writ court shall proceed to consider the matter afresh in the light of observations made hereinabove.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

**March 24, 2026**

AKShukla/-