



2026:AHC:67737-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 225 of 2026

Committee Of Management, Sri Gandhi Inter
College Harpur Budhat

.....Appellant(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Astha Misra, Avneesh Tripathi
Counsel for Respondent(s)	:	C.S.C., Ramesh Chandra Dwivedi

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

Ref.: Civil Misc. Exemption Application No.01 of 2026

1. This appeal has been filed with exemption application for not submitting the certified copy of the impugned order.
2. Accordingly, the exemption application is **allowed**. The defects stand cured.

Order on Appeal

3. Heard Sri Radha Kant Ojha, learned Senior Advocate assisted by Sri Avneesh Tripathi, learned counsel for the original petitioner/appellant, Sri Rajiv Gupta, learned Additional Chief Standing Counsel for the State-respondents, Sri Ramesh Chandra Dwivedi, learned counsel for the private-respondents, and perused the record.

4. The present intra-Court appeal has arisen against the judgement and order passed by the learned single judge dated 17.02.2026 in Committee of Management Sri Gandhi Inter College Harpur Vs. State of U.P. and 2 others, 2026:AHC:34506. By that order, the learned single judge has dismissed the writ petition filed by the Committee of Management/original petitioner/appellant, for reason of defect noted-that the writ petition had been filed by the Committee of Management through Sri Tarkeshwar Prasad Shukla (who described himself as the Manager of the said Committee of Management), not supported by a resolution of the

Committee of Management in favour of the said Tarkeshwar Prasad Shukla.

5. Though, there is no dispute to the fact that the said Sri Tarkeshwar Prasad Shukla is the Manager of the Committee of Management Sri Gandhi Inter College, Hapur, the writ petition has been found not maintainable as the same was not supported by any resolution in his favour.

6. The learned single judge has further reasoned that the subsequent resolution dated 13.01.2026 filed along with the Supplementary Affidavit did not satisfy the requirement of law.

7. Sri R.K. Ojha, learned Senior Advocate would submit, by virtue of Section 6 of the Societies Registration Act, 1860 (hereinafter referred to as 'the Act') read with Clause 20 (3) of the Scheme of Administration as applicable to the said institution, the Manager of the Committee of Management was authorized to institute the writ petition, on behalf of the Committee of Management.

8. Relying on the decision of a co-ordinate bench in **Umesh Chandra and another vs. Mahila Vidyalaya Society, Aminabad, Lucknow and others, 2006 (24) LCD 1373**, it has been strenuously urged, in face of the enabling clause 20(3)(9) of Scheme of Administration, Sri Tarkeshwar Prasad Shukla, in his capacity as the Manager of the Committee of Management, was duly authorized to institute the writ petition.

9. Also, there was no requirement of law to produce a resolution of the Committee of Management, drawn in his favor, to maintain the writ petition. Alternatively, it has been submitted, in any case, by means of the Supplementary Affidavit, the further resolution dated 13.01.2026 was brought on record. It clearly authorizes Sri Tarkeshwar Prasad Shukla, Manager of the Committee of Management, to institute the writ petition. The finding of the learned single judge that the Supplementary Affidavit and the resolution filed therewith, did not satisfy the requirement of law, is unsustainable.

10. Sri R.K. Ojha, learned Senior Advocate would further submit, the law

in this regard is fairly well settled. If the Scheme of Administration itself authorizes any office bearer of the Committee of Management to institute or to defend any legal proceeding, for and on behalf of the Committee of Management, the Courts may never compel such Committee of Management, to pass specific resolutions in favor of such duly authorized persons-to institute or to defend individual proceedings. If the direction issued by the learned single judge to the registry, are enforced, it would lead to unnecessary complications and delay as may obstruct access to justice, for no objective reason as may not serve any good purpose.

11. On the other hand, Sri Ramesh Chandra Dwivedi would submit, while there can be no doubt as to the correct principle and law as enunciated by the co-ordinate bench in **Umesh Chandra (supra)**, that principle is to be applied looking into the individual facts, of each case. Referring to Clause 20(3)(9) of Scheme of Administration, he would submit-here the Manager of the Committee of Management has not been authorized by the Scheme of Administration to institute and defend legal proceedings on behalf of the Committee of Management. He has only been authorized to represent the Committee of Management and to sign pleadings and verify documents. Unless the Committee of Management were to pass a specific resolution, to institute or defend a particular legal proceeding, the Manager of the Committee of Management may not act on his own, independently. As to the existence of the subsequent resolution dated 13.01.2026, it has been submitted, the said resolution has not been passed in accordance with law.

12. Having heard learned counsel for the parties and having perused the record, in the first place, Section 6 of the Act reads as under:

"6. Suits by and against societies.-Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such persons as shall be appointed by the governing body for the occasion:

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be

the defendant."

13. Clause 20(3)(2) and (9) of the Scheme of the Administration to the extent it is relevant here, reads as below:

"20.प्रबंध समिति के पदाधिकारियों के अधिकार तथा कर्तव्य-

(3)प्रबंधक-

2. समिति के निर्देशों के अधीन रहते हुए संस्था के समस्त सम्पत्तियों तथा धनराशियों के प्रबंध तथा प्रशासन के लिए उत्तरदायी होगा
9. संस्था को संबंधित मामलों में समिति संस्था तथा सभा की समस्त कानूनी कार्यवाहियों में प्रतिनिधित्व करना और उनकी कार्यवाहियों तथा मामलों में उनकी ओर से अभिकथनो (प्लीडिंग्स) पर हस्ताक्षर करना तथा उन्हें सत्यापित करना।"

14. As to facts, there is no dispute. The petition had been filed on the strength of the said clause of the Scheme of Administration, without relying on any resolution passed by the Committee of Management. On the objection being raised, Supplementary Affidavit was filed by the original petitioner/Committee of Management/appellant-to bring on record the resolution dated 13.01.2026, authorizing Sri Tarkeshwar Prasad Shukla, the Manager, to institute proceedings, which according to the Committee of Management, the said Tarkeshwar Prasad Shukla was otherwise authorized to institute of the Scheme of Administration. To that extent, the resolution dated 13.01.2026 appears to be issued by the Committee of Management to offer a clarification.

15. Insofar as the decision of the co-ordinate bench in **Umesh Chandra (supra)** is concerned, it had framed following issues:

"whether in the absence of any resolution of Committee of Management or General Body of a Society, a writ petition can be filed by its office bearer (in the present case. Secretary of the Society) to plead the cause of Society?"

16. In that case, there was no provision parallel or equivalent to Clause 20(3)(9) of the Scheme of Administration, applicable in the instant case. After detailed analysis of the law, the co-ordinate bench recorded its findings as below:

"68. In view of above, we proceed to record our finding as under:

(i) *The word "determine" or "determination" used in the Section 6 of the Act means that while framing the rules, byelaws or constitution of the Society, General Body of the Society must provide specifically in the rules by discussing the matter as to who shall be authorized to institute a suit representing the Society. In the absence of such specific provisions under the rules of a Society it is for the Committee of Management or governing body to determine as to who shall represent the Society in the Court of competent jurisdiction for institution of a suit. Only a person authorized by the rules or by the governing body or the executive body to institute a suit shall be en-titled to file a suit or a petition in this Court or in other Courts or tribunals.*

(ii) *Under Section 6 of the Act, it shall be incumbent upon the members of a Society while framing rules or byelaws to categorically provide as to who shall be entitled to sue on behalf of Society in representative capacity. In the absence of categorical provision in the rules or byelaws of the Society, none of the office bearer like President, Secretary or Manager or the Chairman shall be entitled to institute a suit or file an objection in representative capacity. Mere conferment of administrative or executive power on an office bearer shall not be sufficient to meet the requirement of Section 6 of the Act.*

(iii) *In the ab-sence of specific or categorical provisions in the rules or byelaws of the Society constituted under the Act, only such person shall be entitled to represent a Society who is being duly authorized by the governing body of the Society vide its resolution.*

(iv) *A petition or suit filed by a person duly em-powered shall be maintainable only in case it is being filed to represent the cause of Society in accor-dance to its aims and objects or rules or in accordance to the resolution of the Committee of Management. In the absence of such specific pleading in a petition or suit, such suit or petition shall not be maintainable.*

(v) ...

(vi) ...

(vii) ...

(ix) ...

(x) ..."

(emphasis supplied)

17. To the extent, there is no contrary law shown to exist and further to the extent we are in absolute agreement with the reasoning of the co-ordinate bench as recorded in that decision, we have, for the sake of brevity only, referred to the conclusions drawn in that decision.

18. On the strength of such conclusions, it remains to be examined, if according to the law laid down in **Umesh Chandra (supra)**, there existed any requirement to compel the Committee of Management-original petitioner/appellant in the present case, to produce a specific resolution of the said Committee of Management authorizing Sri Tarkeshwar Prasad Shukla, the Manager of the said Committee of Management, to institute the writ proceedings.

19. According to the binding law, it would be sufficient for a person such as the present petitioner, to rely on express clause in the Scheme of Administration authorizing the Manager of the Committee of Management-to institute the writ petition. Here, under Clause 20(3)(9), amongst others, the Manager of the Committee of Management has been specifically authorized to represent the Committee of Management in all legal proceedings and to sign pleadings as also to verify the same.

20. Once such authority has been vested in the Manager under the said Scheme of Administration, we find no reason to accept the counter submission being advanced by Sri R.C. Dwivedi, that a specific resolution was required to be passed by the Committee of Management, to litigate.

21. To the extent, the said clause is a reflection of the statutory principle contained in Section 6 of the Act, while remaining cognizant that the issue has not arisen with respect to filing of writ petition by a society, but by a Committee of Management, we find, the objection being raised by Sri R.C. Dwivedi, is hyper-technical.

22. It is a commonly known fact that litigation arises, at times, in emergent situations compelling the litigant to act with utmost expediency. In the first place, the Scheme of Administration does not place any fetter on the powers of the Manager with respect to institution of litigation. Contrasted with Clause 20(3)(2), it is seen, unlike and distinct from the powers of the Manager to deal with the properties and moneys of the Committee of Management, with respect to institution and defending litigation, the Committee of Management has not reserved to itself any power to issue instructions to the Manager in that regard.

23. Thus, where the society may have desired, it has specifically made the

actions of the Manager of the Committee of Management subject to directions issued by the Committee of Management. In stark contrast, it has left other areas free from such fetter and thus enabled the Manager to act on his own for the limited purpose of institution and setting up defence in any litigation. We are mindful, any action taken by the Manager, in a given case, would obviously remain within the overall control and supervision of the Committee of Management, that may choose to intervene or to issue specific directions to such Manager.

24. Second, we have also considered, for the purposes of passing a resolution, the procedure is governed by clause 14(3), amongst others, of the Scheme of Administration. For ready reference, it reads as below:

"14. प्रबन्ध समिति की बैठक

1-साधारण बैठक:- समिति की साधारण बैठक अध्यक्ष के अनुमोदन से प्रबन्धक द्वारा 4 माह में कम से कम एक बार अवश्य बुलाई जायेगी।

2-आवश्यक बैठक: प्रबन्धक (अध्यक्ष के अनुमोदन से) जब आवश्यक हो समिति की लिखित माँग पर (जिसमें विचार के लिए विशिष्ट विषय या संकल्प का उल्लेख होना चाहिए) समिति की आवश्यक बैठक अवश्य बुलायेगा। यदि अध्यक्ष या प्रबन्धक द्वारा ऐसा नहीं किया जाता तो प्रबन्ध समिति के 6 सदस्यों / पदाधिकारी निरीक्षक की अनुमति से सामूहिक रूप से मिलकर बैठक बुला सकेंगे।

3- बैठक के लिए नोटिस:- समिति की साधारण बैठक के लिए कम से कम पूरे 7 दिन का नोटिस एवं आवश्यक बैठक के लिए कम से कम पूरे 3 दिन का नोटिस दिया जायेगा। किन्तु प्रतिबन्ध यह है कि साधारण बैठक के दिनांक से 10 दिन पूर्व और आवश्यक बैठक के दिनांक से 6 दिन पूर्व सदस्य के अन्तिम ज्ञापन पर रजिस्टर्ड डाक द्वारा नोटिस भेजने पर यह समझा जायेगा कि वह उस सदस्य पर यथोचित समय के भीतर पर्याप्त रूप से तामिल कर दिया गया है। नोटिस के साथ कार्यसूची होगी और उसमें बैठक का दिनांक, स्थान तथा समय दिया रहेगा। यदि नोटिस रजिस्टर्ड डाक से नहीं दिया जाता है तो समिति के किसी सदस्य की आपत्ति पर जाँच के उपरान्त निरीक्षक उस बैठक की कार्यवाही को (जैसी स्थिति हो) अवैध या वैध घोषित कर सकेगा।

4- गणपूर्ति एवं स्थगनोपरान्त बैठक: पाँच सदस्यों या तत्कालीन सदस्यों की एक तिहाई संख्या से जो भी अधिक हो समिति की गणपूर्ति होगी। यदि बैठक प्रारम्भ होने के लिए निश्चित समय के पश्चात 30 मिनट तक अपेक्षित गणपूर्ति न हो तो बैठक स्थगित हो जायेगी। बैठक फिर उसी दिन या किसी दूसरे दिन ऐसे समय हो सकती है जिसकी घोषणा अध्यक्ष उक्त 30 मिनट की समाप्ति पर करें।

स्थगनोपरान्त बैठक के लिए गणपूर्ति या किसी अन्य नोटिस की अपेक्षा न होगी किन्तु उस बैठक में किसी ऐसे विषय पर विचार नहीं किया जायेगा जो गणपूर्ति के अभाव में स्थगित की गयी बैठक की कार्यसूची में सम्मिलित न रहा हो।

(emphasis supplied)

25. Clearly, no meeting of the Committee of Management can be called

and consequently no resolution may be passed by it, unless seven days' clear notice is issued for the purpose of a general meeting and three days' clear notice is issued for an urgent meeting. Further, the said clause mandates issuance of prior notice by registered post. If strictly applied, it would only create hurdles and obstructions in the path of access to justice, for no good reason. Further, that compliance given to the said clause may also result in further delays in the event of circumstances arising-leading to adjournment of a meeting called.

26. To the extent, the Committee of Management remains a duly elected body and further to the extent the Manager is a duly appointed authority of the Committee of Management, who is enabled to institute and defend litigation on behalf of the Committee of Management, the interpretation being suggested may result in purposeless delays and even result in defeating the cause of justice, itself. Exigencies and circumstances may arise as may dictate-unless the Committee of Management is enabled to institute or/and defend proceedings in real time, without causing any delays, the Committee of Management and the society itself may stand at risk of suffering losses whether irreparable or involving onerous liabilities, etc.

27. Therefore, substantive compliance of the law would suffice. As to the concern noted by the learned single judge, the rule has to remain-frivolous litigation and for litigation instituted by unauthorized persons is to be avoided, but not at the cost of justice considerations itself.

28. On the facts of the present case, we find, in any case, the original petitioner/Committee of Management/appellant had complied with the requirement of law as noted by the learned single judge. Thus, even if a resolution of the Committee of Management was required to be produced before the Court to maintain the petition filed on behalf of the Committee of Management by Sri Tarkeshwar Prasad Shukla, the Manager of the said Committee of Management, that resolution dated 13.01.2026 existed as was brought on record by means of the Supplementary Affidavit. To that extent, the finding of the learned single judge that the resolution does not authorize Sri Tarkeshwar Prasad Shukla, does not appear to be correct.

29. As to the last submission advanced by Sri R.K. Ojha, in view of the above foregoing discussion, we modify the directions issued to the registry to the effect:

(i) In all petitions to be filed in future by or on behalf of the Committee of Management in all affidavits (first affidavit, Counter Affidavits, Rejoinder Affidavits, Impleadment Application, etc.), the authority of the person through whom such Committee of Management may approach the Court may be disclosed by appending thereto the first page of the Scheme of Administration and the relevant clause of the Scheme of Administration authorizing such person to institute such proceeding or file such affidavit, in the first affidavit to be filed on behalf of the Committee of Management.

(ii) Only in the event, the Scheme of Administration does not vest such authority, on any authority, a proper resolution of the Committee of Management may be filed to establish the authority of the person approaching the Court, along with the first affidavit to be filed on behalf of the Committee of Management.

(iii) Where such authority may not be readily available, appropriate application may be filed seeking time to produce the same, with leave of the Court.

31. Subject to that compliance being made of either of the three modes indicated above, the Registry would allow the proceeding to reach the Court with its proper note/report as to deficiency noted.

32. We clarify, this direction is to be given effect to prospectively, i.e. in proceedings that may be instituted or brought before this Court from 06.04.2026.

33. Accordingly, the instant intra-court stands **allowed** and the impugned order dated 17.02.2026 is set aside. The writ petition is restored to its original number and status. It may be listed as a fresh case on 08.04.2026.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

March 31, 2026

Anurag/-