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ALLAHABAD HIGH COURT (LUCKNOW BENCH)

MANAGING COMMITTEE, NATIONAL INTER COLLEGE, FATEHPUR,
BARABANKI AND OTHERS — Appellant

Vs.

DEPUTY REGISTRAR, FIRMS, SOCIETIES AND CHITS, FAIZABAD
DIVISION, FAIZABAD AND OTHERS — Respondent

(Before : Shri Narayan Shukla, J)

Writ Petition No.4516 (M/S) of 2009

Decided on : 07-01-2011

A. Societies Registration Act — Committee of Management — Removal of Office Bearers — Validity of Meeting — Deputy Registrar, Firms, Societies and Chits — Powers and Duties. The Deputy Registrar, in validating the removal of office bearers and the subsequent registration of new office bearers, must consider all objections regarding procedural irregularities in the meeting where such decisions were taken. (Para 5)

B. Administrative Law — Quasi-Judicial Proceedings — Application of Mind — A quasi-judicial authority, such as the Deputy Registrar, Firms, Societies and Chits, must apply its mind to all objections raised by the parties and provide reasoned decisions, especially when determining the validity of a meeting and the removal of office bearers of a society. Failing to discuss raised irregularities renders the order unsustainable. (Paras 5, 6)

C. Committee of Management — Bye-laws/Regulations — Meeting Procedure — Notice and Agenda. For a meeting of the Committee of Management to be valid, especially one involving the removal of office bearers, proper notice and agenda must be issued to members. The power to convene meetings often rests with the President or, in their absence, the General Body.

(Para 4)

D. Judicial Review — Quashing of Order — Remand. An order passed by an administrative authority without due application of mind, particularly concerning procedural irregularities raised by affected parties, is liable to be quashed. The matter may be remanded to the authority for a fresh decision after considering all objections. (Para 6)

E. Societies Law — Removal of Members — Prejudicial Acts. Removal of a member from a Managing Committee, as per bye-laws (Clause 13), requires a majority opinion that the member's actions are "prejudicial to the interest of the institution." However, the procedural validity of the meeting where such a decision is made must be established. (Para 2)

JUDGMENT

Shri Narayan Shukla,J.

1. Heard Mr.Sharad Pathak, learned counsel for the petitioners and Mr.Kshemendra Shukla, learned counsel for the opposite parties.

2. The petitioners have challenged the order dated 21st of July, 2009, passed by the Deputy Registrar, Firms, Societies and Chits, Faizabad, whereby the meeting dated 7th of February, 2009 of the Executive Body of the Committee of Management of the Institution has been validated and in terms of the said meeting the list of office bearers of the Committee of Management for 200910 has been registered. In its meeting dated 7th of February, 2009, the Committee of Management by means of majority decision resolved to remove Mr.Saroj Kumar Jain from the office of the President as well as Smt. Suman Singh from the office of Manager of the Committee of Management due to their anti management activities in exercise of power provided under clause 13 of the Regulations of the Managing Committee of the Institution. Clause 13 is extracted below:

If any member of the Managing Committee, is guilty of any act of commission or omission prejudicial to the interest of the institution in the opinion of the majority of the members of the Managing Committee, the later will remove him and replace him by another suitable member

3. There is a charge against the President of the Committee of Management that he failed to call upon the meeting time to time as is required under the ByeLaws and he did not take interest in the activities of the Institution. He also overlooked the financial irregularities committed by the Manager Smt. Suman Singh for vested interest.

4. Against Smt. Suman Singh, Manager of the Committee of Management there is a charge for misappropriation of money. The petitioners have raised finger over the procedure

adopted for meeting as according to them neither any Agenda was issued for meeting nor notice was served to them. Further no such meeting took place. They also invited attention towards the contrary statement of Peon, who firstly accepted holding of meeting in the premise of College, but subsequently denied the same. It is also stated by the petitioners that it is power of the President, to call upon the meetings of the Managing Committee, whenever he considers necessary, in absence of which only the General Body is empowered to call upon the meeting, but in this case neither the meeting was called upon by the President nor by the General Body.

5. The petitioners' objection raised before the Deputy Registrar, Firms, Societies and Chits has been brought on record as Annexure No.20, upon perusal of which I find that they raised several irregularities in holding the meeting, but upon perusal of the order impugned, I find that the Deputy Registrar, Firms, Societies and Chits has failed to discuss any irregularity as pointed out by the petitioners in holding the meeting. He has upheld the minutes of the meeting only on the ground that the majority of the members in the ratio of 4/3 have taken the decision to remove petitioners, therefore, it establishes that the meeting for their removal has been held in accordance with the Byelaws of the Society. Thus only on the basis of presumption, he has passed the order without discussing the objection raised by the petitioners.

6. Though the respondents have made efforts to defend the order passed by the Deputy Registrar, Firms, Societies and Chits, Faizabad by submitting that the meeting took place in accordance with law, but since nothing has been discussed by the Deputy Registrar, Firms, Societies and Chits, Faizabad, I am of the view that the order is without application of mind and being so is unsustainable, therefore, I hereby quash the order impugned dated 21st of July, 2009, passed by the Deputy Registrar, Firms, Societies and Chits, Faizabad with the direction to the Deputy Registrar to take a fresh decision in the matter after considering the objection raised by the parties.

7. With the aforesaid observations and directions the writ petition is disposed of finally.