

On the issue of the power of the Deputy Registrar to decide membership Dr. L. P. Mishra, learned counsel for the appellants could not dispute the legal position that such a power is available to the Deputy Registrar under Section 4B of the Societies Registration Act, 1860 as applicable in the State of U.P. In our opinion, the Deputy Registrar has failed to exercise his authority in this regard on the most important issue which ought to have been gone into for holding of any fresh elections. Further, the fact that the previous elections setup by Narayan Mishra would not be recognized and fresh elections deserve to be held was accepted by the faction of Narayan Mishra including the appellant who was shown to be a member of the General Body as depicted by Narayan Mishra. The appellant also did not question the authority of the Deputy Registrar to hold fresh elections. In such a situation, if the Deputy Registrar was to hold fresh elections and if objections had been filed against the membership again before him before holding of the elections on 01.09.2013, then the Deputy Registrar was under an obligation to have decided the issue of membership. It is apparent from the objections raised by the Respondent No.2 at every stage that he had been contesting the very electoral college of 24 members of the Deputy Registrar indicating it to be the fake list which was not adjudicated upon considering the objections of the Respondent No.2 in the order dated 06.08.2013. In our opinion, this was a blatant flaw in the order of the Deputy Registrar who under a wrong impression or otherwise a deliberate wrong procedure adopted by him, did not choose to decide the issue of the dispute of membership and the electoral college entitled to participate in the elections. The decision making process was, therefore, clearly vitiated and the Deputy Registrar failed to decide an issue that went to the root of the matter. Accordingly, the Learned Single Judge did not commit any error in exercising a writ of certiorari and issuing a direction to decide the matter again. We, therefore, fully endorse the view taken by the Learned Single Judge on this count as well. We for all the reasons recorded hereinabove decline to interfere with the impugned judgment with a direction to the Deputy Registrar to decide the issue of the membership of the General Body keeping in view the objections raised by the Respondent No.2 from time to time and after giving an opportunity of hearing to both the parties. Since the Principal, Government Inter College, Ambedkar Nagar had continued to manage the affairs of the society after 13.03.2013 under the directions of the Learned Single Judge and which was not challenged, we do not find any reason to interfere with the aforesaid direction as well under the impugned judgment. Narayan Mishra which would be treated to have become final between the parties to this appeal. The Special Appeal stands disposed of accordingly.