



2026:AHC:34506

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - A No. - 118 of 2026**

Committee of Management Sri Gandhi Inter College Harpur  
.....Petitioner(s)

Versus

State of U.P. and 2 others  
.....Respondent(s)

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

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**Court No. - 32**

**HON'BLE SAURABH SHYAM SHAMSHERY, J.**

**ORDER**

1. In the present case, contesting private respondent has raised a preliminary objection to the maintainability of present writ petition in it's present form that it is not accompanied with a resolution of the Committee of Management to challenge the impugned order and to further authorise it's Manager to act on their behalf.
2. The present writ petition is filed by the Committee of Management of a College namely, Sri Gandhi Inter College, Harpur Budhat, Gorakhpur being Petitioner No. 1 through its Manager being Petitioner No. 2. against an order dated 24.12.2025 passed by District Inspector of Schools, Gorakhpur, whereby a proposal dated 26.10.2025 to suspend Respondent No. 3 has been turned down.
3. Sri R.K. Ojha, learned Senior Advocate assisted by Sri Avneesh Tripathi, learned counsel for petitioners, has submitted that there is a Scheme of Administration to run various affairs of the College through

Committee of Management, which also provides responsibility and powers of each Office Bearer. The Manager of Committee of Management has wide powers and responsibilities including being authorized to sign pleadings etc. on its behalf. For reference relevant clause of Scheme of Administration is mentioned here in after:-

**“17. प्रबन्ध समिति के कर्तव्य एवं कृत्य- प्रबन्ध समिति के अधिकार कर्तव्य एवं कृत्य जहां तक विनियमों से असंगत न हो निम्नलिखित होंगे:-**

माध्यमिक शिक्षा अधिनियम की धारा 16 क एवं 16 ख के अधीन बने परिषद के विनियम के अध्याय-

1- प्रशासन की योजना के अन्तर्गत विनियम 13 में निहित अधिकार एवं कार्य प्रबन्ध समिति द्वारा सम्पादित किये जायेंगे, जो निम्नलिखित रूप से परिभाषित किये गये हैं-

2- संस्था के प्रधान प्रबन्धक द्वारा शिक्षकों / कर्मचारियों की सेवापंजिका में की गयी प्रविष्टियों के विरुद्ध अपीलों पर निर्णय देना।

3- जहाँ प्रधानाध्यापक अथवा आचार्य को अधिकार प्राप्त है उनके अतिरिक्त संस्था के कर्मचारियों को समस्त अवकाश स्वीकृत करना।

4- बालकों की निधियों (छात्रनिधियों) को छोड़कर संस्था के समस्त धनराशियों, प्रतिभूतियों (जमानतों) सम्पत्ति तथा संदानों का नियंत्रण तथा प्रबन्धन एवं उनकी निरापद परिरक्षा, विनियोग, मरम्मत, अनुरक्षण और विधिक रक्षा हेतु आवश्यक कार्यवाही करना।

5- शासन से प्राप्त अनुरक्षण और विकास अनुदानों तथा प्रतिपूर्तियों के उचित उपयोग को सुनिश्चित करना।

6- संस्था के लिए समस्त आय (छात्रवृत्तियाँ और बालकों की निधियों को छोड़कर) चंदा, दान, भेंट, लाभांश, ब्याज, अनुदान, आदि प्राप्त करना तथा उसके अधिकारों एवं कार्यों से उठाने वाले वित्तीय दायित्वों को पूरा करना।

7- शिक्षा विभाग द्वारा समय समय पर दिये जाने वाले आदेशों / निर्देशों का पालन करना।

8- एकट के उपबन्ध एवं विनिमय व अनुबन्धों के रहते हुए प्रधानाध्यापक, प्रधानाचार्य एवं शिक्षक पदों पर उ०प्र० माध्यमिक शिक्षा सेवा चयन बोर्ड द्वारा समय समय पर संशोधित शासनादेशों के अनुसार चयनित अभ्यर्थियों की नियुक्ति उ०प्र० माध्यमिक शिक्षा सेवा चयन बोर्ड अधिनियम के प्राविधानानुसार/शासनादेशानुसार की जायेगी। लिपिक की नियुक्ति प्रबन्ध समिति द्वारा तथा चतुर्थ श्रेणी कर्मचारी की नियुक्ति प्रधानाध्यापक/प्रधानाचार्य द्वारा विहित प्रक्रिया अनुसार विभागीय अनुमोदन से की जायेगी।

6. उ०प्र० हाईस्कूल तथा इंटरमीडिएट कालेज (अध्यापकों तथा अन्य कर्मचारियों के वेतन का भुगतान) अधिनियम 1971 की धारा 9 के अन्तर्गत सृजित रिक्त पद एवं विहित प्रक्रिया के आभाव में तथा उ०प्र० माध्यमिक शिक्षा सेवा चयन बोर्ड द्वारा चयनित अभ्यर्थी समय समय पर संशोधित शासनादेशों से परे अन्य अनियमित/फर्जी नियुक्ति की स्थिति पाये जाने पर उक्त वर्णित अधिनियम/विनियम के प्राविधानों के अन्तर्गत प्रबन्ध समिति के विरुद्ध कार्यवाही की जायेगी।

7. विद्यालय में छात्रों का फर्जी नामांकन पाये जाने की स्थिति में प्रबन्ध समिति को अतिक्रमित करने की कार्यवाही माध्यमिक शिक्षा अधिनियम एवं अधिनियम में जारी शासनादेशों, विभागीय निर्देशों के अन्तर्गत की जायेगी।"

**"20. प्रबन्ध समिति के पदाधिकारियों के अधिकार तथा कर्तव्य-पदाधिकारियों के अधिकार तथा कर्तव्य निम्नलिखित होंगे:-**

### **1. अध्यक्ष-**

**क-** समिति की बैठक की अध्यक्षता करना।

**ख-** बैठक करने के लिए तिथि समय एवं स्थान का अनुमोदन करना परिवर्तन करना और बैठक को स्थगित करना।

**ग-** इस बात की देखभाल करना कि यह प्रशासन योजना समस्त सम्बद्ध व्यक्तियों द्वारा निष्ठा के साथ कार्यान्वित की जाय।

घ- संस्था तथा उसकी सम्पत्ति से सम्बन्धित समस्त अनुबन्धों, संविदाओं के समस्त अभिलेखों तथा अन्य लेखों पर प्रबन्धक के साथ संयुक्त रूप से हस्ताक्षर करना।

ड- समिति की स्वीकृति की प्रत्याशी में अधिक से अधिक रूपया 500/- (रूपया पाँच सौ) तक की धनराशि को व्यय करना।

च- आपत्ति की स्थिति में जब कोई बैठक बुलाई न जा सके तो जिला विद्यालय निरीक्षक की सहमति से समिति की ओर से उस सीमा तक कार्य करना जिस सीमा तक उस समिति के संकल्प द्वारा एतर्थ प्राधिकृत किया गया हो, अपने द्वारा की गई कार्यवाही की सूचना तत्काल समिति को देना।

छ- ऐसे अन्य अधिकारों को प्रयोग करना और ऐसे कर्तव्यों का पालन करना जो इस योजना या तत्समय प्रचलित किसी नियम अथवा उप नियम द्वारा उसे दिये गये हो, उस पर आरोपित किये गये हो।

## 2. उपाध्यक्ष-

क- अध्यक्ष की अनुपस्थिति में या उसके अपने कर्तव्यों का पालन करने से असमर्थ हो जाने पर अध्यक्ष के रूप में कार्य करना।

ख- ऐसे समस्त अधिकारों के प्रयोग तथा कर्तव्यों का पालन करना जो अध्यक्ष द्वारा उसे लिखित रूप से प्रतिनिहित किये गये हो।

## 3. प्रबन्धक-

1. संस्था के लिए समस्त अनुदान, दान तथा चन्दे आदि प्राप्त करना और उनके लिए यथाविधि रसीद देना।

2. समिति के निर्देशों के अधीन रहते हुए संस्था के समस्त सम्पत्तियों तथा धनराशियों के प्रबन्ध तथा प्रशासन के लिए उत्तरदायी होगा।

3. नियमों तथा स्वीकृति की शर्तों के अधीन रहते हुए बजट में की गयी व्यवस्था के भीतर संस्था के वित्त का प्रशासन तथा नियंत्रण करना।

4. कोषाध्यक्ष के साथ संयुक्त रूप से संस्था के समस्त लेखों को संचालित और उसकी वार्षिक लेखा परीक्षा का प्रबन्ध करना।

5. संस्था के शिक्षकों तथा सभी कर्मचारियों के वेतन वृद्धियों तथा देय धनराशि का भुगतान सुनिश्चित करना और जब कोषाध्यक्ष शिफारिश करे तो समिति द्वारा प्राधिकृत व्यय में से अन्य सेवाओं तथा सामग्रियों के लिए भुगतान सुनिश्चित करना।
6. संस्था से संबंधित समस्त अनुबन्ध तथा संस्था की अचल सम्पत्ति से संबंधित हस्तान्तरण संविदा के समस्त विलेखों तथा अन्य लेखों पर अध्यक्ष के साथ-साथ संयुक्त हस्ताक्षर करना।
7. वार्षिक बजट तैयार करना और समिति/सभा के समक्ष रखें जाने के लिए उन्हें अध्यक्ष को प्रस्तुत करना।
8. संस्था की वार्षिक रिपोर्ट तैयार करना।
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 अभिकथनों (प्लीडिंग्स) पर हस्ताक्षर करना तथा उन्हें सत्यापित करना।
10. अध्यक्ष की स्वीकृति से बैठक बुलाना और संस्था के प्रबन्ध और प्रशासन से सम्बन्ध समस्त पत्र व्यवहार रजिस्टरों तथा पुस्तकों को अभिलेख करना।
11. उस दशा को छोड़कर जब प्रधानाचार्य में ऐसा अधिकार निहित हो, समिति द्वारा प्राधिकृत सीमा तक संस्था के कर्मचारियों की छह्मी स्वीकृत करना।
12. समिति की स्वीकृति की प्रत्याशी में अधिक से अधिक ₹0 500/- (पाँच सौ रुपये) तक की धनराशि व्यय करना।
13. यदि समिति ने तदर्थ अधिकार दिया हो तो संस्था के किसी शिक्षक, लिपिक पुस्तकालयाध्यक्ष की जाँच तथा समिति का अन्तिम आदेश होने तक के लिए विनियमों के अनुसार निलम्बन करना तथा की गयी कार्यवाही की सूचना समिति को देना।

14. एक ओर समिति तथा दूसरी ओर प्रधानाचार्य के माध्यम से संस्था के कर्मचारी वर्ग, शिक्षा विभाग तथा बोर्ड के बीच पत्र व्यवहार के सामान्य माध्यम के रूप में कार्य करना।
15. समिति तथा सभा के निर्णयों को कार्यान्वित करने के लिए उनके मुख्य कार्यपालक के रूप में कार्य करना।
16. विद्यालय के समस्त कर्मचारियों को नियुक्त करना तथा नियुक्ति पत्र निर्गत करना।
17. ऐसे अन्य अधिकारों का प्रयोग और ऐसे अन्य कर्तव्यों का पालन करना जो इस योजना द्वारा तत्समय प्रचलित किसी नियम अथवा विधि द्वारा उसे दिये गये हो या उस पर रोपित किये गये हो।
18. संस्था की तरफ से पत्र व्यवहार करना।
19. सदस्यों के नाम सदस्यता रजिस्टर पर नोट करना।
20. संस्था के कार्यवाही को लिपिबद्ध करना एवं सुनाना।

#### **4- उप प्रबन्धक:-**

1. प्रबन्धक को उसके कर्तव्यों का पालन करने में सहायता देना और उसकी ओर से उन मामलों में काम करना जो उसे प्रबन्धक द्वारा लिखित रूप से निर्दिष्ट तथा प्रतिनिहित किये गये हो तथा प्रबन्धक को उसके कर्तव्यों का पालन करने में अस्मर्थ हो जाने पर और प्रबन्धक का पद रिक्त होने पर कोई स्थाई व्यवस्था होने तक प्रबन्धक के रूप में कार्य करना।

#### **5. कोषाध्यक्ष:-**

1. संस्था की समस्त धनराशियों तथा निधियों के लेखों को रखना।
2. प्रबन्धक के साथ संयुक्त रूप से संस्था के सभी लेखों को संचालित करना।
3. प्राधिकृत व्यय के लिए भुगतान की जाने वाली धनराशियों की सिफारिश प्रबन्धक से करना।

4. सदस्यता हेतु बैंक ड्राफ्ट प्राप्त कर प्रबन्धक को भेजना तथा सदस्यता स्वीकार होने पर उसे विद्यालय के खातों में जमा करना। सदस्यता से प्राप्त समस्त आय मेन्टीनेन्स खाते में जमा होगी।

5. प्राधिकृत लेखा परीक्षक द्वारा लेखा परीक्षा के लिए सभी लेखें, रजिस्टर, प्रमाणक (बाउचर) रसीदें तथा अन्य पत्र जो लेखा परीक्षा के लिए आवश्यक हो प्रस्तुत करना।

6. आय तथा व्यय का वार्षिक विवरण तैयार करना और लेखा परीक्षा रिपोर्ट के साथ उसे प्रबन्धक को प्रस्तुत करना।"

4. Learned Senior Advocate further submits that said Scheme of Administration has incorporated all clauses of model Scheme of Administration provided under U.P. Intermediate Education Act, 1921 as well as various other clauses and it was approved also.

5. Learned Senior Advocate has referred a resolution dated 13.01.2026 (adopted subsequent to filing of present writ petition) in a meeting of the Committee of management to authorise it's Manager to sign pleadings on behalf of it, in terms of above referred clause as an abundant caution to meet the preliminary objection, despite it was not required.

6. Learned Senior Advocate has not disputed a settled position of law that a Manager of the Committee of Management, in sole capacity, cannot file a writ petition and it is always the Committee of Management who could file a writ petition, if aggrieved by any action of State-Respondent, through it's Manager.

7. According to learned Senior Advocate above referred Clauses 20 (3) (9) of Scheme of Administration completely authorise the Manager to take a decision so as to challenge an order passed by State-Respondent or by any other authority, before a Competent Court and for that there is no mandatory requirement to adopt a fresh resolution by the Committee of Management to the effect whether a proceeding is required to be instituted before a Competent Court and the Manager

being authorised to plead on it's behalf, can take a decision on his own for institution of such cases.

8. Per contra, Sri R.C. Dwivedi, learned counsel for Private Respondent-3 has referred judgments passed in the cases of **Saraswati Vidya Mandir Vs. State of Uttar Pradesh, 2003 (3) AWC 1917; C/M Junior High School Sayar Vs. State of U.P. and 2 Ors, 2019:AHC:19863; Umesh Chandra and Anr. Vs. Mahila Vidyalaya Society, Aminabad, Lucknow and Ors., 2006(24) LCD 1373** that it is Committee of Management who could only be aggrieved by any act of State-Respondent and not it's Manager independently, therefore, a decision to institute a challenge to it, could only be taken by the Committee of Management and not by it's Manager alone. The referred clause of Scheme of Administration authorise the Manager to act on behalf of the Committee of Management, to plead pleadings and to represent before Court or forum, as the case may be, and does not authorise to take a policy decision on behalf of the Committee of Management to institute a proceeding before a Court of Law since Committee of Management may resolve otherwise.

9. Heard learned counsel for parties and perused the material available on record.

10. The Scheme of Administration provides for constitution of a Committee of Management having authority to manage and conduct the affairs of the institution. Sub-section (6) of section 16-A of U.P. Intermediate Act, 1921, provides that every recognized institution shall be managed in accordance with the Scheme of Administration framed under and in accordance with sub-section (1) to sub-section (5) of the said Section and Section 16-B and Section 16-C. Section 16-CC of the Act provides that a Scheme of Administration in relation to an institution, whether recognized before or after the commencement of the Intermediate Education (Amendment) Act, 1980, shall not be inconsistent with the principles laid down in the 3rd Schedule. The 3rd Schedule provides the principles on which approval to a Scheme of

Administration shall be accorded. It provides that every Scheme of Administration shall provide for proper and effective functioning of the Committee of Management.

11. In the present case, College concerned has Scheme of Administration duly approved. It provides duties and responsibilities of Office Bearers of Committee of Management including President and Manager. A Manager in individual capacity can not file any suit or writ petition. It is the Committee of Management who can file a suit or writ petition and for that Manager or any other can be authorised to file it and to sign pleadings. The Counsels for rival parties are also in agreement on this issue.

12. In the present case, as per the scheme of administration, the Manager is authorised to represent on behalf Committee of Management i.e to plead, to affirm or to file any case or swear an affidavit, but it does not specifically authorise Manager to take a decision to institute any suit or a writ petition. In other words a Manager can carry out a decision of Committee of Management. In some eventualities, the Manager is being authorise to take decision also but such authorization must be specific.

13. Under any circumstance, if any one could aggrieved by an action of State-Respondent would only be the Committee of Management since in maximum cases orders are passed on basis of decision of Committee of Management through resolutions adopted in their meetings such as order of termination or suspension, therefore, in case of any adverse order is passed by the State-Respondent, then Committee of Management has to take a decision for further legal recourse and the Manager alone not being competent to take a decision on it's own or on behalf of Committee of Management, to take a decision for further legal recourse as it would be a collective decision of the Committee of Management. This is the reason that such power is not specifically dedicated to the Manager under Scheme of Administration rather it authorise Manager to act subsequent to decision of taking legal recourse.

14. The Manager cannot act contrary to the decision of Committee of Management. In a case where Committee of Management takes a decision not to challenge an action of State-Respondent, can Manager under the grab of above referred clause still challenge it taking a contrary view and answer to it obviously would be 'No'.

15. There is an evident difference between a decision to take legal recourse and to authorise Manager to act accordingly. Under no circumstance, a Manager can question a decision of the Committee of Management or General Body of a Society, as the case may be, or to proceed on its own will, since it would be against the bye laws of a society or a decision of the Committee of Management under Scheme of Administration.

16. In above background Court takes note of **Saraswati Vidya Mandir (supra)**, **C/M Junior High School Sayar (supra)** and **Umesh Chandra (supra)**, wherein same view was taken. Relevant part of said judgments are reproduced hereinafter :-

#### Saraswati Vidya Mandir

*"(3) THIS Court in Writ Petition No. 10663 of 1976, Sardar Patel Higher Secondary School, Dev nagar, Mathura v. Deputy Director of Education, Agra Region, Agra and Ors. , 1976 AWC 18, vide judgment and order dated 1. 3. 1976 observed :*

*"sri N. C. Upadhyay, learned counsel for the respondent No. 3, Babu Lal Sharma raised a preliminary objection to the maintainability of the petition at the instance of the manager Kedar nath. He urged that the Committee of Management had authority to hold enquiry and to dismiss the petitioner from service, its proposal to dismiss respondent No. 3 was disapproved by the deputy Director of Education in appeal, therefore, the aggrieved party was the Committee of management and the petition could be filed only by it, the manager Sri Kedar Nath had no locus standi to maintain this petition. I find considerable force in this contention. In paragraph 43 of the second affidavit of respondent No. 3, it was clearly stated that the petition was not maintainable on behalf of the school as it was not the legal entity itself and it ought to have been filed by the Committee of Management. It was further stated that no proof has been shown that the Managing Committee had directed the manager to file the petition. Reply to this assertion is contained in paragraph 45 of the rejoinder-affidavit filed by the petitioner. It states that the contents of paragraph 43 are wholly misconceived and are not admitted, the same being argumentative will more adequately be replied at the time of arguments. There is thus no assertion in the*

*rejoinder-affidavit that the Committee of Management had adopted any resolution to challenge the order of the Deputy Director of Education nor there is any assertion that Kedar Nath was authorised by the Committee of Management to file the present petition. There is further no assertion in the rejoinder-affidavit that the Committee of Management was aggrieved or that it had permitted the manager to file the petition. In fact the averments contained in paragraph 45 of the rejoinder-affidavit have been shown on legal advice, it does not contain any assertion of facts. The present petition has been filed by Sadar Patel Higher Secondary School through its Manager sri Kedar Nath. The petition has not been filed on behalf of the Committee of Management or on behalf of the Society, if any, registered under the Societies Registration Act. Obviously, the school or the manager cannot be aggrieved on behalf of the Committee of Management. It is the society and the Committee of Management which is legally entitled to challenge the orders of the Deputy Director of Education. The Manager cannot assume the functions of the Committee of Management unless he is authorised to do so. Sardar Patel Higher Secondary School is not a legal entity to maintain any legal action on behalf of the Society or the Committee of management. In Civil Misc. Writ Petition No. 5808 of 1970, Mahtab Rai, Manager, Har Narain intermediate college v. Deputy Director of Education, decided on 7th January, 1974, a learned single Judge of this Court, almost in similar circumstances, held that the Manager or the school has no locus standi to maintain petition against the order of the District Inspector of Schools or the Deputy director of Education refusing to grant approval. The learned single Judge observed that the appointment of Principal of college and termination of his services were within the powers of the managing Committee or the Society and it was the Managing Committee alone which exercises control. That being so, the Manager is not the Managing Committee or the Society and he cannot maintain a writ petition in this Court unless he is authorised to do so. Relying on a Full Bench decision of this Court in Hart Raj Swarup v. Security to Government of U. P. , AIR 1951 All 1, the learned Judge dismissed the petition on the ground that it was not filed on behalf of the managing Committee or the Society. I am in respectful agreement with the view taken by the learned single Judge in Mahtab Rais case. In the instant case, neither the Society nor the managing Committee has filed the writ petition nor there is any material before the Court to show that the Committee of Management or the Society authorised the Manager to file this petition. In the circumstances the petition is not maintainable. During the course of hearing, learned counsel for the petitioner made a request for adjournment of the hearing to enable him to file documentary evidence to show that he had been authorised by the Committee of Management. I find no good ground to adjourn the hearing to enable the petitioner to produce evidence to show authorisation by the Committee of Management. As already noted, respondent No. 3 had clearly stated that the petitioner had no locus standi to maintain the petition and no proof was placed before the Court that the Committee of management had authorised him. In the rejoinder-affidavit, the petitioner did not even whisper that he was been authorised. If the petitioner had made any statement in the rejoinder-affidavit that the Committee of Management had authorised him to file the petition, I would have granted*

*adjournment but in the absence of any such averment in the rejoinder-affidavit I do not consider it desirable to adjourn the hearing to enable the petitioner to produce authorisation by the committee of Management. In the result the writ petition is dismissed as not maintainable. There will be no order as to costs. The stay order is vacated. Dated : 1. 3. 1976 sd. K. N. Singh. j"*

*( 4 ) AGAIN in the Writ Petition Nos. 6879 of 1974 and 12582 of 1975 : V. V. Inter College, Shamli v. U. P. Shiksha Nideshak, Pratham Mandal, Meerut and Ors. , vide Judgment and order dated 7. 4. 1976 it was observed :*

*" . . . . . These two petitions were taken up for hearing on 6th April, 1976. At the very outset of the hearing learned counsel for the respondent-principal raised preliminary objection about the maintainability of these two petitions. He urged that the petitions have not been filed by the aggrieved party, instead these have been filed by V. V. Inter College, Shamli, which is neither aggrieved party nor a juristic person to maintain the petitions. I find considerable force in the contention. It is admitted between the parties that there is a registered society which runs and maintains the Vaish College, Shamli, Muzaffarnagar. The college is recognised under the U. P. Intermediate Education Act, 1921. The college is run and managed by a Committee of management constituted in accordance with the Scheme of Administration approved by the authorities under the Act. Under the provisions of the Act and the Regulations framed thereunder, it is the Committee of Management which is empowered to make appointments, to take disciplinary action and to pass orders of removal or suspension against the Principal or a teacher. No other member, or authority of the registered society has any power to exercise jurisdiction in these matters. The Committee of Management is empowered to file appeal against the order of the District Inspector of Schools. The Committee of Management is a statutory authority under the Act and the Regulations and it is legally entitled to take action in matters relating to the affairs of the administration of the college. The Committee of Management has not filed these petitions. There is no material on record to show that the Committee of management adopted any resolution authorising the manager to file these petitions. The petitions as framed are not maintainable because the V. V. Inter College, Shamli, cannot be an aggrieved person to challenge the impugned orders. The aggrieved party, if any could be the Committee of management of the Society itself. In Writ Petition No. 10663 of 1975 decided on 1st March, 1976, I took a similar view. Another learned single Judge of this Court dismissed Writ Petition no. 580 of 1970 on 7th January, 1974, precisely on this very ground. The view taken by me and other learned single Judge is fully supported by a Full Bench decision of this Court in Indian sugar Mills Association through its President Hari Raj Swarup v. Secretary to Government, AIR 1951 All 1. During the course of hearing, amendment applications were filed seeking relief for the amendment of the writ petitions for adding Committee of Management as petitioner. The applications have been rejected by me by a separate order. So far as Writ Petition No. 12582 of 1975 is concerned, there is another reason to dismiss the same without going into merits. The writ petition was presented before this Court on*

17th december, 1975. It appears that during the course of the preliminary hearing the Bench observed that the petitioner should file appeal before the Deputy Director of Education. The petitioner college thereupon filed appeal before the Deputy Director of Education, Meerut Region, against the impugned order of the District Inspector of Schools dated 6th December, 1975. The appeal has not been disposed of as yet, instead it is still pending. There is no dispute that the appeal against the order of the District Inspector of Schools refusing to accord approval is maintainable under Section 16g (3) (c). There is further no dispute that the petitioner college has availed that remedy and appeal is pending before the Deputy Director of Education. It is thus, clear that the petitioner has availed statutory alternative remedy of appeal available to him in law and that remedy is still being perused by him. In the circumstances it would not be a sound exercise of discretion under Article 226 of the Constitution to hear and adjudicate the issues raised by the petitioner in the present petition which can effectively be decided by the Deputy Director of education. The petitioner is not entitled to relief on this ground also. In the result both the petitions fail and are dismissed. There will be no order as to costs. Dated : 7. 4. 1976 sd. K. N. S. "

( 5 ) AFORESAID judgment was affirmed by Division Bench in intra court appeal, S. A. No. 154 of 1976, V. V. Inter College, Shamli v. U. P. Shiksha Nideshak Pratham Mandal, Meerut and Ors. , vide judgment and order dated 2. 8. 1976 quoted below :

"sri R. K. Jain, learned counsel for the appellant, states that he does not press this appeal. The appeal is accordingly dismissed. " dated : 2. 8. 1976 sd. G. C. M. Sd. K. C. A. "

( 6 ) IN view of the aforesaid decisions, petition is not maintainable in the name of the petitioner as it stands today."

#### C/M Junior High School Sayar

"1. When the matter was taken up a preliminary objection has been raised by Mr. Kunal Shah, Advocate, holding brief of Mr. N. K. Singh, learned counsel for the respondent no.3 that the writ petition was filed by the Manager of the Committee of Management without their being any resolution of the Committee of Management. In this regard, he also relied upon a judgement rendered by the Lucknow Bench of this Court in Misc. Single No.2694 of 2013, Baba Hulasi Das Shiksha Sansthan Thru its Manager & Another Vs. Deputy Registrar, Firms, Societies & Chits Lucknow Region & An. decided on 2.5.2013, which is quoted below:-

"Short counter affidavit on behalf of opposite party no. 2 filed today in Court is taken on record.

Heard learned counsel for petitioner as well as learned Additional Chief Standing Counsel and learned counsel for opposite party no. 2. Learned Additional Chief Standing Counsel has raised preliminary objection regarding maintainability of writ petition on the ground that there is no resolution of the Committee of Management authorizing petitioner to challenge the impugned order, as such, the writ petition is not maintainable.

*On the basis of instructions, it is further submitted by learned Additional Chief Standing Counsel that there is no dispute to the election held on 21.8.2010 wherein the petitioner no. 2 was said to be elected as Manager and opposite party no. 2 as President, however, subsequently the petitioner no. 2 had resigned from the post of Manager and his resignation was duly accepted by the Committee of Management in the meeting dated 11.9.2012 and vide resolution dated 18.9.2012 list of office bearers for 2012-13 was sent to the Deputy Registrar which contain the name of one Sunder Lal as Manager who was earlier elected as Deputy Manager in the election held on 21.8.2010. The Deputy Registrar has accepted the said list of office bearers for the year 2012-13.*

*Learned counsel for petitioner submitted that petitioner no. 2 had categorically denied the resignation as alleged by the opposite party no. 2, as such, there arose a dispute with respect to continuation of an office bearer of the Society and, as such, it was required to be referred to the Prescribed Authority for adjudication under Section 21 (1) of Societies Registration Act.*

*In support of his submission, learned counsel for petitioner relies on a Division Bench judgment of this Court in the case of Maha Narayan Pandey and others Vs. Registrar, Chit Funds, Firms & Societies, U.P. Lucknow and others; [1984 UPLBEC 550], particularly paragraphs 7 & 9 which on reproduction read as under:*

*"7. In his impugned order the Registrar formulated the points requiring his determination as follows:-*

- (1) Removal of Mewa Ram Tewari and Bharat Singh from the membership of the Society.*
- (2) Resignation of Maha Narayan Pandey from the office of Manager.*
- (3) Amendment in Smriti Patra and Niyamawali.*
- (4) List of new office bearers of the Society.*

*9. In respect of the amendment of Smriti Patra and Niyamawali the Registrar held that the Basic Education Department had been requiring the petitioner No. 1 to amend the said documents so as to bring them in conformity with law, but petitioner No. 1 was not taking any steps in that behalf. The Registrar further held that the amendment now made in the Smriti Patra and Niyamawali are in accordance with the requirement of law and they are, therefore, valid. The question of amendment of Smriti Patra and Niyamawali is not mentioned in sub-section (1) of Section 25 reproduced above. Obviously this question was not one which was required to be decided by the Prescribed Authority. However, point Nos. 2 and 3 are clearly covered by the provisions of sub-section (1) of Section 25. Annexure No. 1-A shows that Bharat Singh was Agriculture Secretary. He was, thus, an office bearer of the Society. Implicit in his alleged removal from the membership of the Society was his removal from the office of the Agriculture Secretary. Therefore, one of the questions that arose and which has been decided by the Registrar was whether Bharat Singh could continue to hold office of the Agriculture Secretary. In view of the finding recorded by the Registrar, Bharat Singh continues to hold that office. Again there was dispute as to whether petitioner No. 1*

*continue to hold office of the Manager or the said office had devolved upon opposite party No. 2 on the basis of the alleged nomination made by petitioner No. 1. This dispute became necessary to be decided in view of the new list of the office bearers submitted to the Registrar by opposite party No. 2. The new list could be accepted or rejected only after recording finding on the disputed question mentioned hereinbefore. In other words, point No. 4 formulated by the Registrar required determination of the question whether petitioner No. 1 continued to hold office of the Manager or he ceased to hold that office. this question was clearly covered by sub-section (1) of Section 25. The Registrar, of course, held that it was not necessary to decide the question of resignation, but if he had entered into the factual controversy raised in this regard by the parties it would have involved determination of the question whether petitioner No. 1 continued to hold office of the Manager or ceased to hold the office by resigning from the office and nominating opposite party No. 2 as his successor. This question was also necessary to be decided as even after amendment of the Rules, Petitioner No. 1 would continue to hold the office till fresh elections took place, unless he resigned. In view of the discussion herein the Registrar proceeded to decide ta part of the dispute which did not fall within his jurisdiction. Reference under sub-section (1) of Section 25 could be made by one-fourth of the members of the Society as well as by the Registrar. In the present case no reference was made to the Prescribed Authority by the members of the Society. But once it came to the notice of the Registrar that a dispute which could be decided by the Prescribed Authority alone had arisen between the parties, he should have referred the matter to the Prescribed Authority instead of assuming jurisdiction in himself to decide the said dispute."*

*Before deciding the controversy involved in the writ petition, it would be appropriate to decide the maintainability of writ petition.*

*Learned counsel for petitioner admits that no resolution has been passed in favour of the Society or its Manager, Shankar Lal Yadav to challenge the impugned order.*

*The Deputy Registrar vide impugned order has accepted the list of office bearers of the Committee of Management for the year 2012-13 wherein one Sunder Lal has been shown as Manager of the Committee of the Management of the Society.*

*I am of the view that in absence of a resolution authorizing the Society through its Manager or Shankar Lal Yadav in his individual capacity, the writ petition as such is not maintainable.*

*It is to be noted that Shankar Lal Yadav does not have any independent right to challenge the impugned order.*

*It is to be observed that the Division Bench of this Court in the case of Umesh Chandra and another Vs. Mahila Vidyalaya Society, Aminabad, Lucknow and others; [2006 (24) LCD 1373] has observed that the writ petition filed by the Manager on behalf of the society was not maintainable unless he was authorized to file the same. The view of the Court is that in absence of any resolution the writ petition by the*

*Manager for that purpose or by any other person on behalf of the committee of management is not maintainable.*

*The relevant paragraph 34 on reproduction reads as under:*  
 "34. The Full Bench of Allahabad High Court in a case reported in AIR (38) 1951 Allahabad 1, Indian Sugar Mills Association through its President Shri Hari Rai Swarup V. Secretary to Government, Uttar Pradesh Labour Department and others, held that writ petition under Article 226 may be maintainable on behalf of Association through a person only in case it is proved that the Association had right to move a writ petition on behalf of a person who preferred the writ petition. For convenience relevant portion from the Full Bench judgment of Indian Sugar Mills Association is reproduced as under:  
 "It has been urged by learned counsel for the applicant that, though the amount may not be payable out of the property of the Association, yet inasmuch as the payments have to be made out of the funds of the Sugar Mills, a large number of which are members of the Association, the Association has the right to move the application on their behalf. We have already said that it is the interest of the applicant which must be directly affected by the statute or the order complained against and the applicant cannot claim that its interests are directly affected."  
 The Full Bench judgment of this Court referred hereinabove has been relied upon in a case reported in (2002) 3 UPLBEC 2777, Saraswati Vidya Mandir, Rewatipur, Ghazipur through its Manager Smt. Ram Rakhi Devi V. State of U.P. and others, where writ petition filed on behalf of Society was dismissed this Court on the ground that petition filed by the Manager on behalf of Managing Committee or Society was not maintainable unless he was authorized to file the same. Hon'ble Single Judge of this Court had relied upon the earlier unreported judgment of this Court.

*Relevant portion from the judgment of Saraswati Vidya Mandir (supra) is reproduced as under:*

"Mahtab Rai, Manager, Har Narain Intermediate College V. Deputy Director of Education (Civil Misc. Writ Petition No. 5808 of 1970 decided on 7th January, 1974) a learned Single Judge of this Court, almost in similar circumstances, held that the Manager or the School has no locus standi to maintain petition against the order of the District Inspector of Schools or the Deputy Director of Education refusing to grant approval. The learned Single Judge observed that the appointment of Principal of College and termination of his services were within the power of the Managing Committee or the Society and it was the Managing Committee alone which exercises control. That being so, the Manager is not the Managing Committee or the Society and he cannot maintain a writ petition in this Court unless he is authorized to do so. Relying on a Full Bench decision of this Court in Hari Rai Swarup V. Secretary to Government of U.P., AIR 1951 Allahabad 1, the learned Judge dismissed the petition on the ground that it was filed on behalf of the Managing Committee or the Society."

*Reliance placed by Shir Raghvendra Kumar Singh, learned counsel for the respondents on the Division Bench judgment of this Court in the case of Shanti Sarup seems to be misconceived. In the case of Shanti Sarup as to whether the Secretary can institute a suit on behalf of*

*Society in the absence of any specific delegation of power by the Rules of the Society or by the resolution of the governing body. Accordingly the case of Shanti Sarup does not seem to be applicable under the facts and circumstances of the present case.*

*In the case of Sardar Patel Higher Secondary School, Deve Nagar, Mathura (supra) again Hon'ble Single Judge of this Court held that a writ petition under Article 226 of the Constitution of India shall not be maintainable by the Manager of Institution. Only the Managing Committee or Society can maintain a writ petition. The Manager can not assume the function of Committee of Management unless he is authorized to do so.*

*In the case of Arya Samaj Ganesh Ganj (supra) a Division Bench of this Court had held that in the event of dissolution of Society, Secretary or Manager have got no right to file a suit in view of provision contained in Section 6 of the Societies Registration Act."*

*In view of above, the writ petition is dismissed.*

*Since the writ petition has been dismissed on the ground of maintainability, as such, there is no need to adjudicate the controversy involved in the writ petition."*

2. *In view of the same, learned counsel for the petitioner makes a prayer for dismissal of the writ petition as not pressed with liberty to file a fresh writ petition.*

3. *The liberty as prayed is granted.*

4. *The writ petition is dismissed."*

### **Umesh Chandra**

"2. *Substantial question of law raised by the appellants in the present appeal, is as to 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? Whether after deciding the controversy while exercising appellate power under the Rules of Court one of the member of the Division Bench deciding the appeal may decide the writ petition while sitting single? Other questions raised by the appellants relates to power of review of an order passed by the Deputy Registrar as well as applicability of Section 340 of the Code of Criminal Procedure and other co-related issues."*

"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, bylaws 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 entitled 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 absence of specific or categorical provisions in the rules or bylaws 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 empowered shall be maintainable only in case it is being filed to represent the cause of Society in accordance 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) Ordinarily under extraordinary remedy of Article 226 of the Constitution of India writ petition shall not be maintainable in case the outcome of the election or irregularity committed during the course of election can be challenged by adopting other alternative remedy provided by the Act or Statute or bye laws of the Society.*

*(vi) While exercising power under Article 226 of the Constitution it is not open for this Court to decide a disputed question of fact co-related with the membership issue of a Society registered under the Act. Membership issue should be decided in accordance to provision contained in the Act or Rules framed thereunder or according to bylaws of the Society or aggrieved party may approach the competent civil Court by filing a regular suit. Accordingly interference by Hon'ble Single Judge on membership issue by recording a finding seems to be not permissible.*

*(vii) In the present case Shri Y.C. Rai who had filed the writ petition has not been conferred power either by the rules, or the constitution of the Society or by the resolution of the executive body, hence, he was not competent to file the writ petition in this Court. Accordingly the writ petition was not maintainable.*

*(viii) The writ petition was also not maintainable because of the fact that there is no pleading on record in the memo of writ petition that it was filed to represent or protect the cause of the Society.*

*(ix) Legally and technically the judgment delivered by Hon'ble Single Judge does not seem to suffer for want of jurisdiction on the ground that Hon'ble Single Judge was one of the member of the Division Bench and after demanding the matter he had decided the writ petition on merit. However, in view of discussion made hereinabove ordinarily in such circumstances special care should be taken not to decide a controversy on merit by Hon'ble Judge of this Court who had been the*

*member of Division Bench while remanding the matter for adjudication by Hon'ble Single Judge to maintain and strengthen the people's faith in the administration of justice. In case any objection is raised by the member of bar then it shall always be incumbent upon Hon'ble Single Judge transfer such cases to other Hon'ble Judge to decide the controversy.*

*(x) While finalizing the electoral roll in pursuance to power conferred by the sub-section 2 of Section 25 of the Act it shall always be incumbent upon the Deputy Registrar or the competent authority to comply with the principle of natural justice keeping in view the observation made in the present judgment Without providing reasonable opportunity, to defend the members of the Society can not deprive to participate in the election process.,"*

17. In the present case, a subsequent resolution is adopted by the Committee of Management, which is placed by way of a supplementary affidavit, however it still not contains a decision of Committee of Management to file present writ petition, therefore, even it would not fill the lacunae. Therefore, this writ petition in present form is not maintainable since it is not accompanied with a resolution of Committee of Management to file present writ petition. Preliminary objection is sustained and writ petition is accordingly dismissed reserving a liberty to file a fresh alongwith a resolution of Committee of Management to file it.

18. Registry is directed to check that writ petitions filed by Committee of Management shall accompany a copy of resolution of Committee of Management to file a writ petition and further authorize the Manager to act accordingly.

19. Registrar (Compliance) to take necessary steps.

**(Saurabh Shyam Shamshery,J.)**

**February 17, 2026**

AK/N. Sinha