

**A.F.R.**

**Court No. - 35**

**Case :-** WRIT - C No. - 9866 of 2023

**Petitioner :-** C/M Shiksha Prasar Samiti And Another

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Sharad Chandra, Sankalp Narain

**Counsel for Respondent :-** CSC, Sanjeev Kumar Yadav

**Hon'ble Ajay Bhanot, J.**

1. By the impugned order dated 12.12.2022 the Deputy Registrar, Firms, Societies and Chits has declined to register the list of office bearers under Section 4(1) of the Societies Registration Act, 1860 on the footing that a reference is pending before the prescribed authority under Section 25(1) of the Societies Registration Act.

2. The petitioner claims that he is the Secretary of the society registered under the name and style of "Shiksha Prasar Bankatu Bujurg Etawah." which runs an educational institution. The petitioner states that he was lawfully elected on 24.07.2022.

3. Shri Sanjeev Kumar Yadav, learned counsel for the newly impleaded respondent submits that the petitioner cannot be elected as office bearer, inasmuch as, he has been convicted for murder in Sessions Trial No. 419 of 1993 (State Vs. Prema Devi and others).

4. Rejoining the issue, Shri Sankalp Narain, learned counsel for the petitioners does not dispute the aforesaid fact. He, however, contends that the newly impleaded respondent

himself is a convict under Section 302 I.P.C. in Sessions Trial No. 120 of 1991 (State Vs. Ajeet Singh and others).

5. The undisputed facts of this case are that the petitioner claims to be the manager of the committee of management. The petitioner was convicted by a judgement rendered by the learned trial court on 11.05.2017 in Sessions Trial No. 419 of 1993 (State Vs. Prema Devi and others) for an offence under Section 302 I.P.C. The learned trial court has found that the petitioner was a principal offender who had done the deceased to death. The offence was actuated by an old rivalry between the adversaries. Further, the conviction of the petitioner for murder still stands, and has not been upset by any appellate court.

6. The newly impleaded respondent was convicted by the learned trial court on 30.10.2001 in Sessions Trial No. 120 of 1991 (State Vs. Ajeet Singh and others). The learned trial court found that the newly impleaded respondent was one of the principal offenders who committed the murder of the deceased. The deceased was murdered on account of an old enmity between the parties.

7. Both the petitioner and the respondent are linked to the offence of murder in the respective cases by credible evidence.

8. The right of the petitioner to be appointed as Secretary of the society has to be construed in light of Section 16A of

the Societies Registration Act, 1860. The provision states as under:

"16A. Disqualification for holding office in society.-- A person who is undischarged insolvent or who has been convicted of any offence in connection with the formation, promotion, management or conduct of the affairs of a society, or of a body corporate, or of an offence involving moral turpitude shall be disqualified for chosen as and for being a member of the governing body or the President, Secretary or any other office-bearer of a society."

9. The question of disqualification of the petitioner contemplated under Section 16A of the Societies Registration Act will turn upon the fact whether the offence for which he has been convicted involves "moral turpitude". The phrase "moral turpitude" is of a wide ambit and has not been defined by the legislature. Recourse can be had to various dictionaries and authorities which define the aforesaid term:

(i). "Moral Turpitude" as defined in **Black's Law Dictionary** (6th Edn.) is as follows:

"Moral Turpitude.—The act of baseness, vileness, or the depravity in the private and social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right and duty between man and man." [Black's Law Dictionary (6th Edn.) p. 1008.]

"implies something immoral in itself regardless of it being punishable by law"; "restricted to the gravest offences, consisting of felonies, infamous crimes, and those that are malum in se and disclose a depraved mind." [Id, p. 1517.]

(ii). According to **Bouvier's Law Dictionary**, "Moral Turpitude" is:

"An act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man."

**(iii). Burton Legal Thesaurus** defines "Moral Turpitude" as:

"Bad faith, bad repute, corruption, defilement, delinquency, discredit, dishonour, shame, guilt, knavery, misdoing, perversion, shame, vice, wrong."

**10.** This Court in **Baleshwar Singh Vs. District Magistrate and Collector, Banaras and others**<sup>1</sup> while exploring the scope of term "moral turpitude" held as under:

"26. The expression 'moral turpitude' is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general. If therefore the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man."

**11.** The question whether the conviction for the offence of murder would fall in the breadth of "moral turpitude" and cause disqualification of Pradhan of the Gram Panchayat was in issue before the this Court in **Mahak Singh Vs. State of U.P. and others**<sup>2</sup>. This Court in **Mahak Singh (supra)** upon examining the facts of the case held:

"12..... The expression 'moral turpitude', as said above, is not a term of rigid connotation to be defined in any strait-jacket formulae, but regard being had to socio-ethical ethos, and morals of people, at a given time and their cultural heritage, It would not be difficult for the Courts to conclude that the offence committed by the petitioner in exterminating his own step mother in an horrendous manner involves moral wickedness. The petitioner cannot escape from the finding that the offence of murder' of

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1 AIR 1959 All 71

2 1999 (2) UPLBEC 1336

Smt. Raj Kumari committed by him and for which he was ultimately convicted was an act of moral turpitude. His conviction under Section 302/34, I.P.C. involving moral turpitude was sufficient enough to earn disqualification within the meaning of provision of Section 5A (g) of the Act."

**12.** The scope of term "moral turpitude" and its applicability to the services of an employee arose for consideration before the Supreme Court in **The State Bank of India Vs. P. Soupramaniane**<sup>3</sup>, which stated the position of law thus:

"12. There is no doubt that there is an obligation on the management of the Bank to discontinue the services of an employee who has been convicted by a criminal court for an offence involving moral turpitude. [Sushil Kumar Singhal v. Punjab National Bank, (2010) 8 SCC 573 : (2010) 2 SCC (L&S) 674] Though every offence is a crime against the society, discontinuance from service according to the Banking Regulation Act can be only for committing an offence involving moral turpitude. Acts which disclose depravity and wickedness of character can be categorised as offences involving moral turpitude. Whether an offence involves moral turpitude or not depends upon the facts [Allahabad Bank v. Deepak Kumar Bhola, (1997) 4 SCC 1 : 1997 SCC (L&S) 897] and the circumstances [Pawan Kumar v. State of Haryana, (1996) 4 SCC 17, para 12 : 1996 SCC (Cri) 583] of the case."

**13.** From the preceding narrative, it is evident that every conviction in a criminal offence may not amount to "moral turpitude". The term moral turpitude cannot be defined by an iron cast rule or an inflexible formula to fit all cases. To determine whether an offence comes within the purview of the term "moral turpitude" a fact based enquiry has to be made. The line of enquiry would examine the gravity of the offence, the role of the offender, nature of culpability in the crime, and the scheme of the enactment before the criminal

offence becomes an act of moral turpitude and attracts a disqualification.

**14.** In this case the learned trial court has found that commission of the heinous offence of murder by the petitioner has been established beyond reasonable doubt.

**15.** The petitioner claims managership of an educational institution. Education nurtures the future of India, and forms the backbone of our national strength and character. Persons with such criminal antecedents cannot be permitted to run the affairs of an educational institution and blight the education prospects of the country's youth. In this wake, the offence of murder for which the petitioner has been convicted is comprised in the ambit of "moral turpitude" under Section 16A of the Societies Registration Act, 1860. The provision has been created to curb mischiefs of like nature; it has to be applied to purge educational institutions of criminal elements, and lift the curse of criminal influence on formative minds.

**16.** For the like reasons, the newly impleaded respondent neither has the right to contest the elections of the society nor can he have any say in the running of the educational institution.

**17.** The matter cannot end here. Both the petitioner and the newly impleaded respondent are convicts. They failed to disclose their antecedents before the Court in the first

instance. These facts came to light when the respective adversaries pointed out their convictions. Such practices can be discouraged only by deterrence. Costs of Rs. 1,00,000/- (Rupee One lakh) each are imposed upon the petitioner and the newly impleaded respondent respectively. Costs shall be recovered from them by the District Magistrate, Etawah, as arrears of land revenue within six weeks. The District Magistrate, Etawah, shall submit a compliance report before the Chief Judicial Magistrate. The Chief Judicial Magistrate shall submit a report disclosing the recovery before the Registrar General of this Court within a period of two months.

**18.** Law cannot countenance a situation wherein convicted criminals run educational institutions as a matter of right, and conceal facts with a sense of impunity. Prohibitive costs have been imposed by the Court to dissuade unscrupulous litigants from abusing the process of the Court.

**19.** The Additional Chief Secretary, Institutional Finance, Government of U.P., Lucknow, is directed to execute the following directions:

**I.** All Assistant/Deputy Registrar, Firms, Societies and Chits in all districts of the State of Uttar Pradesh, shall ensure that every proceeding under Section 4(1) and Section 25(1) of the Societies Registration Act, 1860, shall

be preceded by a declaration from each member/applicant disclosing their criminal antecedents.

**II.** No order shall be passed in any proceeding under Section 4(1) of the Societies Registration Act, 1860, in respect of societies which are running educational institutions till such declarations of criminal antecedents are submitted by each member on affidavit and placed in the record.

**III.** Assistant/Deputy Registrars, Firms, Societies and Chits in all districts of the State of Uttar Pradesh, shall also call for similar declarations on affidavits from all office bearers of societies currently running educational institutions in the State of Uttar Pradesh and proceed as per law.

**IV.** Additional Chief Secretary, Institutional Finance, Government of U.P., Lucknow, shall circulate this judgement to all Assistant/Deputy Registrars, Firms, Societies and Chits in all districts of the State of Uttar Pradesh for ensuring compliance of these directions.

**V.** Considering the importance of the matter, Additional Chief Secretary, Institutional Finance, Government of U.P., Lucknow, shall draw up a compliance report and submit the same before the Chief Secretary, Government of U.P., Lucknow within six months so that the State is alerted to the menace of criminal elements usurping educational



institutions and can take appropriate legal measures to check the same.

**VI.** Failure of any Assistant/Deputy Registrars, Firms, Societies and Chits to comply with this order will not only expose the official to proceedings for violation of orders of this Court but will also amount to a grave misconduct for which departmental proceedings will be initiated against the concerned official as per law.

**20.** Learned Chief Standing Counsel shall communicate this order to Additional Chief Secretary, Institutional Finance, Government of U.P., Lucknow for necessary compliance.

**21.** The writ petition is dismissed.

**22.** The Court would like to appreciate the assistance rendered by Shri Sankalp Narain, learned counsel and Shri Sanjeev Kumar Singh, learned counsel who in the true fashion of high ethical standards of the profession assisted the process of law as officers of the Court with exemplary integrity and scholarship.

**Order Date :-** 27.4.2023

Dhananjai