

सोसाइटी रजिस्ट्रीकरण अधिनियम, 1860

धाराओं का क्रम

धाराएं

उद्देशिका ।

1. संगम के ज्ञापन और रजिस्ट्रीकरण द्वारा सोसाइटियों का बनाया जाना ।
2. संगम का ज्ञापन ।
3. रजिस्ट्रीकरण और फीस ।
4. प्रबन्ध निकाय की वार्षिक सूची का फाइल किया जाना ।
5. सोसाइटी की सम्पत्ति कैसे निहित होगी ।
6. सोसाइटियों द्वारा या उनके खिलाफ वाद ।
7. वादों का उपशमन न होना ।
8. सोसाइटी के खिलाफ निर्णय का प्रवर्तन ।
9. उप-विधि के अधीन प्रोद्भूत होने वाली शास्ति की वसूली ।
10. सदस्यों, का अपने खिलाफ अन्य पक्षकारों के रूप में वाद लाए जाने के दायित्वाधीन होना ।
सफल प्रतिवादी द्वारा अधिनिर्णीत खर्चों की वसूली ।
11. अपराधों के दोषी सदस्यों का अन्य पक्षकारों के रूप में दण्डनीय होना ।
12. सोसाइटियों को अपने प्रयोजनों को परिवर्तित, विस्तारित या न्यून करने के लिए समर्थ बनाना ।
13. सोसाइटियों के विघटन और उनके काम-काज के समायोजन के लिए उपबन्ध ।
14. विघटन पर किसी सदस्य का लाभ प्राप्त न करना ।
खण्ड का संयुक्त स्टॉक कम्पनियों को लागू न होना ।
15. सदस्य की परिभाषा/ सदस्यों की अनर्हता ।
16. शासी निकाय की परिभाषा ।
17. अधिनियम से पूर्व बनाई गई सोसाइटियों का रजिस्ट्रीकरण ।
अनुमति की अपेक्षा ।
18. ऐसी सोसाइटियों द्वारा संयुक्त स्टॉक कम्पनियों के रजिस्ट्रार के पास ज्ञापन आदि का दाखिल किया जाना ।
19. दस्तावेजों का निरीक्षण । प्रमाणित प्रतियां ।
20. अधिनियम किन सोसाइटियों को लागू होता है ।

सोसाइटी रजिस्ट्रीकरण अधिनियम, 1860¹

(1860 का अधिनियम संख्यांक 21)

[21 मई, 1860]

साहित्यिक, वैज्ञानिक और पूर्ण सोसाइटियों
के रजिस्ट्रीकरण के लिए
अधिनियम

उद्देशिका—यह समीचीन है कि साहित्य, विज्ञान या ललित कलाओं की प्रोन्नति के लिए या उपयोगी जानकारी के प्रसार के लिए, 2[राजनीतिक शिक्षा के प्रसार के लिए] अथवा पूर्ण प्रयोजनों के लिए स्थापित सोसाइटियों की विधिक परिस्थिति सुधारने के लिए उपबन्ध किया जाए; अतः निम्नलिखित रूप में यह अधिनियमित किया जाता है :—

1. संगम के ज्ञापन और रजिस्ट्रीकरण द्वारा सोसाइटियों का बनाया जाना—किसी साहित्यिक, वैज्ञानिक या पूर्ण प्रयोजन के लिए या किसी ऐसे प्रयोजन के लिए जो इस अधिनियम की धारा 20 में वर्णित है सहयुक्त कोई सात या अधिक व्यक्ति एक संगम के

¹ संक्षिप्त नाम, भारतीय संक्षिप्त नाम अधिनियम, 1897 (1897 का 14) द्वारा दिया गया है।

यह अधिनियम (प्रथम चार धाराओं के अपवाद सहित) लिटरेरी एण्ड साइंटिफिक इन्स्टीट्यूशन्स ऐक्ट, 1854 (विक्टोरिया 17 तथा 18, अध्याय 112) की धारा 20 और इसके पश्चात्पूर्वी शब्दों तथा पृष्ठों पर आधारित है।

इसे विधि स्थानीय विस्तार अधिनियम, 1874 (1874 का 15) की धारा 3 द्वारा अनुसूचित जिलों के सिवाय सम्पूर्ण भारत में प्रवृत्त घोषित किया गया है।

इस अधिनियम का नए प्रान्तों तथा विलयित राज्यों पर विस्तार 1949 के अधिनियम सं० 59 द्वारा किया गया है।

इसे अनुसूचित जिला अधिनियम, 1874 (1874 का 14) की धारा 3(क) के अधीन प्रकाशित अधिसूचना द्वारा निम्नलिखित जिलों में प्रवृत्त घोषित किया गया है, अर्थात् :—

पश्चिमी जलपाईगुडी, देखिए भारत का राजपत्र (अंग्रेजी), 1881, भाग 1, पृष्ठ 74।

हजारी बाग और लोहारडागा (अब रांची जिला, देखिए कलकत्ता राजपत्र (अंग्रेजी), 1899, भाग 1, पृष्ठ 44) तथा मानभूम जिले और सिंहभूम जिले में परगना डालभूम और कोलहान, देखिए भारत का राजपत्र (अंग्रेजी), 1881, भाग 1, पृष्ठ 504।

मिर्जापुर जिले का अनुसूचित भाग; देखिए भारत का राजपत्र (अंग्रेजी), 1879, भाग 1, पृष्ठ 383।

जोनसर बावर; देखिए भारत का राजपत्र (अंग्रेजी), 1879, भाग 1, पृष्ठ 302।

गंजम और बिजगापट्टम में अनुसूचित जिले; देखिए भारत का राजपत्र (अंग्रेजी), 1898, भाग 1, पृष्ठ 870।

असम (उत्तरी लुशाई पहाड़ियों के सिवाय); देखिए भारत का राजपत्र (अंग्रेजी), 1897, भाग 1, पृष्ठ 299।

इसका विस्तार निम्नलिखित अनुसूचित जिलों पर अन्तिम वर्णित अधिनियम की धारा 5 के अधीन प्रकाशित अधिसूचना द्वारा किया गया है, अर्थात् :—

कुमाऊं और गढ़वाल; देखिए भारत का राजपत्र (अंग्रेजी), 1876, भाग 1, पृष्ठ 606।

अजमेर और मेरवाड़; देखिए भारत का राजपत्र (अंग्रेजी), 1878, भाग 1, पृष्ठ 380।

इसे उसी अधिनियम की धारा 3(ख) के अधीन प्रकाशित अधिसूचना द्वारा लाहौर के अनुसूचित जिले में प्रवृत्त घोषित नहीं किया गया है; देखिए भारत का राजपत्र (अंग्रेजी), 1886, भाग 1, पृष्ठ 301।

इस अधिनियम का विस्तार गोवा, दमण तथा दीव पर उपान्तर्गो सहित 1962 के विनियम सं० 12 की धारा 3 और अनुसूची द्वारा, दादरा और नागर हवेली पर 1963 के विनियम सं० 6 की धारा 2 और अनुसूची 1 द्वारा (1-7-1965 से); और लक्कादीव संघ राज्यक्षेत्र पर, 1965 के विनियम सं० 8 की धारा 3 और अनुसूची द्वारा (1-10-1967 से) किया गया है।

इसका निम्नलिखित क्षेत्रों में संशोधन किया गया है :—

1940 के मध्य प्रान्त तथा बरार अधिनियम सं० 3 द्वारा मध्य प्रान्त तथा बरार में,

1948 के असम अधिनियम सं० 14, 1948 के असम अधिनियम सं० 15, 1952 के असम अधिनियम सं० 1, 1957 के असम अधिनियम सं० 7 और 1958 के असम अधिनियम सं० 11 द्वारा असम में,

1948 के बिहार अधिनियम सं० 30, 1951 के बिहार अधिनियम सं० 4 और 1960 के बिहार अधिनियम सं० 2 द्वारा बिहार में,

1948 के पूर्वी पंजाब अधिनियम सं० 32 तथा 1949 के पूर्वी पंजाब अधिनियम सं० 6 और 1961 के पंजाब अधिनियम सं० 21 द्वारा पंजाब में,

1950 के पश्चिम बंगाल अधिनियम सं० 16 द्वारा पश्चिम बंगाल में,

1954 के राष्ट्रपति के अधिनियम सं० 10 द्वारा आंध्र में,

1960 के मद्रास अधिनियम सं० 9 द्वारा मद्रास में,

1958 के उड़ीसा अधिनियम सं० 21, 1969 के उड़ीसा अधिनियम सं० 8 और 1979 के उड़ीसा अधिनियम सं० 9 द्वारा उड़ीसा में,

1968 के महाराष्ट्र अधिनियम सं० 11 और 1971 के महाराष्ट्र अधिनियम सं० 49 द्वारा महाराष्ट्र में,

1973 के हिमाचल प्रदेश अधिनियम सं० 23 द्वारा हिमाचल प्रदेश में,

1959 के उत्तर प्रदेश अधिनियम सं० 25, 1975 के उत्तर प्रदेश अधिनियम सं० 52, 1978 के उत्तर प्रदेश अधिनियम सं० 13 और 1984 के उत्तर प्रदेश अधिनियम सं० 11 द्वारा उत्तर प्रदेश में,

1958 के मुम्बई अधिनियम सं० 76 द्वारा मुम्बई में,

1974 के हरियाणा अधिनियम सं० 23 द्वारा हरियाणा में,

1969 के पाण्डिचेरी अधिनियम सं० 9 द्वारा पाण्डिचेरी में,

1983 के अधिनियम सं० 26 द्वारा संघ राज्यक्षेत्र दिल्ली में,

1963 के विनियम सं० 7 और अनुसूची द्वारा (1-10-1963 से) यह अधिनियम पाण्डिचेरी में प्रवृत्त हुआ,

1955 के मैसूर अधिनियम सं० 14 द्वारा बेलारी जिले में और 1960 के मैसूर अधिनियम सं० 17 तथा 1973 के मैसूर अधिनियम सं० 19 द्वारा मैसूर में लागू करने के सम्बन्ध में इसका निरसन किया गया है।

1960 के मध्य प्रदेश अधिनियम सं० 1 द्वारा मध्य प्रदेश के महाकौशल, विन्ध्य प्रदेश और भोपाल क्षेत्र में लागू करने के सम्बन्ध में इसका निरसन किया गया है।

² 1927 के अधिनियम सं० 22 की धारा 2 द्वारा अन्तःस्थापित।

ज्ञापन में अपने नाम हस्ताक्षरित करके और 1*** उसे संयुक्त स्टॉक कम्पनियों के रजिस्ट्रार के पास दाखिल करके इस अधिनियम के अधीन अपने आपको सोसाइटी के रूप में गठित कर सकेंगे।

2. संगम का ज्ञापन—संगम के ज्ञापन में निम्नलिखित बातें होंगी, अर्थात् :—

सोसाइटी का नाम;

सोसाइटी के उद्देश्य;

व्यवस्थापकों, परिषद्, निदेशकों, समिति या अन्य शासी निकाय के, जिनको कि सोसाइटी के नियमों द्वारा उसके काम-काज का प्रबन्ध सौंपा गया है, नाम, पते और उपजीविकाएं।

सोसाइटी के नियमों और विनियमों की एक प्रति, जो शासी निकाय के सदस्यों में से तीन से अन्यून द्वारा सही प्रति के रूप में प्रमाणित हो, संगम के ज्ञापन के साथ दाखिल की जाएगी।

23. रजिस्ट्रीकरण और फीस—ऐसे ज्ञापन और प्रमाणित प्रति के दाखिल किए जाने पर रजिस्ट्रार अपने हस्ताक्षर से प्रमाणित करेगा कि उस सोसाइटी की इस अधिनियम के अधीन रजिस्ट्री की जाती है। रजिस्ट्रार को ऐसे हर एक रजिस्ट्रीकरण के लिए पचास रुपए की फीस या ऐसी कम फीस, जैसी 3[राज्य सरकार] समय-समय पर निर्दिष्ट करे, संदत्त की जाएगी और ऐसे संदत्त सब फीसों का लेखा 4[राज्य सरकार] को दिया जाएगा।

4. प्रबन्ध निकाय की वार्षिक सूची का फाइल किया जाना—हर वर्ष में एक बार, उस दिन के, जिसको कि सोसाइटी के नियमों के अनुसार सोसाइटी का वार्षिक साधारण अधिवेशन किया जाता है, उत्तरवर्ती चौदहवें दिन को या उससे पूर्व, या यदि नियमों में वार्षिक साधारण अधिवेशन के लिए उपबन्ध नहीं है तो जनवरी के मास में, संयुक्त स्टॉक कम्पनियों के रजिस्ट्रार के पास एक सूची दाखिल की जाएगी जिसमें व्यवस्थापकों, परिषद्, निदेशकों, समिति या अन्य शासी निकाय के, जिनको सोसाइटी के कामकाज का प्रबन्ध तत्समय सौंपा हुआ हो, नाम, पते और उपजीविकाएं होंगी।

5. सोसाइटी की सम्पत्ति कैसे निहित होगी—इस अधिनियम के अधीन रजिस्ट्रीकृत सोसाइटी की स्थावर और जंगम सम्पत्ति यदि न्यासियों में निहित नहीं है तो ऐसी सोसाइटी के शासी निकाय में तत्समय निहित समझी जाएगी और सभी सिविल और दाण्डिक कार्यवाहियों में ऐसी सोसाइटी के शासी निकाय की, उसके उचित अभिधान से सम्पत्ति के रूप में वर्णित की जा सकेगी।

6. सोसाइटीयों द्वारा या उनके खिलाफ वाद—इस अधिनियम के अधीन रजिस्ट्रीकृत हर एक सोसाइटी प्रधान, अध्यक्ष या प्रधान सचिव अथवा न्यासियों के नाम में, जैसा कि सोसाइटी के नियमों और विनियमों द्वारा अवधारित किया जाए, और ऐसे अवधारण के अभाव में ऐसे व्यक्ति के नाम में, जो उस अवसर के लिए शासी निकाय द्वारा नियुक्त किया जाए वाद ला सकेगी और उस पर वाद लाया जा सकेगा :

परन्तु ऐसे व्यक्ति के लिए, जिसका सोसाइटी के खिलाफ कोई दावा या मांग हो यह सक्षम होगा कि वह उसके प्रधान या अध्यक्ष या प्रधान सचिव या न्यासियों पर वाद ला सके यदि शासी निकाय को आवेदन करने पर किसी अन्य अधिकारी या व्यक्ति को प्रतिवादी होने के लिए नामनिर्देशित नहीं किया जाता।

7. वादों का उपशमन न होना—किसी सिविल न्यायालय में किसी वाद या कार्यवाही का इस कारण उपशमन नहीं होगा या वह बन्द नहीं होगी कि वह व्यक्ति जिसके द्वारा या जिसके खिलाफ ऐसा वाद या कार्यवाही लाई गई या जारी रखी गई थी, मर गया है, या उस हैसियत में कायम नहीं रह गया है, जिसके नाम से वह वाद लाया था या उस पर वाद लाया गया था किन्तु वही वाद या कार्यवाही ऐसे व्यक्ति के उत्तराधिकारी के नाम में या उसके खिलाफ जारी रखी जा सकेगी।

8. सोसाइटी के खिलाफ निर्णय का प्रवर्तन—यदि सोसाइटी की ओर से नामित किसी व्यक्ति या अधिकारी के खिलाफ कोई निर्णय प्राप्त किया जाता है तो ऐसा निर्णय ऐसे व्यक्ति या अधिकारी की स्थावर या जंगम संपत्ति के खिलाफ या वैयक्तिक रूप से उसके खिलाफ प्रवृत्त नहीं किया जाएगा किन्तु सोसाइटी की सम्पत्ति के खिलाफ प्रवृत्त किया जाएगा।

निष्पादन के लिए आवेदन में, निर्णय और उस पक्षकार के, जिसके विरुद्ध उसे प्राप्त किया गया हो, केवल सोसाइटी की ओर से, यथास्थिति, वाद लाने या उसके विरुद्ध वाद लाए जाने की बात उपवर्णित होगी और यह अपेक्षा की जाएगी कि निर्णय को सोसाइटी की सम्पत्ति के खिलाफ प्रवर्तित कराया जाए।

¹ “1857 के अधिनियम सं० 19 के अधीन” शब्दों तथा अंकों का 1874 के अधिनियम सं० 16 की धारा 1 और अनुसूची के भाग 1 द्वारा निरसन किया गया; अब देखिए कम्पनी अधिनियम, 1956 (1956 का 1)।

² सेन्ट्रल प्रोविन्सेज एण्ड बरार विद्या मन्दिर ऐक्ट, 1939 (1940 सी० पी० बरार ऐक्ट सं० 3) की धारा 14 द्वारा बरार में लागू करने के सम्बन्ध में इसका संशोधन किया गया।

³ “सपरिषद् गवर्नर जनरल” के स्थान पर अनुक्रमशः भारत शासन (भारतीय विधि अनुकूलन) अनुपूरक आदेश, 1937 द्वारा यथा उपान्तरित भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 और विधि अनुकूलन आदेश, 1950 द्वारा प्रतिस्थापित।

⁴ भारत शासन (भारतीय विधि अनुकूलन) अनुपूरक आदेश, 1937 द्वारा यथा उपान्तरित भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 और विधि अनुकूलन आदेश, 1950 द्वारा “सरकार” के स्थान पर प्रतिस्थापित।

9. उप-विधि के अधीन प्रोद्भूत होने वाली शास्ति की वसूली—जब कभी किसी उप-विधि द्वारा, सोसाइटी के नियमों और विनियमों के अनुसार सम्पत्तः बनाई गई हो या यदि नियम उप-विधियां बनाने के लिए उपबन्ध नहीं करते हैं तो किसी ऐसी उप-विधि द्वारा जो उस प्रयोजन के लिए बुलाए गए सोसाइटी के सदस्यों के साधारण अधिवेशन में बनाई गई हो (जिसे बनाने के लिए ऐसे अधिवेशन में उपस्थित सदस्यों के तीन बटा पांच के सहमति-सूचक मत आवश्यक होंगे), सोसाइटी के किसी नियम या उप-विधि के भंग के लिए कोई धन संबंधी शास्ति अधिरोपित की जाती है तो ऐसी शास्ति जब प्रोद्भूत हो जाए, किसी ऐसे न्यायालय में वसूल की जा सकेगी जिसकी अधिकारिता वहां हो जहां प्रतिवादी निवास करता है, या वहां हो जहां सोसाइटी स्थित है, जैसा भी उसका शासी निकाय समीचीन समझे।

10. सदस्यों का अपने खिलाफ अन्य पक्षकारों के रूप में वाद लाए जाने के दायित्वाधीन होना—ऐसे सदस्य के खिलाफ जिसकी तरफ कोई चन्दा बकाया हो, जिसे वह सोसाइटी के नियमों के अनुसार संदत्त करने के लिए आबद्ध है, या जो सोसाइटी की किसी सम्पत्ति पर स्वयं कब्जा या उसका निरोध इस रीति से या इतने समय तक कर लेता है जो ऐसे नियमों के प्रतिकूल है, या जो सोसाइटी की किसी सम्पत्ति को क्षति पहुंचाता है या नष्ट करता है, ऐसे बकाया के लिए या सम्पत्ति के ऐसे निरोध, क्षति या नाश से प्रोद्भूत होने वाले नुकसान के लिए इसमें इसके पूर्व उपबन्धित रीति से वाद लाया जा सकेगा।

सफल प्रतिवादी द्वारा अधिनिर्णीत खर्चों की वसूली—किन्तु यदि प्रतिवादी सोसाइटी की प्रेरणा पर उसके खिलाफ लाए गए किसी वाद या अन्य कार्यवाही में सफल होता है और उसके पक्ष में उसके खर्चों की वसूली का अधिनिर्णय दिया जाता है; तो वह उस अधिकारी से जिसके नाम से वाद लाया गया था अथवा सोसाइटी से उन्हें वसूल करने का निर्वाचन कर सकेगा और पश्चात्पूर्वी दशा में वह ऊपर वर्णित रीति से उक्त सोसाइटी की सम्पत्ति के खिलाफ आदेशिका प्राप्त कर सकेगा।

11. अपराधों के दोषी सदस्यों का अन्य पक्षकारों के रूप में दण्डनीय होना—सोसाइटी का कोई सदस्य जो उस सोसाइटी के किसी धन या अन्य सम्पत्ति को चुराएगा, हड़पेगा या उसका गवन करेगा अथवा किसी सम्पत्ति को जानबूझकर और विशेषतः नष्ट करेगा या क्षति पहुंचाएगा अथवा किसी विलेख, बन्धपत्र, धन के लिए प्रतिभूति, रसीद या अन्य लिखत को कूटरचित करेगा जिससे सोसाइटी की निधियां हानि की जोखिम में पड़ जाएं वैसे ही अभियोजनीय होगा, और यदि सिद्धदोष हुआ तो वैसे ही रीति से दण्डनीय होगा जैसे ऐसा कोई व्यक्ति जो ऐसा सदस्य न हो वैसे ही अपराध की बाबत अभियोजनीय और दण्डनीय होगा।

12. सोसाइटियों को अपने प्रयोजनों को परिवर्तित, विस्तारित या न्यून करने के लिए समर्थ बनाना—जब कभी इस अधिनियम के अधीन रजिस्ट्रीकृत किसी सोसाइटी के, जो किसी विशिष्ट प्रयोजन या प्रयोजनों के लिए स्थापित की गई है, शासी निकाय को प्रतीत हो कि ऐसे प्रयोजन को इस अधिनियम के अर्थान्तर्गत किन्हीं अन्य प्रयोजनों में या उनके लिए परिवर्तित, विस्तारित या न्यून करना या ऐसी सोसाइटी को पूर्णतः या भागतः किसी अन्य सोसाइटी के साथ समामेलित करना उपयुक्त होगा तब ऐसा शासी निकाय उस प्रस्थापना को लिखित या मुद्रित रिपोर्ट के रूप में सोसाइटी के सदस्यों को निवेदित कर सकेगा तथा सोसाइटी के विनियमों के अनुसार उस पर विचार करने के लिए विशेष अधिवेशन बुला सकेगा;

किन्तु ऐसी कोई प्रस्थापना तब तक कार्यान्वित नहीं की जाएगी जब तक कि ऐसी रिपोर्ट उस पर विचार करने के लिए शासी निकाय द्वारा बुलाए गए विशेष अधिवेशन से दस दिन पूर्व सोसाइटी के हर एक सदस्य को परिदत्त नहीं कर दी जाती या डाक द्वारा नहीं भेज दी जाती और जब तक ऐसी प्रस्थापना के प्रति सहमति, सदस्यों के तीन बटा पांच के मतों द्वारा जो स्वयं या परोक्षी के माध्यम से परिदत्त किए गए हों, नहीं दे दी जाती और पूर्ववर्ती अधिवेशन के पश्चात् एक मास के अन्तराल से शासी निकाय द्वारा बुलाए गए दूसरे विशेष अधिवेशन में उपस्थित सदस्यों के तीन बटा पांच के मतों द्वारा पुष्ट नहीं कर दी जाती।

13. सोसाइटियों के विघटन और उनके काम-काज के समायोजन के लिए उपबन्ध—किसी सोसाइटी के तीन बटा पांच से अन्यून कितने ही सदस्य अवधारित कर सकेंगे कि उसे विघटित कर दिया जाए और तब वह तत्क्षण या तत्समय सहमत समय पर विघटित कर दी जाएगी और सोसाइटी की सम्पत्ति उसके दावों और दायित्वों के निपटारे और व्यवस्थापन के लिए उसको लागू उक्त सोसाइटी के नियमों के अनुसार, यदि कोई हो, और यदि कोई न हों तो जैसा शासी निकाय समीचीन समझे उसके अनुसार सब आवश्यक कार्यवाही की जाएगी परन्तु उक्त शासी निकाय या सोसाइटी के सदस्यों के बीच कोई विवाद पैदा होने की दशा में उसके कामकाज का समायोजन, उस जिले के, जिसमें सोसाइटी का मुख्य भवन स्थित है, आरम्भिक सिविल अधिकारिता वाले प्रधान न्यायालय को निर्दिष्ट किया जाएगा; और न्यायालय मामले में ऐसा आदेश करेगा जैसा वह अपेक्षणीय समझे :

परन्तु कोई सोसाइटी तब तक विघटित नहीं की जाएगी जब तक कि सदस्यों में से तीन बटा पांच ने ऐसे विघटन के लिए इच्छा ऐसे साधारण अधिवेशन में जो उस प्रयोजन के लिए बुलाया गया हो, स्वयं या परोक्षी के माध्यम से परिदत्त अपने मतों से, अभिव्यक्त न कर दी हो :

परन्तु [जब कभी कोई सरकार] इस अधिनियम के अधीन रजिस्ट्रीकृत किसी सोसाइटी की सदस्य हो या अभिदायकर्ता हो या उसमें अन्यथा हितबद्ध हो तब ऐसी सोसाइटी का विघटन [रजिस्ट्रीकरण के राज्य की सरकार की सम्मति के बिना] नहीं किया जाएगा।

14. विघटन पर किसी सदस्य का लाभ प्राप्त न करना—यदि इस अधिनियम के अधीन रजिस्ट्रीकृत किसी सोसाइटी के विघटन पर उसके सब ऋणों और दायित्वों की तुष्टि के पश्चात् कोई भी सम्पत्ति रह जाए तो वह उक्त सोसाइटी के सदस्यों या उनमें से किसी को

¹ भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा "जब कभी सरकार" के स्थान पर प्रतिस्थापित।

² भारत शासन (भारतीय विधि अनुकूलन) आदेश, 1937 द्वारा "सरकार की सहमति के बिना" के स्थान पर प्रतिस्थापित।

संदत या उनमें वितरित नहीं की जाएगी किन्तु किसी ऐसी अन्य सोसाइटी को दी जाएगी जो विघटन के समय पर स्वयं या परोक्षी के माध्यम से उपस्थित सदस्यों के तीन बटा पांच से अन्यून मत द्वारा या उसके अभाव में ऐसे न्यायालय द्वारा जैसा पूर्वोक्त है; अवधारित की जाए;

खण्ड का संयुक्त स्टॉक कम्पनियों को लागू न होना—परन्तु फिर भी यह खण्ड किसी ऐसी सोसाइटी को लागू नहीं होगा जो संयुक्त स्टॉक कम्पनी के रूप में शेयर धारकों के अभिदायों से प्रतिष्ठापित या स्थापित की गई हो।

15. सदस्य की परिभाषा/ सदस्यों की अनर्हता—इस अधिनियम के प्रयोजनों के लिए सोसाइटी का सदस्य ऐसा व्यक्ति होगा जिसने उसके नियमों और विनियमों के अनुसार उसमें सम्मिलित कर लिए जाने पर चन्दा दे दिया हो या उसके सदस्यों की नामावली या सूची में हस्ताक्षर कर दिए हों और ऐसे नियमों और विनियमों के अनुसार पदत्याग न किया हो; किन्तु इस अधिनियम के अधीन सब कार्यवाहियों में कोई व्यक्ति, जिसका चन्दा उस समय तीन मास से अधिक का बकाया हो सदस्य के रूप में मत देने या गिने जाने का हकदार नहीं होगा।

16. शासी निकाय की परिभाषा—व्यवस्थापक परिषद्, निदेशक, समिति, न्यासी या अन्य निकाय जिसको सोसाइटी के नियमों और विनियमों द्वारा उसके काम-काज का प्रबन्ध सौंपा गया हो, सोसाइटी के शासी निकाय होंगे।

17. अधिनियम से पूर्व बनाई गई सोसाइटियों का रजिस्ट्रीकरण—साहित्यिक, वैज्ञानिक या पूर्त प्रयोजन के लिए स्थापित और ¹1850 के अधिनियम 43 के अधीन रजिस्ट्रीकृत किसी कम्पनी या सोसाइटी को अथवा इस अधिनियम के पारित होने से पूर्व स्थापित और गठित किन्तु उक्त ¹1850 के अधिनियम 43 के अधीन रजिस्ट्रीकृत न हुई ऐसी किसी सोसाइटी की इसके पश्चात् किसी भी समय इस अधिनियम के अधीन सोसाइटी के रूप में रजिस्टर की जा सकेगी;

अनुमति की अपेक्षा—परन्तु इसके होते हुए कि ऐसी किसी कम्पनी या सोसाइटी की इस अधिनियम के अधीन तब तक रजिस्ट्री नहीं की जाएगी जब तक कि उसके ऐसे रजिस्ट्री किए जाने के लिए अनुमति, शासी निकाय द्वारा उस प्रयोजन के लिए बुलाए गए किसी साधारण अधिवेशन में स्वयं या परोक्षी के माध्यम से उपस्थित सदस्यों में से तीन बटा पांच द्वारा नहीं दे दी जाती।

¹1850 के अधिनियम 43 के अधीन रजिस्ट्रीकृत कम्पनी या सोसाइटी की दशा में निदेशकों को ऐसा शासी निकाय समझा जाएगा।

ऐसे रजिस्ट्रीकृत न हुई सोसाइटी की दशा में यदि सोसाइटी की स्थापना पर ऐसा कोई निकाय गठित न किया गया हो तो उसके सदस्यों के लिए यह सक्षम होगा कि वे सम्यक् सूचना पर तब से सोसाइटी के लिए कार्य करने के लिए एक शासी निकाय स्वयं बना लें।

18. ऐसी सोसाइटियों द्वारा संयुक्त स्टॉक कम्पनियों के रजिस्ट्रार के पास ज्ञापन आदि का दाखिल किया जाना—ऐसी किसी सोसाइटी के लिए जैसी अन्तिम पूर्वगामी धारा में वर्णित है, इस अधिनियम के अधीन रजिस्ट्री अभिप्रास करने के लिए यह पर्याप्त होगा कि शासी निकाय, ²*** संयुक्त स्टॉक कम्पनियों के रजिस्ट्रार के पास सोसाइटी का नाम, सोसाइटी के उद्देश्य और शासी निकाय के नाम, पते और उपजीविकाएं दर्शित करने वाला एक ज्ञापन सोसाइटी के नियमों और विनियमों की एक प्रति जो धारा 2 में उपबन्धित रूप में प्रमाणित हो और उस साधारण अधिवेशन की जिसमें रजिस्ट्रीकरण का संकल्प किया गया था, कार्यवाहियों की रिपोर्ट की एक प्रति सहित दाखिल करे।

19. दस्तावेजों का निरीक्षण। प्रमाणित प्रतियां—कोई भी व्यक्ति, इस अधिनियम के अधीन रजिस्ट्रार के पास दाखिल की गई सब दस्तावेजों का निरीक्षण, हर निरीक्षण के लिए एक रुपए की फीस देकर, कर सकेगा; और कोई भी व्यक्ति, किसी दस्तावेज या किसी दस्तावेज के किसी भाग की नकल या उद्धरण का रजिस्ट्रार द्वारा प्रमाणित किया जाना, ऐसी नकल या उद्धरण के हर सौ शब्दों के लिए दो आने देकर अपेक्षित कर सकेगा; और ऐसी प्रमाणित प्रति, सभी विधि-कार्यवाहियों में उसमें अन्तर्विष्ट विषयों का प्रथमदृष्ट्या या साध्य होगी।

20. अधिनियम किन सोसाइटियों को लागू होता है—इस अधिनियम के अधीन निम्नलिखित सोसाइटियों की रजिस्ट्री की जा सकेगी :—

पूर्त सोसाइटियां, भारत की विभिन्न-प्रेसिडेन्सियों में स्थापित सैनिक अनाथ निधियां या सोसाइटियां, विज्ञान, साहित्य या ललित कलाओं की प्रोन्नति के लिए शिक्षण उपयोगी जानकारी के प्रसार, ³[राजनीतिक शिक्षा के प्रसार], सदस्यों के साधारण प्रयोग के लिए या जनता के लिए खुले पुस्तकालयों या वाचनालयों के प्रतिष्ठान या अनुरक्षण और रंगचित्रों और अन्य कलाकृतियों के लोक संग्रहालयों और गैलरियों, प्राकृतिक इतिहास के संकलनों, यांत्रिक और दार्शनिक आविष्कारों, लिखतों, या अभिकल्पनाओं के लिए स्थापित सोसाइटियां।

¹ भारतीय कम्पनी अधिनियम, 1866 (1866 का 10) की धारा 219 और अनुसूची 3 द्वारा निरसित। अब देखिए कम्पनी अधिनियम, 1956 (1956 का 1)।

² “1857 के अधिनियम सं० 19 के अधीन” शब्द और अंक, 1874 के अधिनियम सं० 16 की धारा 1 और अनुसूची के भाग 1 द्वारा निरसित—अब देखिए कम्पनी अधिनियम, 1956 (1956 का 1)।

³ 1927 के अधिनियम सं० 22 की धारा 2 द्वारा अन्तःस्थापित।

THE SOCIETIES REGISTRATION ACT, 1860

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THE SOCIETIES REGISTRATION ACT, 1860

[Act No. 21 of 1860]

(AS APPLICABLE IN UTTAR PRADESH)

An Act for the Registration of Literary, Scientific and Charitable Societies

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Preamble

Whereas it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, the diffusion of political education, or for charitable purposes; it is enacted as follows :

1. Societies formed by Memorandum of Association and Registration.—Any seven or more persons associated for any literary, scientific, or charitable

purpose, or for any such purpose as is described in Section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with ¹[Registrar] from themselves into a society under this Act.

COMMENT

Jurisdiction of Labour Court to decide registration.—Claim of Bonus by employees of society, which is registered under the Act, could not be decided by a Labour Court, because jurisdiction of Labour Court barred by Section 4 (k) of the Industrial Disputes Act. [*Hindi Sahitya Sammelan v. Presiding Officer, Labour Court*, 1996 (1) UPLBEC 421; Relying on (1974) 4 SCC 696 : (1978) 2 SCC 144 and (1988) 3 SCC 457].

2. Memorandum of Association.—The Memorandum of Association shall contain the following things, that is to say,—

the name of the society;

the objects of the society;

the names, addresses, and occupations of the Governors, council, directors, committee, or other governing body to whom, by the rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the Memorandum of Association.

3. Registration and fees.—²[(1) Upon such memorandum and certified copy being filed along with particulars of the address of the society's office which shall be its registered address, by the Secretary of the society on behalf of the persons subscribing to the memorandum, the Registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of ³[one thousand rupees] ⁴[or such smaller fee as the State Government may notify in respect of any class of societies] :

⁵[Provided that the State Government may, by notification in the official Gazette, increase from time to time the fee payable under this sub-section :

Provided further that the Registrar may, in his discretion, issue public notice or issue notices to such persons as he thinks fit inviting objections, if any, against the proposed registration and consider all objections that may be received by him before registering the society.]

✓(2) Notwithstanding anything in sub-section (1) the Registrar shall refuse to register a society, if after giving it an opportunity of showing cause against such refusal, he is satisfied that—

(a) the name of the society is identical with that of any other society previously registered under this Act;

✓(b) the name of the society sought to be registered uses any of the words, namely, 'Union', 'State', 'Land Mortgage', 'Land Development', 'Co-operative', 'Gandhi', 'Reserve Bank' or any words expressing or implying the sanction, approval or patronage of the Central or any

1. Subs. by U.P. Act No. 25 of 1958, Sec. 2.
2. Subs. by U.P. Act No. 52 of 1975, Sec. 2.
3. Subs. by U.P. Act No. 8 of 2000, Sec. 2 (a), for the words "five hundred rupees" (w.e.f. 25-11-1999).
4. Ins. by U.P. Act No. 13 of 1978 (w.e.f. 27-2-1978).
5. Subs. by U.P. Act No. 8 of 2000, Sec. 2 (b) (w.e.f. 25-11-1999).

State Government or any word which suggests or is calculated to suggest any connection with any local authority or any corporation or body constituted by or under any law for the time being in force, or is such as is otherwise likely to deceive the public or the members of any other society previously registered under this Act;

(c) any one or more of the objects of the society sought to be registered is not an object mentioned in Sections 1 and 20; or

(d) its objects are contrary to any other law for the time being in force :

[Provided that the State Government may in exceptional circumstances, for reasons to be recorded permit any society to use the word 'Union' or the word 'Gandhi' in its name and thereupon, the use of that word in the name of the society shall not be a ground for refusal to register or to renew the certificate of registration of such society.]

²[3-A. Renewal of certificate of registration.—³(1) Subject to the provisions of sub-section (2), a certificate of registration issued under Section 3 shall remain in force for a period of five years from the date of issue :

Provided that a certificate issued before the commencement of the Societies Registration (Uttar Pradesh Amendment) Act, 1984 (hereinafter in this section referred to as the said Act), shall remain in force for a period of five years from the date of such commencement, on payment of the difference of the fees specified under sub-section (3) and the fees already paid.]

(2) A Society registered under Section 3, whether before or after the commencement of the said Act, shall on application made to the Registrar within one month of the expiration of the period referred to in sub-section (1) and on payment of the fee specified in sub-section (3), be entitled to have its certificate of registration renewed for ³[five years] at a time :

Provided that in the case of a society registered before the commencement of the said Act, the Registrar shall refuse to renew the certificate of registration if after giving it an opportunity of showing cause against such refusal he is satisfied that any of the grounds mentioned in sub-section (2) of Section 3 exist in respect thereof.

(3) There shall be paid to the Registrar with every application for renewal of the certificate of registration—

⁴(a) a fee equal to the registration fee payable under Section 3 or rupees two hundred, whichever is less, if such application is filed within the period specified in sub-section (2) :

Provided that the State Government may, by notification in the Official Gazette, increase from time to time the fee payable under this clause subject to the condition that the fee so increased shall not exceed the registration fee payable under Section 3;

(b) an additional fee of forty rupees or such higher fee not exceeding one-fifth of the fee payable under clause (a) as may be notified by the State Government, if such application is filed within one

1. Subs. by U.P. Act No. 26 of 1976 and be deemed always to have been substituted.

2. Ins. by U.P. Act No. 52 of 1975, Sec. 3.

3. Subs. by U.P. Act No. 23 of 1994, Sec. 3 (w.e.f. 8-8-1994).

4. Subs. by U.P. Act No. 8 of 2000, Sec. 3 (i) (w.e.f. 25-11-1999).

month of the date of expiration of the period specified in sub-section (2); and

- (c) an additional fee at the rate of twenty rupees per month or part thereof, or such higher additional fee per month not exceeding half of the additional fee payable under clause (b), as may be notified by the State Government, if such application is filed beyond one month of the expiration of the period specified in sub-section (2).]

(4) Every application for renewal of the certificate shall be accompanied by a list of members of the managing body elected after the registration of the society or after the renewal of certificate of registration and also the certificate sought to be renewed unless dispensed with by the Registrar on the ground of its loss or destruction or any other sufficient cause.

(5) A society which fails to get its certificate of registration renewed in accordance with this section within one year from the expiration of the period for which the certificate was operative shall become an unregistered society :

Provided that the Registrar may, for sufficient cause, allow an application for renewal more than one year after the expiration of the period for which the certificate was operative on payment of a fee of ¹[four hundred rupees or such higher fee not exceeding ten times of the additional fee payable under clause (b) of sub-section (3) as may be notified by the State Government from time to time].

(6) Where a certificate of registration is renewed in accordance with sub-section (2) or sub-section (5) such renewal shall operate from the date of expiration of the period for which the certificate was operative.]

²[3-B. Reference to the State Government.—If any question arises whether any society is entitled to get itself registered in accordance with Section 3 or to get its certificate of registration renewed in accordance with Section 3-A, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.]

4. Annual list of managing body to be filed.—³[(1)] Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the society is held, or, if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the ⁴[Registrar] of the names, addresses and occupations of the governors, council, directors, committee, or other governing body then entrusted with the management of the affairs of the society :

⁵[Provided that if the managing body is elected after the last submission of the list, the counter signatures of the old members, shall, as far as possible, be obtained on the list. If the old office bearers do not countersign the list, the Registrar may, in his discretion, issue a public notice or notice to such persons as he thinks fit inviting objections within a specified period and shall decide all objections received within the said period.]

1. Subs. by U.P. Act No. 8 of 2000, Sec. 3 (ii) (w.e.f. 25-11-1999), for the words "two hundred rupees".
2. Ins. by U.P. Act No. 26 of 1979.
3. Original Section 4 re-numbered as sub-section (1) and a new sub-section (2) inserted by U.P. Act No. 52 of 1975, Sec. 4.
4. Subs. by U.P. Act No. 25 of 1958, Sec. 2.
5. Ins. by U.P. Act No. 52 of 1975, Sec. 4.

¹[(2) Together with list mentioned in sub-section (1), there shall be sent to the Registrar a copy of the memorandum of association including any alteration, extension or abridgment of purposes made under Section 12, and of the rules of the Society corrected up to date and certified by not less than three of the members of the said governing body to be a correct copy and also a copy of the balance-sheet for the preceding year of account.]

COMMENTS

Dispute about election of Managing body and Manager—Who may decide it.—Whenever any doubt or dispute is raised regarding the election of members of a managing body of a Society, the Registrar may refer such doubt or dispute to the Prescribed Authority for his decision. But when one-fourth members of the Society raised a doubt or dispute relating to the election of the members of the managing body or Society, the matter automatically goes to the Prescribed Authority's decision and in such a case the Registrar does not come into the picture. If the Registrar comes to the conclusion that such a person is not a member of the society then he is under no obligation to refer the dispute or doubt relating to his election to the Prescribed Authority for decision. In case of the question whether the appellant was or was not a member of the Shiksha Sadan, if Registrar found that he was not even a member of a Society, this type of question is a question of facts. If any person feels aggrieved by such a decision, the proper course open to him is to approach the Civil Court and seek appropriate relief. The Registrar is bound by the decision of the Civil Court and his decision will be subject to the decree passed by the Civil Court. [*Committee of Management, Kisan Shiksha Sadan v. Asstt. Registrar, Firms, Societies & Chits*, 1995 (2) UPLBEC 1242 (DB).]

Registrar's power to cancel Registration of list of members.—Cancellation of registration of the list of members on the ground of misrepresentation or fraud is not under the jurisdiction of Assistant Registrar, but only the Registrar can cancel the same, if there is any renewal of the certificate have been obtained by fraud. Thus if any dispute arises regarding election or eligibility of members it has to be referred to the prescribed authority and not to Registrar. [*Committee of Management v. Asstt. Registrar, Firms, Societies & Chits*, 1996 (2) UPLBEC 884.]

²[4-A. Changes, etc. in rules to be intimated to Registrar.—A copy of every changes made in rules of the Society and intimation of every change of address of the Society, certified by not less than three of the members of the governing body shall be sent to the Registrar within thirty days of the change.]

³[4-B. (1) At the time of registration/renewal of a society, list of members of General Body of that society shall be filed with the Registrar mentioning the name, father's name, address and occupation of the members. The Registrar shall examine the correctness of the list of members of the General Body of such society on the basis of the register of members of the General Body and minutes book thereof, cash book, receipt book of membership fee and bank pass book of the society.

(2) If there is any change in the list of members of the General Body of the society referred to in sub-section (1), on account of induction, removal, registration or death of any member, a modified list of members of General

1. Ins. by U.P. Act No. 52 of 1975, Section 4 (w.e.f. 10-10-1975).

2. Ins. by U. P. Act No. 52 of 1975, Section 5 (w.e.f. 10-10-1975).

3. Ins. by U.P. Act No. 23 of 2013, Section 2 (w.e.f. 9-10-2013).

Body, shall be filed with the Registrar, within one month from the date of change.

(3) The list of members of the General Body to be filed with the Registrar under this section shall be signed by two office bearers and two executive members of the society.]

5. Property of Society how vested.—The property, movable and immovable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society, and in all proceedings, civil and criminal, may be described as the property of the governing body of the Society by their proper title.

1[* * *]

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 person 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.

7. Suits not to abate.—No suit or proceeding in any Civil Court shall abate or discontinue by reasons of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued, or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

8. Enforcement of judgment against Society.—If a judgment shall be recovered against the person or officer named on behalf of the Society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the Society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

1. Ins. by U.P. Act No. 26 of 1979 and now omitted by U.P. Act No. 13 of 2009, Section 2 (w.e.f. 11-12-2008). Before omission Section 5-A which is reproduced below :

"5-A. Restriction on transfer of property.—(1) Notwithstanding anything contained in any law, contract or other instrument to the contrary, it shall not be lawful for the governing body of a Society, registered under this Act or any of its members to transfer, without the previous approval of the Court, any immovable property, belonging to such Society.

(2) Every transfer made in contravention of sub-section (1) shall be void.

Explanation I.—The word 'Court' shall have the meaning assigned to it in Section 13.

Explanation II.—The expression 'transfer' shall for the purposes of this section means—

- (a) a mortgage, charge, sale, gift, or exchange;
- (b) lease for a term exceeding five years; or
- (c) irrevocable licence.

9. Recovery of penalty accruing under bye-law.—Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued may be recovered in any Court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

10. Members liable to be sued as strangers.—Any member who may be in arrear of a subscription which, according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury, or such destruction of property in the manner hereinbefore provided.

Recovery by successful defendant of costs adjudged.—But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

11. Members guilty of offences punishable as strangers.—Any member of the society who shall steal, purloin or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence.

12. Societies enabled to alter, extend, or abridge their purposes.—Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society, but no such provision shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days' previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a

second special meeting convened by the governing body at an interval of one month after the former meeting.

1[12-A. Change of name.—Any society registered under this Act may, with the consent of not less than two-thirds of the total number of its members, ²[and with the previous approval of the Registrar in writing] change its name by resolution passed at a general meeting convened for the purpose.

12-B. Notice of change of name or objects.—(1) Notice in writing of every change of objects made under Section 12 or of name made under Section 12-A signed by the secretary and any three other members of the society shall be sent to the Registrar.

(2) Where the Registrar is satisfied that the provisions of this Act in respect of objects or name of society and in respect of change of objects or of name, as the case may be, have been complied with, he may subject to the provisions of Section 12-C register the change of name which shall have effect from the date of such registration.

12-C. Effect of change of name or objects.—The change in the objects or name of a society shall not affect any rights or obligations of the society, nor render defective any legal proceedings by or against the society, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

12-D. Registrar's power to cancel registration in certain circumstances.—(1) Notwithstanding anything contained in this Act, the Registrar may, by order in writing, cancel the registration of any society on any of the following grounds :

- (a) that the registration of the society or of its name or change of name ³[is] contrary to the provisions of this Act or of any other law for the time being in force;
- (b) that its activities or proposed activities have been or are or will be subversive of the objects of the society or opposed to public policy;
- ⁴[(c) that the registration or the certificate of renewal has been obtained by misrepresentation or fraud] :

Provided that no order of cancellation of registration of any society shall be passed until the society has been given a reasonable opportunity of altering its name or object or of showing cause against the action proposed to be taken in regard to it.

⁵[(2) An appeal against an order made under sub-section (1) may be preferred to the Commissioner of the Division in whose jurisdiction the

1. New Sections 12-A, 12-B, 12-C and 12-D inserted by U.P. Act No. 52 of 1965, Sec. 6.
2. Ins. by U.P. Act No. 26 of 1979.
3. Sub. by U.P. Act No. 26 of 1979.
4. Ins. by U.P. Act No. 11 of 1984, Sec. 5.
5. Subs. by U.P. Act No. 11 of 1984, Sec. 5.

Headquarter of the Society lies, within one month from the date of communication of such order.

(3) The decision of the Commissioner under sub-section (2) shall be final and shall not be called in question in any court.]]

COMMENTS

Registration obtained by fraud can be recalled by Registrar.—It is settled that even if an authority has no power to review its decision, it can always recall or revoke it, if it is obtained by fraud, misrepresentation or mistake. Clause (c) has made explicit what is implicit in every power. [*Sri Krishna Educational Society Deoria v. State of U.P.*, 1995 (2) UPLBEC 732 (DB); case law relied upon :*R.S. Chaube v. D.I.O.S.*, 1977 ALJ 451; *Committee of Management v. D.I.O.S.*, 1979 ALJ 33; *Mohan Lal Sharma v. D.I.O.S.*, 1982 UPLBEC 213 and *Gauri Shanker Rai v. Dr. Ram Lakhan Pandey*, 1984 UPLBEC 166.]

Powers under Sections 5, 12-D and 25 composed.—The Registrar initiated action for cancelling the registration certificate on the fraud and misrepresentation. Such a power vests in him under Section 12-D of the Act, Section 25 on the other hand confers power on the Prescribed Authority to decide the dispute with regard to the election or continuance in office of the office bearers of the society. Registrar cannot cancel the registration certificate under Section 25 of this Act. [*Sri Krishna Educational Society v. State of U.P.*, 1995 (2) UPLBEC 732.]

District Magistrate asking to enroll any respectable persons as members—is without jurisdiction.—In case when D.I.O.S. had exceeded his jurisdiction and acted with a partisan attitude in passing the orders in favour of some one else, it was no justification for D.I.O.S. to have passed the orders in the controversy about the Management of the Committee of Management which was pending before the High Court. The dispute about the membership question was once decided by the earlier D.I.O.S., Saharanpur at the time when Haridwar was not a separate district, it used to be under District Saharanpur. That order had become final. Thereafter when District Haridwar was created, another person joined as D.I.O.S., Haridwar. There was no occasion for legal sanction for the District Magistrate to have issued directions for inquiring into the dispute for membership of the Mahasabha and the enquiry conducted by the D.I.O.S., appears to be patently illegal. The dispute about the membership could be legally agitated according to the Rules of the Society, or before the Registrar under the Societies Registration Act or before the competent Civil Court. The dispute was not within the domain of the D.I.O.S., who had made enquiries and passed order for one enrolling members of the Mahasabha. In view of the abovesaid notions judgment given about the membership issued itself relying on decision of the Hon'ble Supreme Court also shows that the action of the D.I.O.S., was wholly unwarranted. [*B.S.M. Samiti (Mahasabha), Saharanpur v. District Magistrate, Haridwar*, 1995 (2) UPLBEC 1183.]

Jurisdiction of Registrar.—Section 12-D deals with the cancellation of registration and does not deal with questions of cancellation of registration of list of members of the governing body or the office bearers.

Section 12-D deals only with cancellation of registration of the society itself on the grounds mentioned in clauses (a), (b) and (c) of sub-section (1) when clause (c) is a ground for cancellation of registration. [*Committee of Management v. Assistant Registrar, Firms and Societies*, 1996 UPLBEC 884.]

13. Provision for dissolution of societies and adjustment of their affairs.—Any number not less than three-fifths of the members of any society may

the rules and regulations of the society the management of its affairs is entrusted.

16-A. Disqualifications for holding office in society.—A person who is an 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 being chosen as, and for being a member of the governing body or the President, Secretary or any other office bearer of a society.]

17. Registration of societies formed before Act—Assent required.—Any company or society established for a literary, scientific or charitable purpose, and registered under Act 43 of 1850, or any such society established and constituted previously to the passing of this Act but not registered under the said Act 43 of 1850, may at any time hereafter be registered as a society under this Act; subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body.

In the case of company or society registered under Act 43 of 1850, the directors shall be deemed to be such governing body.

In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

18. Such societies to file memorandum etc., with Registrar of Joint-Stock Companies.—In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the ²[Registrar] a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in Section 2 and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

19. Inspection of documents.—Any person may inspect all documents filed with the Registrar under this Act ³[on payment of such fee as the State Government may, by notification in the official *Gazette*, fix]; and any person may require a copy of extract of any document or any part of any document, to be certified by the Registrar, ⁴[on payment of such fee as the State Government may, by notification in the official *Gazette*, fix.]

Certified copies.—And such certified copy shall be *prima facie*, evidence of the matters therein contained in all legal proceedings whatever.

1. Ins. by U.P. Act No. 52 of 1975, Sec. 9.

2. Subs. by U.P. Act No. 25 of 1951, Sec. 9.

3. Subs. by U.P. Act No. 52 of 1975, Sec. 11.

4. Subs. by U.P. Act No. 52 of 1975, Sec. 11.

20. To what societies the Act applies.—The following societies may be registered under this Act :

Charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of ¹[Khadi and Village Industry, Panchayat Industry, Rural Development,] science literature, or the fine arts for instruction, the diffusion of useful knowledge (the diffusion of political education), the foundation or maintenance of library or reading-rooms for a general use among the members or open to the public or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs.

²[21. In this Act, the word "registrar" means a person appointed as such by the State Government and includes an Additional Registrar, a Joint Registrar, Deputy Registrar, or Assistant Registrar, on whom all or any of the powers of the Registrar under this Act are conferred by general or special order of the State Government].

³[22. Powers of Registrar to call for information.—(1) The Registrar may, by written order, require any society to furnish in writing such information or document within such time, being ordinarily not less than two weeks from the date of receipt of the order by the society, as he may specify in the order in connection with the affairs of the society or any documents filed by the society under this Act.

(2) On receipt by the society of an order under sub-section (1), it shall be the duty of the President, Secretary or any other person authorised in this behalf to furnish such information or documents.

³[23. Audit.—(1) Without prejudice to the provisions of sub-section (2) of Section 4 or of Section 22, where the Registrar is of opinion that it is necessary or expedient so to do, he may, by written order, require any society to furnish its accounts or copy of a statement of receipts and expenditure for any particular year duly audited by a Chartered Accountant :

Provided that the Registrar may, at the request of society permit it to have such accounts and statement audited by any other person approved by him.

(2) If the society fails to furnish the documents referred to in sub-section (1) within the period specified in the order or within such extended period as the Registrar may from time to time allow, the Registrar may cause the accounts of such society audited for the said year and may recover the cost of such audit from that society.

(3) If the society neglects or refuses to make its accounts or other documents available for audit under sub-section (2) or, in the opinion of the

1. Ins. by U.P. Act No. 11 of 1984, Sec. 8.

2. Subs. by U.P. Act No. 26 of 1979, Sec. 7.

3. Sections 22 to 33 inserted by U.P. Act No. 52 of 1975, Sec. 12.

Registrar, otherwise fails to provide requisite facilities to have the audit made with due expedition, the Registrar may proceed to take action under Section 24.

¹[24. **Investigation of affairs of a society.**—(1) Where on information received under Section 22 or otherwise, or in circumstances referred to in sub-section (3) of Section 23, the Registrar is of opinion that there is apprehension that the affairs of a society registered under this Act are being so conducted as to defeat the objects of the society or that the society or its governing body by whatever name called or any officer thereof in actual effective control of the society is guilty of mismanaging its affairs or of any breach of fiduciary or other like obligations, the Registrar may, either himself or by any person appointed by him in that behalf, inspect or investigate into the affairs of the society or inspect any institution managed by the society.

(2) It shall be the duty of every officer of the society when so required by the Registrar or other person appointed under sub-section (1) to produce any books of account and other records of or relating to the society which are in his custody and to give him all assistance in connection with such inspection or investigation.

(3) The Registrar or other person appointed under sub-section (1) may call upon and examine on oath any officer, member or employee of the society in relation to the affairs of the society and it shall be the duty of every officer, member or employee, when called upon, to appear before him for such examination.

²[(3-A) The Registrar or other person appointed under sub-section (1) may, if in his opinion it is necessary for the purpose of inspection or investigation, seize any or all the records including account books of the society :

Provided that any person from whose custody such records are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of the person having the custody of such records.]

(4) On the conclusion of the inspection or investigation, as the case may be, the person, if any, appointed by the Registrar to inspect or investigate shall make a report to the Registrar on the result of his inspection or investigation.

(5) The Registrar may, after such inspection or investigation, give such directions to the society or to its governing body or any officer thereof as he may think fit, for the removal of any defects or irregularities with such time as may be specified and in the event of default in taking action according to such directions, the Registrar may proceed to take action under Section 12-D or Section 13-B, as the case may be.

¹[25. **Disputes regarding election of office-bearers.**—(1) The prescribed authority may, on a reference made to it by the Registrar or by at least one-

1. Ins. by U.P. Act No. 52 of 1975, Sec. 12.

2. Ins. by U.P. Act No. 11 of 1984, Sec. 8.

fourth of the members of a society registered in Uttar Pradesh, hear and decide in a summary manner any doubt or dispute in respect of the election or continuance in office of an office-bearer of such society, and may pass such orders in respect thereof as it deems fit :

¹[Provided that the election of an office-bearer shall be set aside where the prescribed authority is satisfied—

- (a) that any corrupt practice has been committed by such office-bearer; or
- (b) that the nomination of any candidate has been improperly rejected; or
- (c) that the result of the election in so far it concerns such office-bearer has been materially affected by the improper acceptance of any nomination or by the improper reception, refusal or rejection of any vote or the reception of any vote which is void or by any non-compliance with the provisions of any rules of the society.

Explanation 1.—A person shall be deemed to have committed a corrupt practice who, directly or indirectly, by himself or by any other person—

- (i) induces, or attempts to induce, by fraud, intentional misrepresentation, coercion or threat of injury, any elector to give or to refrain from giving a vote in favour of any candidate, or any person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at the election;
- (ii) with a view to inducing any elector to give or to refrain from giving a vote in favour of any candidate, or to inducing any person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate at the election, offers or gives any money, or valuable consideration, or any place or employment, or holds out any promise of individual advantage or profit to any person;
- (iii) abets (within the meaning of the Indian Penal Code) the doing of any of the acts specified in Clauses (i) and (ii);
- (vi) induces or attempts to induce a candidate or elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;
- (v) canvasses on grounds of cast, community, sect or religion;
- (vi) commits such other practice as the State Government may prescribe to be a corrupt practice.

1. Ins. by U.P. Act No. 13 of 1978.

Explanation II.—A “promise of individual advantage or profit to a person” includes a promise for the benefit of the person himself, or of any one in whom he is interested.

Explanation III.—The State Government may prescribe the procedure for hearing and decision of doubts or disputes in respect of such elections and make provision in respect of any other matter relating to such elections for which insufficient provision exists in this Act or in the rules of the society.]

(2) Where by an order made under sub-section (1), an election is set aside or an office-bearer is held no longer entitled to continue in office or where the Registrar is satisfied that any election of office-bearers of a society has not been held within the time specified in the rules of that society, he may call a meeting of the general body of such society for electing such office-bearer or office-bearers, and such meeting shall be presided over and be conducted by the Registrar or by any officer authorised by him in this behalf, and the provisions in the rules of the society relating to meetings and elections shall apply to such meeting and election with necessary modifications. 4

(3) Where a meeting is called by the Registrar under sub-section (2), no other meeting shall be called for the purpose of election by any other authority or by any person claiming to be an office-bearer of the society.

Explanation—For the purposes of this section, the expression “prescribed authority” means an officer or court authorised in this behalf by the State Government by notification published in the official Gazette.

COMMENTS

Comparison of powers between Section 12-D and Section 25.—The Registrar initiated action for cancelling the registration certificate on the fraud and misrepresentation. Such a power vests in him under Section 12-D and Section 25 on the other hand confers power on the Prescribed Authority to decide the dispute with regard to the election or continuance in office of the office bearers of the society. Under Section 25 the Registrar cannot cancel the registration certificate. [*Sri Krishna Educational Society, Deoria v. State of U.P.*, 1995 (2) UPLBEC. 732.]

Election of Manager and disputes considered by Registrar.—Section 4 of the Act provides that a list of members of the managing body of a Society shall be filed with the Registrar. That list is maintained by the Registrar for the purpose of performing his administrative functions as a Registrar. Section 25 of the Act provides that whenever any doubt or dispute is raised regarding the election of members of a managing body of a Society, the Registrar may refer such doubt or dispute to the Prescribed Authority for his decision. But when one-fourth members of the Society raised doubt or dispute relating to the election of the members of the Managing Body or Society, the matter automatically goes to the Prescribed Authority decision and in such a case the Registrar does not come into the picture. In exercising this power whether to refer or not any doubt or dispute relating to the election of members of the managing body or Society to the Prescribed Authority, the Registrar has to apply his mind to the facts of the case and take a decision. In taking such a decision, the Registrar will be quite justified to take into account all the relevant circumstances. If an objection is raised about the membership of a person it is the duty of the Registrar for his own administrative

purpose to enquire as to whether the person concerned is a member of the Society or not. If the Registrar comes to the conclusion that such a person is not a member of the Society then he is under no obligation to refer the dispute or doubt relating to his selection to the Prescribed Authority for decision. In the instant case, the Registrar has applied his mind to the facts of the case to find out whether the second appellant was or was not a member of the Shiksha Sadan. When he found that he was not even a member of a Society, it will be a pure question of facts. If any person feels aggrieved by such a decision the proper course open to him is to approach the Civil Court and seek appropriate relief. The Registrar is bound by the decision of the Civil Court and his decision will be subject to the decree passed by the Civil Court. [*Committee of Management, Kisan Shiksha Sadan v. Asstt. Registrar, Firms and Societies*, (1995) 2 UPLBEC 1242.]

Scope and Power of Prescribed Authority— Election may be taken to embrace the whole procedure; right from the stage of inviting nomination papers upto that office taking poll and necessary subsequent steps for declaring the result the election of an office bearer is distinct, independent and separate from the election of another office bearer. Therefore, election is to be referred to the election of an office bearer, and his continuance in the office of such society. Expression used in the section to the extent “doubt and dispute in respect to election or continuance in office of an office bearer”.

The above interpretation is in consonance with the purpose and object of the legislation. It would advance the object and suppress the mischief as envisaged by the legislature. In as much as the object was to provide a summary remedy subject to decision of the Civil Court, legislature had never intended to make it all persuasive and that was the reason for circumscribing or restricting the object. The scope to the extent as provided in the proviso provided that if the result of election has been invariably affected by non-compliance with the provision or any rule of the society, in that event election can be set aside.

Proviso of sub-rule (1) very much includes doubt regarding holding of election as well its entirety namely, that each of the individual office bearer even though alleged collectively.

Section 25 envisages reasons in a summary manner by finding out as to whether there was any corrupt practice by the concerned office bearer or where nomination of any candidate has been improperly rejected or whether the result of election was materially affected by improper acceptance of any nomination or improper reception, refusal or rejection of any vote or receipt of any vote which is void or by any non-compliance with any rule, of the society, he cannot enter into question as to who has voted whom.

In the present case no endeavour has been made by the prescribed authority to find out as to existence of any grounds provided in the proviso. This has not been recorded to his satisfaction with regard to any of the grounds mentioned therein. On the other hand he had proceeded on the basis of affidavit and evidence of the members produced. Before him for deciding as to who has voted whom and had directed the party who challenged the exclusion to continue in office without setting aside the election and without issuing the directions contained in sub-section (2) wholly beyond his jurisdiction. [*Jagdish Chandra Shastri v. Prescribed Authority*, 1997 (1) UPLBEC 242].

Reference under Sec. 25 is not applicable when there is frivolous dispute.—An election of office bearer of the society was held on 18.5.1995. Subsequently a meeting was convened on 29.9.95 of the general body in which decision was taken to dissolve the

existing committee of Management and new Management committee was constituted on the same date. This is illegal because for any election a date has to be fixed for filing of nomination, a date for voting and for counting etc. [*Committee of Management, Sarvodaya Mandal Baranpur, Koraon, UPL, Allahabad v. Asstt. Registrar, Firms, Societies and Chits.*, 1997 (1) UPLBEC 258].

Power of Registrar.—Sub-section (1) of section 25 prescribes that the prescribed authority, on a reference made to it by the Registrar or by at least one-fourth of society, may decide in summary manner 'any doubt or dispute in respect of the election or continuance in office of an office bearers' and may pass such order as it deems fit, and in that event, same may come within the purview of section 25 and outside the jurisdiction of the Registrar. [*Committee of Management v. Asstt. Registrar Firm, Societies and Chits*, 1996 (3) UP LBEC 884].

¹[26. Terms of gift to be observed.]—Where a society accepts a gift or donation of money or property of any other kind from any person for a specific purpose, it shall not use the money or other property gifted or donated or any part thereof for any other purpose without the written consent of the Registrar who shall refuse such consent except when he is satisfied that the purpose for which the gift was made is incapable of execution by the society.

¹[27. Penalties.]— Any person who—

- ²[(a) fails to furnish the list of managing body or other information required to be furnished under Section 4 or 4-A or wilfully makes or causes to be made a false entry in, or any omission from, the list or any statement or copy of rules or of alteration in rules or other information sent to the Registrar under the said Section 4 or Section 4-A];
- (b) wilfully fails to furnish any account or statement referred to in sub-section (1) of Section 23 or furnishes in compliance with the said sub-section particulars which are false and which he either knows or believes to be false or does not believe to be true;
- (c) neglects or refuses to make its accounts or other documents available for audit as required by ³[sub-section (2)] of Section 23;
- (d) wilfully fails to produce any books of accounts or other records as required by sub-section (2) of Section 24;
- (e) wilfully fails to appear before the Registrar or other person appointed by him or otherwise contravenes the provisions of sub-section (3) of Section 24;

shall be punishable with fine which may extend to two thousand rupees.

¹[28. Procedure.]—No Court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act nor shall cognizance of the

1. Ins. by U.P. Act No. 52 of 1975, Sec. 12.

2. Subs. by U.P. Act No. 11 of 1984, Sec. 9.

3. Subs. by Noti. No. 614/XVII-V-1-8-2, dated 8-3-1979.

any such offence be taken except on a complaint made by the Registrar or any other person authorised in writing by him by general or special order in that behalf.

¹[29. Compounding of offences.—(1) The Registrar may accept from any person against whom a reasonable suspicion exists that he has committed any offence punishable under Section 27 or against whom a prosecution under that section has been instituted, a sum of money by way of composition fee for the offence which such person is suspected or accused to have committed.

(2) On the payment of such composition fee the suspected person if in custody, shall be discharged and no further proceeding shall be taken against him, and if prosecution of such person had been instituted, the composition shall have the effect of his acquittal.

¹[30. Manner of payment of fees.—Fees payable under the provisions of this Act shall be paid in such manner as may be prescribed by rules.

¹[31. Indemnity.—No suit, prosecution or other legal proceeding shall lie in any Court against the State Government, the Registrar or against any person appointed for inspection or investigation under Section 24, for anything in good faith done or intended to be done under this Act or the rules made thereunder.

¹[32. Mode of service of notice, etc. by Registrar.—(1) Any notice, order or requisition meant for a society or for the governing body thereof to be issued by the Registrar may be served on the Secretary of the society, and service on the Secretary be as effectual as if the same had been served on every member of the society or, as the case may be, on every member of the governing body thereof, unless the Registrar otherwise directs.

(2) The sending of such notice, order of requisition to the Secretary of the society by registered post at its registered office shall amount to sufficient service thereof on the society.

¹[33. Power to make rules.—(1) The State Government may by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall, as soon as may be, after they are made, be laid before each House of the State Legislature while it is in session, for a total period of thirty days extending in its one session, or more than one successive sessions and shall unless some later date is appointed, take effect from the date of their publication in the official Gazette, subject to such modifications or annulments as the two Houses of the Legislature may, during the said period agree to make, so, however, that any such modification or annulment shall be without prejudice to validity of anything previously done thereunder].