

Mohd. Tabib Khan Vs State of U.P. and Others

Court: Allahabad High Court

Date of Decision: Sept. 25, 2007

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 9

Constitution of India, 1950 â€” Article 226, 310

Criminal Procedure Code, 1973 (CrPC) â€” Section 195

Societies Registration Act, 1860 â€” Section 4

Citation: (2008) 5 AWC 4723

Hon'ble Judges: B.S. Chauhan, J; Arun Tandon, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

B.S. Chauhan and Arun Tandon, JJ.

This special appeal is directed against the judgment and order passed by the learned Single Judge in

Writ Petition No. 18566 of 2006 dated 04/4/2006.

2. Facts giving rise to the present appeal are Madarsa Jamya Ahley Sunnat Emdadul Ulum, Matehna, Post Khadsari Bazar District Siddhartha

Nagar is a society duly registered under the Societies Registration Act, 1860 (hereinafter called the "Act 1860").

Elections of the office bearers of

the society are stated to have taken place in the year 2000. Proceedings u/s 25(1) of the Act, 1860 were initiated by respondents 4 to 58

questioning the elections so held before the Prescribed Authority. The dispute was registered as Misc. Case No. 17 of 2001. During the pendency

of the dispute, the term of the office bearers expired on 09/10/2005. Prior to the expiry of the term of the office bearers of the society, fresh

elections are said to have taken place on 25/9/2005. On the strength of the elections so held the appellant-petitioner submitted an application

dated 06/10/2005 before the Assistant Registrar Firms Societies and Chits Gorakhpur Region Gorakhpur seeking renewal of the registration of the

society In the meantime the Prescribed Authority by means of his order dated 17/3/2006 answered the reference u/s 25(1) of the Act 1860 and

directed that a copy of the order along with the relevant file be transmitted to the Assistant Registrar Firms Societies and Chits Gorakhpur for

appropriate action. Against this order of the Prescribed Authority the appellant who claims to be the Manager of the Committee of Management of

the Madarsa filed Writ Petition No. 18566 of 2006. The learned Single Judge by means of his judgment and order dated 04/4/2006 dismissed the

writ petition after recording that it raises disputed questions of fact and it is not feasible under Article 226 of the constitution of India to decide such

disputed issues of fact. Accordingly the writ petition has been dismissed with the liberty to the petitioner-appellant to approach the Civil Court. It is

against this order that the present special has been filed

3. A preliminary objection has been raised on behalf of respondents by Shri R.K. Ojha, Advocate to the effect that the present special appeal

under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is not maintainable inasmuch as the Prescribed Authority, who has decided

the dispute u/s 25(1) of the Act 1860, acts as a Tribunal, having trappings of the Court and therefore, this Special Appeal against the judgment and

order of the learned Single Judge arising out of the proceedings from an order of the Tribunal is legally maintainable in view of the language of

Chapter VIII Rule 5 of the Allahabad High Court Rules 1952. In support of the said submission reliance has been placed upon the Division Bench

judgment of this Court in the case of Jai Prakash Agarwal v. Prescribed Authority (Sub-Divisional Magistrate), Sadan District Deoria and Ors.

(1999)1 UPLBEC 697.

4. The preliminary objection raised on behalf of the appellant is answered by Shri Ashok Khare, learned Senior Advocate assisted by Smt. Anita

Tripathi contending that the Division Bench judgment relied upon by Shri R.K. Ojha in the case of Jai Prakash Agarwal (supra) does not lay down

the correct law. With reference to the Full Bench judgment of this Court in the case of Committee of Management, Shri Kashi Raj Mahavidyalaya,

Aurai and Anr. v. Deputy Director of Education, Vth Region, Varanasi and Ors. AIR 1997 ALL 417, Shri Khare submits that the Prescribed

Authority u/s 25(1) of the Act 1860 cannot be treated to be a Tribunal for the following reasons:

(a) The proceedings before the Prescribed Authority are summary in nature, the order passed therein is not final in as much as it has specifically

been held by the Hon"ble Supreme Court that the order of the Prescribed Authority can always be questioned by way of civil suit.

(b) The Prescribed Authority is not entrusted with inherent judicial powers of the State, inasmuch as it has no authority to;

(i) summon production of witnesses or for ensuring their attendance;

(ii) to direct recovery/production of documents.

5. In support of his aforesaid contentions, Shri Khare has placed reliance upon the judgments of the Apex Court in The Bharat Bank Ltd., Delhi

Vs. Employees of the Bharat Bank Ltd., Delhi and The Bharat Bank Employees" Union, Delhi, Mrs. Sarojini Ramaswami Vs. Union of India and

others, Jaswant Sugar Mills Ltd., Meerut Vs. Lakshmichand and Others,

6. Shri R.K. Ojha in the rejoinder affidavit submits that merely because the proceedings before the Prescribed Authority are summary in nature or

that the order of the Prescribed Authority can be questioned by way of Civil Suit will not mean that finality has not been attached to the order of

the Prescribed Authority so far as the Societies Registration Act is concerned. With regard to the second contention raised by Shri Ashok Khare,

he submits that the power to summon the witnesses as well as to ensure discovery/production of documents are only few of the factors relevant for

adjudicating upon the issue as to whether the authority deciding the dispute answers the description of Tribunal or not. He clarifies that even if the

aforesaid two factors are absent while other relevant factors to be taken into consideration are present, the authority deciding the dispute answers

the description of Tribunal and the aforesaid two factors are to be ignored.

7. We have considered the rival submissions made by learned Counsel for the parties and perused the record.

8. The issue as what is a Court and a Tribunal having trapping of the Court and which authority cannot be held to be Court, has been considered

by the Courts time and again. A Constitution Bench of the Hon"ble Supreme Court in The Bharat Bank Ltd. (supra), examined the issue at length.

The question arose therein as to whether the Industrial Tribunal constituted under the Industrial Disputes Act. 1947 functions as a Court. The

Hon"ble Supreme Court examined the scherne of the Act1947 and considered its earlier judgments and held that as the Industrial Tribunalhas

some of the same powers as are vested in the Civil Court under the provisions of the CPC (hereinafter called the "CPC") while trying a suit in

respect of the matters, particularly - (a) enforcing the attendants of any person and examining him on oath; (b) compelling the production of

documents and material objects; (c) issuing commissions for examination of witnesses; (d) in respect of such other matters as may be prescribed

and every enquiry or investigation by a Tribunal shall be deemed to be a judicial proceeding. The Court further held asunder:

It is difficult to conceive in view of these provisions that the Industrial Tribunal performs any functions other than that of a judicial nature. The

Tribunal has certainly the first three requisites and characteristics of a Court as defined above. It has certainly a considerable element of the fourth

also inasmuch as the Tribunal cannot take any administrative action, the character of which is determined by its own choice.

9. The Court further held that the fact that the Government has to make a declaration for enforcing the decision of the Tribunal final is not, in any

way inconsistent with the view that the Tribunal acts judicially and the Court came to the conclusion that it was a Court.

10. In *Shri Virindar Kumar Satyawadi Vs. The State of Punjab*, the Hon"ble Supreme Court considered the issue as to whether the Returning

Officer deciding the validity of nomination paper under the provisions of the Representation of People Act, 1951 is a Court for the purposes of

Section 195 of the Code of Criminal Procedure or not. The Supreme Court examined the provisions of the Representation of People Act, 1951

and made a distinction between the quasi judicial Tribunal and administrative authority observing that a quasi judicial Tribunal is charged with a

duty to decide disputes in a judicial manner and declare the rights of parties in a definitive judgment. Such decisions involve entitlement of the

parties as a matter of right to be heard in support of their claim and adduce evidence in support thereof. The authorities are under legal obligation

to decide the matter on consideration of the evidence adduced and in accordance with law. The Court held that the Returning Officer has to

examine the nomination form and decide all objections, which may be made thereto. The power was of a judicial nature but as in the said case

parties have no right to insist on producing evidence which they desire and there was no machinery provided for summoning of witnesses or for

compelling production of document in an enquiry and there was no lis in which persons with opposite claims were entitled to have their rights

adjudicated in a judicial manner. The Returning Officer was not functioning as a Court. A Constitution Bench of Hon"ble Supreme Court in

Associated Cement Companies Ltd. Vs. P.N. Sharma and Another, examined the issue as to whether the State Government while exercising the

appellate jurisdiction under Rule 6(6) of the Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952, was a Tribunal. The

Court examined the scheme of the said Rules and held that the requirement of a procedure which are followed in Court and possession of

subsidiary powers which are given to Courts to try the cases before them, are described as Trappings of the Courts, and so, it may be conceded

that these trappings are not shown to exist in the case of the State Government while hearing the appeals under the said Rules. However, the Court

observed as under:

The presence of some of the trappings may assist the determination of the question as to whether the power exercised by the authority which

possesses the said trappings, is the judicial power of the State or not. The main and the basic test, however, is whether the adjudicating power

which a particular authority is empowered to exercise, has been conferred on it by a Statute and can be described as a part of the State's inherent

power exercise in discharging its judicial function.

11. Again a Constitution Bench of the Hon^{ble} Supreme Court in *The Engineering Mazdoor Sabha Representing Workmen Employed Under the*

Hind Cycles Ltd. and Another Vs. The Hind Cycles Ltd., Bombay, considered the similar issue and observed that the Court can compel

witnesses to appear, they can administer oath to them, they are required to follow certain rules of procedure; the proceedings before them are

required to comply with rules of natural justice, they may not be bound by the strict and technical rules of evidence, but. Never the less, they must

decide on evidence adduced before them; they may not be bound by other technical rules of law, but their decisions must, nevertheless, be

consistent with the general principles of law. In other words, they have to act judicially and reach their decisions in an objective manner and they

cannot proceed purely administratively or base their conclusions on subjective tests or inclinations. These are the characteristics if found in an

authority, it can be described as a Court or Tribunal. However, the basic test is that the authority/Tribunal should be constituted by the State and

should be invested with the State's inherent judicial power.

12. A Constitution Bench of the Hon^{ble} Supreme Court in *Indo-China Steam Navigation Co. Ltd. Vs. Jasjit Singh, Additional Collector of*

Customs and Others, considered the issue as to whether the authority u/s 167 of the Sea Customs Act was a Court or Tribunal and came to the

conclusion that while determining such an issue, the Court must examine briefly the procedure prescribed by the Act in relation to the adjudications

mace under its provisions, and as to whether such authorities are constituted by the Legislature and they are empowered to deal with the disputes

brought before them by aggrieved persons. Thus, the scheme of the Act, the nature of proceedings brought before the appellate or revisional

authorities, the extent of the claim involved, the nature of the penalties imposed and the kind of enquiry which the Act contemplates, all indicate that

both the appellate and the revisional authorities acting under the relevant provisions of the Act constitute Tribunal because they are invested with

the judicial power of the State and are required to act judicially.

13. In *Thakur Jugal Kishore Sinha Vs. Sitamarhi Central Co-operative Bank Ltd. and Another*, the question arose as to whether the Assistant

Registrar discharging functions of the Registrar u/s 48 of the Bihar and Orissa Co-operative Societies Act, 1935 was a Court and any contempt

there of could be dealt with under the provisions of the Contempt of Courts Act. 1952. The Court placed reliance upon the judgment of this Court

in *Raja Himanshu Dhar Singh v. Kunwar B.P. Sinha*, 1962 ALJ 57 where the disputes arose with certain resolutions passed by the Hind Provincial

Flying Club, which was referred to the Registrar of the Cooperative Societies under the provisions of the U.P. Cooperative Societies Act, 1965

and the Registrar delegated his power to the Assistant Registrar to arbitrate in the matter. The Assistant Registrar issued an injunction that no

further meeting should be called and the said direction was disobeyed. This Court held that only those arbitrators can be deemed to be Courts who

are appointed through a Court and not those arbitrators who function without the intervention of a Court. The Hon'ble Supreme Court came to the

conclusion that the Assistant Registrar was functioning as a Court in deciding a dispute between the parties.

14. In *Rama Rao and Another Vs. Narayan and Another*, again a question arose regarding the provisions of the Maharashtra Co-operative

Societies Act and the Hon'ble Supreme Court referred to and relied upon the Halsbury's Law of England, wherein it has been observed as

under:

Originally the term "Court" meant, among other meanings, the Sovereign's place; it has acquired the meaning of the place where justice is

administered and, further, has come to mean the persons who exercise judicial functions under authority derived either immediately or mediately

from the Sovereign. All tribunals, however are not courts, in the sense in which the term is here employed, namely, to denote such tribunals as

exercise jurisdiction over persons by reason of the sanction of the law, and not merely by reason of voluntary submission to their jurisdiction. Thus,

arbitrators, committees of clubs, and the like although they may be tribunals exercising judicial functions, are not "Courts" in this sense of that term.

On the other hand, a tribunal may be a court "in the strict sense of the term although the chief part of its duties is not judicial. Parliament is a Court.

Its duties are mainly deliberative and legislative: the judicial duties are only part of its functions.

In Article 310 it is stated:

In determining whether a tribunal is a judicial body the facts that it has been appointed by a non-judicial authority, that it has no power to

administer an oath that the chairman has a casting vote, and that third parties have power to intervene are immaterial, especially if the statute setting

it up prescribes a penalty for making false statements; elements to be considered are (1) the requirement for a public hearing, subject to a power to

exclude the public in a proper case, and (2) a provision that a member of the tribunal shall not take part in any decision in which he is personally

interested or unless he has been present throughout the proceedings.

A tribunal is not necessarily a Court in the strict sense of exercising judicial power because (1) it gives a final decision, (2) hears witnesses on oath;

(3) two or more contending parties appear before it between whom it has to decide; (4) it gives decisions which affect the rights of subjects; (5)

there is an appeal to a Court; and (6) it is a body to which a matter is referred by another body. Many bodies are not courts although they have to

decide questions, and in so doing have to act judicially, in the sense that the proceedings must be conducted with fairness and impartiality.

15. The Court came to the conclusion that the Registrar was not entrusted with the judicial power of the State, therefore, he was not a Court.

16. In Keshab Narayan Banerjee and Others Vs. The State of Bihar, , while determining a similar issue, the Hon"ble Supreme Court referred to

and relied upon a large number of its earlier judgments including Harinagar Sugar Mills Ltd. Vs. Shyam Sundar Jhunjhunwala and Others, and

Canara Bank v. Nuclear Power Corporation of India Ltd. and Ors. 1995 Su (3) SCC 81 and after examining the provisions of the Act involved

herein, came to the conclusion that he lacked the essential attributes of evidence which a Civil Court possesses, thus, considering the nature of

jurisdiction and extent of power conferred on him, undoubtedly it was not a Court, though certain powers of the CPC had also been conferred

upon him.

17. In K. Shamrao and Others Vs. Assistant Charity Commissioner, the Hon"ble Supreme Court while examining the provisions of the Bombay

Public Trusts Act, 1950 in respect of the duties assigned to Assistant Charity Commissioner under the said Act has held that Section 73 of the Act,

he had been given the powers of the CPC to take evidence by affidavits, summoning and enforcing the attendance of any person and examining

him on oath; ordering discovery and inspection, and compelling production of documents, examining witnesses on oath, and issuing commission

etc. and its judgments were held to be final unless set aside by the Court on application or by the High Court in appeal and the jurisdiction of the

Civil Court had been barred in matters, decided by the Deputy or Assistant Charity Commissioner or the Charity Commissioner. It was held that

the Charity Commissioner was a Court for the purposes of the provisions of the Contempt of Courts Act, 1971.

18. In view of the above, the law can be summarised that if a Tribunal has been constituted by the State and it exercises the inherent judicial power

or the State, it is a Court, even if some of the trappings of the Court are not found therein.

19. In the aforesaid legal background following three issues need determination by this Court:

(A) Whether the order passed by the Prescribed Authority u/s 25(1) of the Act 1860 is final so far as the provisions of the Act are concerned or

not;

(B) whether the order of the Prescribed Authority having being held to be subject to the order of suit proceedings has the effect of declaring that

the order is not final between the parties; and

(C) whether in absence of powers to ensure the attendance of witnesses and to direct discovery and production of documents, Prescribed

Authority can be said to be vested with judicial powers of the State so as to hold that it was a Tribunal, having trapping of the Court.

20. Since counsel for the parties have placed reliance upon the same Full Bench judgment of this Court in the case of Committee of Management,

Shri Kashi Raj Mahavidyalaya (supra), it is appropriate to refer to law as explained under the judgment qua maintainability of Special Appeals

under Chapter VIII Rule 5 of the Allahabad High Court Rules 1952. In paragraph 9 of the said judgment it has been held as follows:

The rationale behind exclusion of special appeal in respect of a decree or order made by a court is that once a decision has been rendered by a

competent court of jurisdiction, one challenge in the High Court against such decree or order should be enough, so far as the High Court is

concerned and finality should attach to that decision even if the decision has been rendered by a learned Single Judge of the High Court. Since the

tribunals also discharge similar functions of deciding disputes acting judicially, as is done by the courts and they enjoy the same status as the Courts

do, as the tribunals have also been entrusted with inherent judicial powers of the State, there is no reason why the same reason should not apply

for exclusion of special appeal in respect of order of a tribunal. Therefore, a tribunal within the meaning of Rule 5 must be an authority which is

required to act judicially and which has been entrusted with the inherent judicial powers of the State.

21. Reference may also be made to paragraph 17 of the aforesaid Full Bench judgment wherein after referring to the judgment of the Apex Court

in the case of Jaswant Sugar Mills Ltd. (supra) and Mrs. Sarojini Ramaswami (supra) it has been laid down:

It would appear that to determine the question whether an authority is a tribunal, the nature of the order passed by the authority and also the

characteristic of the body which is called upon to adjudicate upon the matter in dispute are material considerations. Even a judicial authority may, in

a given situation, act in administrative or executive capacity. In that situation the authority would not be a tribunal. Likewise an administrative

authority, even if required to act judicially would not be a tribunal if it is not invested with the inherent judicial power of the State.

22. The Full Bench of this Court thereafter proceeded to hold that an order passed u/s 16-A (7) lacks finality or conclusiveness in nature which is

associated with the decisions of Court and Tribunal, therefore, the special appeal against an order u/s 16-A (7) has been held to be maintainable.

23. The Division Bench of this Court in the case of Jai Prakash Agarwal (supra) after examining the said Full Bench judgment of this Court held as

under:

Now if the aforesaid test is applied to the prescribed authority u/s 25 of the Act, there remains no doubt that it is a tribunal. u/s 25 Prescribed

Authority decides important dispute of election and continuance in office of an office-bearer, which is essentially a dispute of civil nature. The order

passed by the Prescribed Authority though has not been said to be final in specific words but Sub-section (2) of Section 25 of the Act specifically

provides that 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 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 officers 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. Thus the provisions contained in Sub-

section (2) of Section 25 of the Act provide that if the election is set aside by the Prescribed Authority a fresh election is required to be held by the

Registrar. This is sufficient indication that the order is final. The Prescribed Authority is also required to hear and decide in summary manner any

doubt or dispute in respect of the election. Thus the order has to be passed after hearing parties and giving them opportunity to adduce evidence.

From the provisions contained in proviso, it is clear that he decides the dispute in exercise of inherent judicial powers of the State vested in him by

the notification.

Learned Counsel for the appellant submitted that the order of the Prescribed Authority is not final and suit can be filed challenging the same, hence

he decides the dispute administratively and not judicially. We are not prepared to accept this submission. Prescribed Authority u/s 25 of the Act

decides the dispute judicially and in exercise of the inherent judicial powers of the State. This position is not in any way diluted because against the

order of the Prescribed Authority a suit may be filed in the Civil Court. If this test is accepted then no Court can exercise inherent judicial power of

the State because orders can be challenged in appeal or revision or before this Court under Article 226 of the Constitution. Finality of the order

has to be judged from the effect of it on the rights of parties, if the order is not challenged further. In such a situation, it should finally resolve the

dispute between parties. In our considered opinion, the Prescribed Authority is a tribunal and possesses the trappings of the Court. A Division

Bench of this Court in All India Council and another (supra), held in paragraphs No. 6 and 7 as under:

The petitioners are clearly right Section 25 of the Societies Registration Act as amended by the State Legislature enacts a comprehensive code and

creates a designated forum or tribunal for adjudication in a summary manner of all disputes or doubts in respect of the election or continuance in

office of an office-bearer of such society. It also provides the grounds upon which the election of an office-bearer can be set aside. The procedure

to be followed for filling up of the vacancies arising from the decisions rendered by the Prescribed Authority under Sub-section (1) of S. 25 has

also been laid down [Section 25(2)].

It will therefore, be seen that insofar as disputes or doubts in respect of the election or continuance in office of the office-bearers of a society

registered in Uttar Pradesh are concerned the Legislature has created a specific forum and laid down an exhaustive procedure for determination of

the same u/s 25. There is no other provisions, express or otherwise, providing for determination of such disputes specifically. It is settled law that

where, as here, the legislature creates a specific forum and lays an exhaustive procedure for determination of a particular class of disputes in

respect of matters covered by the statute. Such disputes can be determined only in that forum and in the manner prescribed thereunder and not

otherwise. If, therefore, a dispute is raised with regard to the election or continuance in office of an office-bearer of a society registered in Uttar

Pradesh, the same, has to be decided only by the Prescribed Authority u/s 25(1) and not by the Registrar, save, of course, to the decision of the

Prescribed Authority being subject to the result of a civil suit.

In case of Prabhat Mishra and others (supra) relied on by the learned Counsel for appellant, the learned Single Judge was examining the question

whether Section 25 has taken away the jurisdiction to adjudicate the dispute relating to election of office-bearers of the society and in that

connection, the learned Single Judge held that the suit is maintainable. The question whether the Prescribed Authority is a tribunal or not was not

involved before the learned Single Judge and the judgment does not help appellant in any manner. What we have held above, we also find support

from the Division Bench judgment of his Court in case of Sudarsan Singh Bedi (supra). In fact by substituting Section 25 in the Act in present form,

legislature has constituted an election tribunal for resolving the election disputes of societies registered under the Act and disputes regarding

continuance of the office-bearers of such societies, though nomenclature given is Prescribed Authority. the jurisdiction of this tribunal can be

invoked either under a reference made by Registrar or by 1/4 members of general body of society, as provided u/s 25(1) of the Act. Individual

members of the society have been, it appears, intentionally excluded and have not been given right to invoke the jurisdiction of tribunal, only to

avoid multiplicity of proceedings and frivolous litigation. Considering the fact that generally societies consist of large number of members such a

step was very necessary. Considered from all possible angles the conclusion, which appears just and proper, is that prescribed authority is a

tribunal.

24. We may, add few of our reasons also for the conclusion that:

(A) The order passed by the Prescribed Authority passed u/s 25(1) of the Act 1860 is final so far as the Act of 1860 is concerned. It may be

recorded that once an order u/s 25(1) is passed by the Prescribed Authority recognising a set of elections, it automatically follows that the list of

office bearers so recognised has to be registered u/s 4 of the Act 1860 by the Assistant Registrar. Similarly, if the elections are disapproved any list

of office bearers earlier registered u/s 4 of the Act, would lose its sanctity by operation of the order passed u/s 25(1) of the Act 1860. The Act

1860 does not contemplate any appeal or revision against the order of the Prescribed Authority passed u/s 25(1). The right to seek renewal of the

Registration of the Society to make amendments in the bye-laws etc., can be affected by the office bearers those elections are approved by the

Prescribed Authority u/s 25(1) of the Act of 1860. Therefore, it cannot be disputed by any stretch of imagination that the order passed u/s 25(1)

of the Act 1860 in respect of right to be the office bearers of the Society is final and conclusive so far as the Act of 1860 is concerned.

(B) Merely because the order of the Prescribed Authority being subject to the orders of the Civil Court would not mean that the order has not

attained finality so far as the Statute under which order has been passed. Civil Suits under the provisions of CPC are maintainable in respect of civil

wrongs, except when prohibited u/s 9 of the CPC or by the provisions of Specific Relief Act or by a statutory enactment express or implied in that

regard. Therefore, merely because an order of the Prescribed Authority u/s 25(1) can be challenged by way of civil suit, will not mean that the

order has not attained finality so far as the Act 1860 is concerned.

(C) The power of ensuring attendance of witnesses and to direct for discovery/production of documents, though not conferred upon the

Prescribed Authority, suffice are only few of the indices relevant for deciding as to whether the authority has exercised judicial powers of the State

or not. They are not conclusive in themselves. It is settled legal proposition that even if few of the indices qua trappings of the Court are present the

authority statutory vested with a judicial power to decide a dispute between two persons as a part of states inherent power it exercises judicial

functions so as to answer the description of a Tribunal having trappings of the Court.

25. We are in full agreement with the judgment and order of the Division Bench of this Court in the case of Jai Prakash Agarwal (supra) and that

the Full Bench of this Court has not laid down any law to the controversy in the case of Sri Kashi Raj Mahavidyalay, Aurai (supra) and therefore,

hold that the present special appeal which has been filed under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 against the judgment

and order of the learned Single Judge arising out of an order of the Prescribed Authority u/s 25(1) of the Societies Registration Act is legally not

maintainable.

26. The Special Appeal is dismissed as not maintainable.

27. Interim order, if any, stands vacated.