

Hon'ble Alok Singh, J.

Mr. P.C. Maulekhi, Advocate for the petitioner.

Mr. R.C. Arya, Standing Counsel for the State/respondent nos. 1 to 4.

Mr. Navnish Negi, Advocate for respondent nos. 5 & 6.

Mr. Hem Chandra Joshi, Advocate for intervener.

CLMA No. 7195 of 2015

The only grievance of the applicant is that despite completion of the tenure of the Committee of Management, elections are not being held.

Applicant seeking impleadment, if so advised, may approach the appropriate Forum for issuing direction to hold elections of Committee of Management within fixed time, therefore, impleadment application is rejected with the above observation.

Present petition is preferred assailing the orders dated 28.10.2013 and 30.11.2013, whereby the membership to the petitioner was declined on the ground that the petitioner was held guilty for the offence punishable under Section 406 I.P.C. and was sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs. 2000/-. Therefore, as per Clause 4 & 5 of the Scheme of Administration, he cannot be inducted as member and Demand draft submitted by the petitioner towards the membership fee was returned to the petitioner.

Undisputedly, against the judgment and order dated 17.12.2012, passed by the Trial Court, convicting and sentencing the petitioner for the offence punishable under Section 406 I.P.C., Criminal Appeal No. 2 of 2013 was preferred before the Sessions Judge, Pauri Garhwal, which was taken up for preliminary hearing on 10.01.2014 by the Appellate Court; Appellate Court vide order

dated 10.01.2014 was pleased to stay the operation and effect of the judgment dated 17.12.2012 and was further pleased to enlarge the petitioner on bail.

Stay of the impugned judgment, convicting and sentencing the accused would amount to suspension of the conviction and sentence. Therefore, during the pendency of the appeal, it cannot be said that the petitioner was held guilty for the offence punishable under Section 406 I.P.C., involving moral turpitude.

Consequently, writ petition succeed and is allowed. Impugned orders, Annexure nos. 1 and 2 to the writ petition are hereby quashed.

Mr. Navnish Negi, learned counsel appearing for the respondent nos. 5 and 6, at this stage, fairly submits that afresh decision shall be taken on the request of the petitioner pertaining to the membership.

CLMA No. 513 of 2014 also stands disposed of accordingly.

(Alok Singh, J.)

30.06.2015

JM