



2026:AHC-LKO:45053-DB

**JHIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - C No. - 7865 of 2025**

Sunil Kumar Jain And 3 Others

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Urban Development  
Deptt. U.P. Lko. And 3 Others

.....Respondent(s)

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|---------------------------|-----------------------------------------------------------------------------------------------------------|
| Counsel for Petitioner(s) | : Akash Shukla, Saumya Srivastava                                                                         |
| Counsel for Respondent(s) | : C.S.C., Adnan Hashmat, Hari Om<br>Pandey, Kumar Ayush, Namit Sharma,<br>Ratnesh Chandra, Ravindra Kumar |

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**Court No. - 5**

**HON'BLE ALOK MATHUR, J.  
HON'BLE AMITABH KUMAR RAI, J.**

1. Heard Shri Akash Shukla, learned counsel on behalf of petitioners, learned Standing Counsel representing the State-respondent No.1, Shri Kumar Ayush, learned counsel on behalf of respondent No.2 and Shri Hari Om Pandey, learned counsel on behalf of respondent No.4.

2. The present writ petition has been filed by four persons claiming themselves to be the residents of the Sarvoday Apartment, Sulabh Awas, Gomti Nagar Vistar, Sector-1, Lucknow and are aggrieved by the decisions taken by respondent No.4, i.e., Sarvoday Sulabh Apartment Residents Welfare Association (hereinafter referred to as "**R.W.A.**").

3. It has been submitted that respondent No.4 has taken arbitrary decisions, including the decision to close six gates out of the ten gates, affecting the movement of the residents and further that illegal parking is covering more than 50% of the road, resulting in a situation of traffic congestion within the premises due to the arbitrary decisions of the R.W.A.

4. It has further been submitted that parking fees are being charged by the R.W.A. and the vehicles of persons who do not pay the parking fees are clamped and locked and Rs.500/- per day is extracted from the residents and their guests. It has further been stated that private cranes are called by the R.W.A. to remove the vehicles which are parked in the society and whose

owners are not willing to pay the alleged illegal parking fees. Similar other decisions of the R.W.A. have also been challenged in the present writ petition. Apart from above, the petitioners have also challenged the very constitution of the R.W.A., stating that the same has been constituted without holding any elections.

5. In the counter affidavit filed by respondent no.4, it has been stated that the said society was registered on 29.03.2023 under the Society Registration Act, 1860 and further that elections were held on 12.02.2023 and it was reconstituted thereafter. The elections were duly intimated to the residents of society, who duly acknowledged the same and the society was also registered thereafter. Accordingly, it cannot be said that respondent No.4 is functioning without any duly held elections and the preliminary objection of the petitioners is rejected. It has been further stated that petitioners no.1 and 2 are residing in Gomti Nagar and using the premises for commercial purposes for which notices were issued by L.D.A. to them for violation of Section 16 of U.P. Urban Planning and Development Act, 1973.

6. Considering the remaining grievances raised by the petitioners, we find that once an elected body is in place and, as per the bye-laws, it is in charge of managing all the common areas, repairs and grant of common facilities to the residents, then the R.W.A. is fully empowered to take all the decisions in accordance with the bye-laws. Needless to say, issues pertaining to parking in the common areas and preventing illegal parking in such common areas are issues which can certainly be dealt with by the R.W.A. In case any person does not adhere to the resolutions or directions of the R.W.A., it would still have the power to take recourse to all the legal remedies at its command to implement its decisions. Once parking areas have been notified, then certainly any person or guest who parks a vehicle in an area other than the places designated for parking can certainly be said to be indulging in unauthorized parking and appropriate action can be taken by the R.W.A. in this regard.

7. As far as the closing of the gates is concerned, it has been stated that six out of the ten gates have been closed. This affects the security arrangements for all the residents of the R.W.A. and the number of operational gates certainly has to be limited by the number of personnel available to manage

such gates and also to monitor all persons entering and exiting the society. It is within the discretion of the R.W.A. to take appropriate decisions on these issues. Primarily, such decisions should be taken unanimously, but such decisions should certainly be in the interest of the majority of the members of the Association. The question pertains to whether such decisions can be interfered with under Article 226 of the Constitution of India.

**8.** Learned counsel for the petitioners submits that their fundamental right to free movement as protected under Article 19(1)(d) is being adversely affected. He has submitted that by closing six of the ten gates, the fundamental rights of the petitioners as protected under Article 19(1)(d) have been violated.

**9.** Considering the arguments advanced by learned counsel for the petitioners, we find that the reasonable restrictions can be imposed even by the State as per Article 19(5) of the Constitution of India and merely because a few gates have been closed, the rights of the petitioners under Article 19(1)(d) are certainly not affected. Apart from the above, the rights of the petitioners as apartment owners have been duly protected under Section 5(5) of the Uttar Pradesh Apartment (Promotion of Construction, Ownership and Maintenance) Act, 2010 (hereinafter referred to as "**Act, 2010**"). The association of the apartments owners has been given legal status under Section 14 of the Act, 2010, whereby an association of apartment owners, which is also popularly known as the R.W.A. shall be formed and it shall be the joint responsibility of the promoters and the apartment owners to form such an association, which shall also be registered. Section 22 of the Act, 2010 further empowers the R.W.A. to take action against any apartment owner who violates or threatens to violate the obligations of apartment owners. Accordingly, we find that sufficient teeth have also been given to the R.W.A.

**10.** In the aforesaid circumstances, we find that it is the collective responsibility through the R.W.A. to manage the affairs of the society. It may be possible that the said decisions may not be acceptable to certain individual apartment owners and such disputes certainly cannot be raised in a writ petition under Article 226 of the Constitution of India. Such disputes ordinarily should be resolved within the R.W.A. itself, which is a democratic

body and there should be sufficient space for giving due notice and considering the concerns of persons having separate ideas and views which are contrary to the resolution passed by such association.

**11.** Upon perusal of Act, 2010, we find that Section 22, sub-section (2), provides a remedy of appeal to the competent authority, i.e., the Development Authority (in the present case, the Lucknow Development Authority), against an order passed under sub-section (1) of Section 22 by the Association of Apartment Owners, i.e., the R.W.A. However, there is no express remedy provided under the Act, 2010 which can redress the grievances raised herein in the instant writ petition, whereby the petitioners have raised concerns over the closure of gates, charging of excessive parking fees, traffic congestion and the unhygienic conditions prevailing in the campus. We are of the view that there should be some grievance redressal mechanism/system for such grievances/disputes.

**12.** Accordingly, this aspect of the matter may be placed before the State Government to be considered and pass appropriate orders under Section 27(1) of the Act, 2010 for making provisions for the resolution of disputes by the competent authority of the nature which have been brought before this Court.

**13.** In light of the above, this Court is not inclined to interfere in the present writ petition. Accordingly, the petition stands **dismissed**.

**(Amitabh Kumar Rai,J.) (Alok Mathur,J.)**

**July 9, 2026**  
Shubhankar