
(2008) 09 GAU CK 0049
In the Gauhati High Court

Abu Sayed Khan

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 26-09-2008

Acts Referred:

Citation : (2009) 3 GLR 21 : (2009) 1 GLT 357

Hon'ble Judges : Jasti Chelameswar, C.J.;Hrishikesh Roy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hrishikesh Roy, J.—Heard Mr.. B.D. Konwar, learned Counsel for the appellant/writ petitioner. Also heard Mr. V.M. Thomas, learned standing counsel appearing for the official respondents.

2. The appellant, who was nominated as the President of the Managing Committee of Jordanga Kuchnimara Arabic College by notification dated 29.5.2003 for a period of 3 years, had filed Writ Petition No. WP(C) 4029/06 to challenge the order dated 7.8.2006 passed by the Govt. whereby the Govt. order dated 19.7.2006 according approval (Annexure-P6) for reconstitution of the Managing Committee of the Madrassa for a fresh period of 3 years w.e.f 30.5.2006 was kept pending. By the 2nd re-constitution order dated 19.7.2006 the writ petitioner was again nominated as the President of the Managing Committee. This was on the basis of an application made on 23.5.2006 by the writ petitioner for extending the period of the Managing Committee constituted on 29.5.2003.

3. By the impugned judgment and order dated 22.3.2007, the learned Single Judge found that the term of the Managing Committee constituted for 3 years by notification dated 29.5.2003 has ended on 29.5.2006 and after expiry of the term of the earlier Managing Committee, there cannot be an order granting extension of the term of the said Committee. The learned Single Judge also found that non-completion of construction of a building, which was made the

basis on which the writ petitioner sought extension of term of the Managing Committee by his representation dated 23.5.2006, cannot be a ground for extension of the term of the Managing Committee.

The learned Single Judge also found that the court had not permitted reconstitution of Managing Committee by any of its orders and accordingly held that there cannot be an extension in favour of the petitioner in violation of the rules and that too after expiry of his earlier term. On the basis of aforesaid reasoning respondents were directed to reconstitute the Managing Committee as per rules and till reconstitution of new Managing Committee, it was directed by the learned Single Judge that the departmental authorities would run the affairs of the College.

4. It is seen that the Managements of Madrassas are governed by the Assam Madrassa Education (Provincialisation) Act, 1995 ("the Madrassa Act"). It is also seen that the Government has also notified certain guidelines for constitution of the Managing Committee of the Government Aided Senior and Title Madrassas in the State. No statutory rules however appears to have been framed for the purpose.

5. The provisions of the Act and the guidelines provide for nomination of members to constitute Managing Committees. Powers are also available to dissolve and reconstitute such Managing Committees. From the said provisions we do not find that any enforceable legal right accrues in favour of the writ petitioner to allow him to continue as the President of the Managing Committee, even after expiry of the 3 years stipulated term of the Managing Committee notified on 29.5.2003.

6. Mr. V.M. Thomas, learned standing counsel for the Education Department submits that although this case pertains to constitution of Managing Committee of an Institution described as a College, in fact, the concerned Institution is not a college but is a Senior Madrassa within the meaning of Section 2(p) of the Madrassa Act.

The learned departmental counsel further submits that it is within the domain of the respondent authorities to constitute the Managing Committees of the Institutions and since the term of the Managing Committee of which the writ petitioner was President has already expired on 29.5.2006, the writ petitioner could not have claimed extension of his term on the ground that the construction of a building has remained incomplete.

7. We find that the writ petition has been dismissed by the learned a Single Judge by concluding that/the writ petitioner cannot claim to continue as President because of non completion of construction of a building.

We further find that when a power is conferred on an authority to constitute a Managing Committee of Educational Institution, the authority concerned should also be understood to possess a right to reconstitute or further constitute such

Managing Committees.

In the present case, the term of the Managing Committee of which the writ petitioner was the President has expired on 29.5.2006. Therefore, the authorities would be well within its rights to constitute a fresh Managing Committee and/or decide not to permit the earlier committee or its members to continue for a fresh term.

The appellant herein has not been able to establish that he has an enforceable legal right to carry on as the President of the Madrassa in question and under such circumstances, we are not inclined to interfere with the dismissal of the writ petition through which, the writ petitioner sought to enforce a claim for continuance of a Managing Committee, of which he was the President.

8. In view of the above discussions, we find no merit in the present appeal and the same is accordingly dismissed.