

(1991) 12 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 25955 of 1990 and Writ Petition No"s. 26346 of 1990 and 2982 of 1991

Amvika Prasad Singh

APPELLANT

Vs

Prescribed Authority, Basti, (Under U.P. Societies Registration Act-Act No. 11 of 1984)-Cum-Sub-Divisional Magistrate Haraiya and Others

RESPONDENT

Date of Decision : 17-12-1991

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Uttar Pradesh Intermediate Education Act, 1921 — Section 16(A)(7)
Uttar Pradesh Societies Registration Act, 1860 — Section 25(1), 3A, 3A(3)

Citation : (1991) 2 AWC 625 : (1992) 1 UPLBEC 262

Hon'ble Judges : M.L. Bhat, J

Bench : Single Bench

Advocate : S.N. Singh and R.N. Singh, for the Appellant;

Judgement

M.L. Bhat, J.—These are three writ petitions-No. 25955/90, 298291 and 26346/90. The former two petitions are filed by one Ambika Prasad Singh and the latter is filed by the Committee of management, which is Respondent in other two writ petitions.

2. It is necessary to give resume of facts of each petition separately.

3. in writ petition No. 25955 of 1990 Ambika Prasad Singh v. The Prescribed Authority and Ors. the impugned order dated 18-9-1990, which is Annexure 3 to the writ petition passed by the Prescribed Authority is prayed to be quashed" By a writ of mandamus it is prayed that the Respondent No. 1 be restrained from interfering with the powers and functions of the Petitioner as Manager of the existing committee of management of the institution in question. The Petitioner's case in the writ petition is that he was functioning as Secretary-cum-Manager of the society of the institution, which was for the first time registered in the year 1960. The said society runs an Intermediate College. The committee of

management of the society and the committee of management of the College is one and the same body. The election to the committee of management of the institution is said to have taken place in 1980. The Petitioner was elected as Manager and one Siya Ram Singh was elected as president. The Assistant Registrar is said to have renewed the registration of the society on 24-4-1982 for a period of two years. A copy of the registration certificate is Annexure 1 to the writ petition. However, by virtue of the management effected in the Societies Registration Act. in the year 1984 registration of a society was to remain valid for five years. Therefore, the renewal certificate by operation of law was valid up to 23-4-1987. Under the new Scheme of Administration the term of the committee of management was fixed as three years. Before the amendment its term was five years Old committee of management was to remain in office till the new committee of management of the society was elected The election of the Committee of management of the College was held on 25-5-1986. The Petitioner was elected as Manager and one Sri Bhagwati Prasad Dwivedi was elected as president. The Petitioner had submitted fresh papers before the Assistant Registrar for renewal of the society which was done in the year 1987. It is alleged that Sri Siya Ram Singh, for his alleged activities against the interest and welfare of the society, was removed from the membership of the society by a resolution dated 2-2-1986. The said Siya Ram Singh is said to have prepared some forged election proceedings claiming himself to be elected as Manager of the committee of management of the institution The election is said to have been held by him on 18-5-1986. He also prayed for renewal of the registration of the society in his favour The Assistant Registrar had before him two rival claimants for renewal of registration, therefore, he referred the matter to the Prescribed Authority (Sub Divisional Magistrate) Hariya, District Basti. The Sub Divisional Magistrate is said to have held on 18-9-1990 that the election held by Sri Siya Ram Singh was valid and the committee of management headed by him was a duly elected committee of management. The said order is challenged in this writ petition on the ground that the Sub-Divisional Magistrate (Prescribed Authority) has erred in passing the impugned order. He has decided an infructuos dispute and has failed to decide the real controversy. It is also stated that the committee of management, which has to remain operative for three years; alter the expiry of three years he could not pass order in favour of Respondent No. 4 (Siya Ram Singh). In December, 1989 the Deputy Director of Education passed an order asking the District Inspector of Schools to get fresh election of the committee of management held. It is stated that the finding given by the Prescribed Authority that the registration of the society had expired on 23-4-1984 and the proceedings and the actions of the committee of management after that date were invalid is totally misconceived and not based on any law. The expiry of registration shall not invalidate the actions of the committee of management of the institution. The Prescribed Authority's finding about the enrolment of new members and their participation in the election is also bad. The Petitioner's committee is said to be in effective control of the management of the institution.

4. In their counter affidavit the Respondents have stated that only 33 life members were made till 18-5-1986. No new member was admitted by the committee of management in the society on the basis of the list of members, initially framed. The registration of the society was done. Before 1981 the terms of the committee of management was five years. The old committee of management was to continue until the new committee of management was elected. The last election was held in 1980 in which the Petitioner was elected as Manager and the Respondent was elected as president. This committee of management continued up to December, 1985. According to the scheme of administration the president was authorised to conduct the election. He therefore, sent an election agenda to all the 33 life members fixing 18-5-1986 as the date for the meeting of the general body. On 18-5-1986 in pursuance of the election agenda election was held in which Sri Vishwanath Singh was elected as president and the Respondent was elected as Manager; Copy of the resolution is annexed as Annexure 2 to the counter affidavit. This meeting is said to have been attended by 25 members. The Petitioner was precluded from attending the meeting of the general body for six years on the basis of serious charges against him. He is said to have filed a civil suit against the resolution dated 18-5-1986. Necessary papers of the election were sent to the District Inspector of Schools and the Assistant Registrar, Firms, Societies and Chit, Gorakhpur on 19-5-1986 for registration of the executive committee of the society. On 25-5-1986 the Petitioner is said to have prepared a forged list of members of the committee of management headed by himself and in this forged election those members were shown office bearers of the committee of management who are not real life members of the general body.

5. It is stated that neither the registration fee was deposited by the Petitioner nor the renewal certificate was obtained by him from the office of the Assistant Registrar about his society. The scheme of administration is said to have been amended in the year 1982. The term of committee of management became three years. There was No. amendment in the year 1985 in the scheme of administration The claim of the Petitioner that the registration was done in 1987 is denied. The committee of management elected on 18-5- 1986 was not allowed to function for three years and three months, as much the term of the committee of management will start from the day it takes over charge and starts functioning Reliance is placed on a Division Bench judgment dated 26-4-1989, a copy where of is filed as Annexure 3 to the counter affidavit. The orders passed by the Dy. Director of Education, VII Region Gorakhpur are said to be based on misrepresentation of facts" Charges are levelled against the Petitioner for embezzlement of funds. Therefore, it is stated that the Petitioner is not entitled to any relief under Article 226/227 of the Constitution of India. The renewal certificate is said to have been issued in favour of the Respondent on 26-10-1990, therefore, the writ petition is said to be not maintainable in the present form.

6. In writ petition No. 2982 of 1991 Ambika Prasad Singh v. Deputy Director of

Education and Ors. the Petitioner has prayed for quashing of the impugned order dated 28-1- 1991 (Annexure 6 to the writ petition) passed by the Respondent No. 2 and it is also prayed that the Respondent No. 3 may be restrained from interfering with the management of the institution in question during the pendency of the writ petition.

7. The facts giving rise to this petition are that the society is having a management committee of which the Petitioner (Ambika Prasad Singh) is the Secretary-cum-Manager. The society is running an Intermediate College known as Udhogik Vikas Inter College, Bihara Bazar, P.O. Maharajganj, district Basti. hereinafter referred to as "the College which is duly recognised and is governed by the U.P. Intermediate Education Act of 1921 The committee of management of the society is the committee of management of the institution also The society was registered in the year 1960 for the first time. The term of the Committee of management of the society is five years. Under the new scheme of administration the term of the committee of management of the institution was fixed as three years. As per the scheme of administration the election of the committee of management of the institution as also of the society was held on 25-5-1986 Petitioner Ambika Prasad Singh was elected as manager and one Bhagwati Prasad Dwivedi as its president. The signatures of the Petitioner were also attested by the District Inspector of Schools as Manager of the committee of management of the institution. One Sri Siya Ram Singh, who was the former president of the managing committee, started acting against the interest of the society for which he was removed from the membership of the general body of the society by a resolution dated 2-2-1986. The said Siya Ram Singh had set up a claim that he was Manager of the committee of management of the institute ion and was elected in the election held on 18-5-1986. The dispute was referred to the Assistant Registrar, who referred the same to the Prescribed Authority u/s 25(1) of the Societies Registration Act the Prescribed Authority gave a finding in favour of the said Siya Ram Singh. The said order is challenged in another writ petition which is also being decided by this judgment (writ petition No. 25955 of 1990).

8. It is contended that the term of the committee of management had come to an end on 24-5-1989 and the committee of management which was elected in the year 1986 had No. right to continue as per the new scheme of administration. The matter came up before the Deputy Director of Education u/s 16(A)(7) of the U.P. Intermediate Education Act, 1921. The Deputy Director of Education on consideration of facts held that the term of the committee of management had expired, therefore, he directed the District Inspector of Schools by his order dated 18-12-1989 to hold fresh election of the committee of management and till the election is held to look after the management of the institution and manage the affairs there of. The District Inspector of Schools is said to have taken over charge of the institution and initiated election proceedings. The District Inspector of Schools is said to have started preparation for holding of election He also verified the list of members, who could participate

in the election, after hearing both the sides. Being aggrieved against the list of members the Respondent No. 3 (Siya Ram Singh) has filed writ petition No 26346 of 1990 in which ad interim stay was granted by the Court. This writ petition is also being decided by this judgment. As a result of the interim order in writ petition No 26346 of 1990 the election process has been stopped. Strangely enough the District Inspector of Schools has passed an order on 28-1-1991 recognising the alleged committee of management headed by Sri Siya Ram Singh as a valid committee of management and authorised him to act as manager till the election was held. The Petitioner challenges the said order which is impugned in this writ petition on the ground that the order of the District Inspector of Schools recognising Sri Siya Ram Singh as manager of the institution is said to be illegal, against the provisions of the scheme of administration and the order directing him to manage the institution till the election was held is said to be bad. The said direction is against the order of the Deputy Director dated 18-12-1989. The District Inspector of Schools is not vested with the power to make interim arrangement with regard to the management of the institution. The order authorising the Respondent No. 3 Sri Siya Ram Singh is totally illegal and against the admitted position set up by the parties.

9. In the counter affidavit filed by Sri Siya Ram Singh it is stated that the Petitioner was never elected as Secretary-cum-Manager of the committee of management by the valid members of the institution registered under the Societies Registration Act. The Respondent No. 3 has set up a claim that he was a duly elected Manager of the committee of management. The Prescribed Authority had also found him validly elected Manager of the committee of management by an order dated 18-9-1980. It is stated that the last election of the committee of management was held on 18-5-1986 in which the Respondent No. 3 was elected as Manager. The validity of this election was disputed by the Petitioner but the Prescribed Authority decided the dispute in favour of the Respondent No. 3. In view of the dispute the Respondent No. 3 was not allowed to function and the District Inspector of Schools was managing the affairs of the institution. Now the dispute has been decided and the Respondent No. 3 has been permitted to function as Manager with effect from January, 1991, his term will therefore, expire in January, 1994. The election dated 25-8-1986 set up by the Petitioner is said to be void. The dispute was referred to the Prescribed Authority which held the election dated 18-5-1986 to be valid. The District Inspector of Schools has thereafter permitted the Respondent No. 3 to continue to function as Manager for three years with effect from 25-1-1991. The order of the District Inspector of Schools is said to have been obtained by misrepresenting the facts that the term of the committee of management would expire after three years from the date of it starts functioning. Since the committee of management has started functioning from 25-1-1991, therefore, its term has not expired as yet. No fresh election can be held because the term of the committee of management headed by the Respondent No. 3 has not expired. The attestation of signatures by the District Inspector of Schools in favour of the

Respondent No. 3 is said to be valid.

10. To the counter affidavit filed by the Respondent No. 3 rejoinder affidavit has also been filed In the rejoinder affidavit the pleas raised by the Respondent No. 3 are refuted and what is stated in the writ petition is reiterated and it is stated that the term of the committee of management would only be three years. Even if it is assumed that the election was held on 18-5-1986. The term of the said committee of management would expire "in 1989. It is also stated that on the basis of the order of the Prescribed Authority the Respondent No. 3 cannot claim himself to be the elected manager of the committee of management because the Prescribed Authority had No. jurisdiction to decide such a dispute The attestation of signature of the Respondent No. 3 by the District Inspector of Schools is said to be illegal.

11. In writ petition No. 26346 of 1990 filed by the Committee of Management through Sri Siya Ram Singh the dispute is regarding the list of members of the society who are eligible to participate in the election it is contended that the list was framed by the District Inspector of Schools on 21-9-1990. The Petitioner Siya Ram Singh there upon objected to the list of members which was said to be correct, inasmuch as some members, who could not participate in the election, were enrolled as members. Accordingly the District Inspector of Schools is said to have changed the list, on 9-10-1990 immediately thereafter the Respondent No. 3 in the writ petition (the Petitioner in other two writ petitions Sri Ambika Prasad Singh) appeared before him with the plea that the original list was correct and that could not be changed. The District Inspector of Schools restored the original list dated 21-9 1990 by his order dated 12-10-1990 by rescinding the order dated 9-10-1990. The order dated 12-10-1990 is impugned in the writ petition because it has the effect of keeping the original list of members dated 21-9-1990 alive. The grounds on which the said order is impugned are that the District Inspector of Schools had No. jurisdiction to review his own order. The order dated 9-10-1990 is said to have been passed on careful consideration of facts. The impugned order dated 12-10 1990 is said to be arbitrary and violative of the principles of natural justice.

12. Counter affidavit is filed to this writ petition by the Respondent No. 3. It is stated that the dispute referred to the prescribed authority was in respect of the society and not in respect of the committee of management of the institution. It is stated that in the election dated 18 5-1986 Respondent Ambika Prasad Singh was elected as Manager. The order dated 18-9-1990 passed by the prescribed authority is said to be illegal. The Deputy Director of Education had directed the District Inspector of Schools to get the election of the committee of management of the institution held in accordance with the scheme of administration as the term of the managing committee had already expired. The list of members submitted by the Petitioner Sri Siva Ram Singh was absolutely incorrect. The list which was verified by the District Inspector of Schools on 21-9-1990 was correct as it was prepared after giving full opportunity to the Petitioner Sri Siya Ram

Singh as also to the Respondent this list was final and could not be challenged. The Petitioner's representation against the said list was misconceived and the District Inspector of Schools had No. power to review the same or entertain the representation. The District Inspector of Schools has committed manifest illegality by reviewing his order on 9-10-1990 by which the list of members dated 21-9-1990 was rejected. The order dated 9-10-1990 was absolutely invalid and illegal. The Respondent Ambika Prasad Singh filed a representation against the said order. The District Inspector of Schools was apprised of the correct position and he passed an order on 12-10-1990 by which the order dated 21-9-1990 was upheld.

13. I have heard the learned Counsel for the parties and perused the record of the writ petitions also. The writ petition No. 25955 of 1990 is being taken up first for decision.

14. It is revealed from the facts of the case that the Petitioner's version is that the election to the committee of management and also to the society was held on 25-5-1986. In this election the Petitioner is said to have been elected as manager and Sri Bhagwati Prasad Dwivedi as president. After the election the papers were sent to the Assistant Registrar for renewal of registration of the society, which was done in the year 1987. It is also important to note that the committee of management of the institution and the committee of the society is one and the same body. The Respondent has set up that on 18-5-1986 election was held in respect of the committee of management of the institution in which Respondent No. 4 was elected as manager of the institution and one Vishwanath Singh was elected as president. The members of the committee of management, who claim that they were elected in pursuance of the election held on 18-5-1986, submitted the papers before the Assistant Registrar for grant of renewal of registration of the society. The Assistant Registrar is said to have received the papers from two rival claimants for renewal of registration. He, therefore, referred the matter to the prescribed authority, Respondent No. 1. The Respondent No. 1 seems to have passed the impugned order and held that the election held by the committee of Respondent No. 4 was valid and the committee headed by him is validly elected committee of management.

15. It is admitted that on 18-12-1989 the Deputy Director of Education, VII Region, Gorakhpur had by his order asked the District Inspector of Schools to remain Incharge of the institution and make arrangement for holding of the election for the committee of management because the term of the committee of management, which had come into being in 1986 had already expired. This communication is marked as Annexure 4 to the writ petition. The said order was not challenged by the Respondent No. 4 in any forum.

16. The dispute which the Respondent No. 1 was considering related to the election which was held in May, 1986. On the date of passing of the impugned order the term of the committee of management elected either on 18-5-1986 or on 25-5-1986 had expired in accordance with the provisions of the new scheme

of administration Therefore, on the date of passing of the impugned order No. committee of management of the institution was in office because its term had expired by efflux of time. An order was already issued by the Deputy Director of Education to the District Inspector of Schools to get fresh election conducted and it appears that the District Inspector of Schools had called for a list of members of the general body. The Respondent No. 1 had held that the registration of the society was valid upto 23-4-1984 and any proceedings after that date by the committee of management was invalid This observation of the Respondent No. 1 does not appear to be correct, inasmuch as the effect of non-registration of the society would be that it will be an unregistered society but its actions so far as the constitution of the committee of management for the institution is concerned, would not be invalid. The registration of the Petitioner's society would be valid for five years and it would last up to 1987. This is so because the amended provision of the Societies Registration Act in the shape of Section 3-A provides that a certificate issued before the commencement of the Societies Registration (Uttar Pradesh Amendment) Act, 1984 shall remain in force for a period of five years from the date of such commencement on payment of the fees specified under Sub-section (3) and the fees already paid. Therefore the contention, of the prescribed authority in this regard does not appear to be correct.

17. The finding of the Respondent No. 1 that the election of the committee of management of Respondent No. 4 was prior in point of time than the election of the Petitioner's committee would not make any difference inasmuch as the dispute was referred to him and he was asked to decide the dispute which he decided in 1990 after the expiry of the term of the committee of management. The case of the Respondent No. 4 is that his term would start after three years and three months from the date of election. His case is that he was prevented to discharge his functions as committee of management and he has relied on a Division Bench Judgment of this Court which has interpreted the date of commencement of functioning of the committee of management. The learned Counsel for the Respondent submitted that the term of three years would commence from the date the Respondent has taken over charge of the committee of management. The Division Bench has held that "In case where the Petitioner's committee of management, even if duly elected, is not made to take charge of the office even for a single day in view of the stay order passed by this Court, then the period of three years and one month would not start from the date of such election. The Respondent submits that his term would start on the date when his signatures were attested. However, attestation of signatures cannot be said to be the starting point for the functioning of the committee of management which the Respondent No 4 claims to be. Attestation is only for distribution of salary under the payment of Salaries Act. In the present case there was No. stay order issued by any Court or authority restraining the Respondent not to function. The dispute was referred to the Respondent No. 1 for deciding as to which of the rival committees was entitled to function. The said dispute could be decided before the expiry of the term of committee of

management and not after the term of the committee of management had expired. If the Respondent No. 1 had delayed the disposal of the dispute, that would not give further lease of life to the committee of management of Respondent No. 4 and he cannot be deemed to have started functioning from the date of attestation of his signatures which are said to have been attested in January, 1991.

18. Even if the committee of management of Respondent No. 4 had come into being on 18-2-1986 it could last only for such term as was envisaged in the scheme of administration. Admittedly in 1990 the term of the committee of management had expired. Therefore, the Respondent No. 1 could not clothe the said committee with the power to manage the affairs of the institution. The Respondent No. 1 was, therefore, bound to mention that the term of the committee of management set up by Respondent No. 4 or set up by the Petitioner had already expired and the dispute could not be resolved by him after the term of the two rival committees had already expired. He has failed to consider this aspect of the matter, therefore, his order dated 18-9-1990 contained in Annexure 3 to the writ petition, which is impugned in the writ petition, is rendered invalid and is liable to be quashed. The Deputy Director of Education was well within his powers to direct the District Inspector or Schools to manage the affairs of the institution and hold fresh election after the expiry of the term of the committee of management. I am fortified by a judgment of this Court in the case of Committee of Management v. Deputy Director of Education 1986 A.L.J. 88.

19. Next I take up writ petition No 26346 of 1990 filed by the committee of management through Siya Ram Singh against the District Inspector of Schools. In this writ petition Ambika Prasad Singh, who is the Petitioner in writ petition No. 25955 of 1990, is Respondent No. 3. The dispute in this petition is very brief.

20. The Petitioner's case is that the election held to the committee of management on 18-5-1986 in which the Petitioner Siya Ram Singh was elected as manager was valid and the election set up by Respondent No. 3 dated 25-5-1986 is invalid and fictitious. The Dispute between the two rival committees was decided by the prescribed authority, who gave a finding in favour of the Petitioner, Siya Ram Singh, by holding that the election of his committee of management was valid. This order was passed on 18-9-1990, which was impugned in writ petition No. 25955 of 1990 by Respondent No. 3 here in. The Respondent No. 3 is said to have submitted a list of members to the Respondent No. 1 and the Respondent No. 1 is said to have passed an order dated 21-9-1990 confirming the said list of members submitted by the Respondent No. 3. This was done on 21-9-1990 by the District Inspector of Schools. Thereafter the Petitioner here in seems to have filed a representation before the Respondent No. 1 challenging the list of membership dated 21-9-1990 of the institution. The Petitioner relied on the order of the prescribed authority dated 18-9-1990. After receiving the representation the District Inspector of Schools without sending a

notice to Respondent No. 3 corrected the said list to the satisfaction of the Petitioner on 9-10-1990. It may be mentioned here that some names in both the lists were common but the Petitioner had raised a dispute about its members who, according to the Petitioner, were made members of the general body after 23-4-1984 when the society was not competent to make any person as member as its certificate of registration was not renewed. After correcting the list of membership at the instance of the Petitioner here in, the Respondent No 3 is said to have approached the District Inspector of Schools for restoring the order dated 21-9-1990 and for recalling the order dated 9-10-1990. The District Inspector of Schools made an order in favour of Respondent No. 3 and recalled the order dated 9-10-1990 on 12-10-1990. The effect of the recall is that the original list dated 21-9-90 stands restored. The Petitioner challenges this order on a number of grounds. It is stated that the order dated 12-10-1990 was passed by the District Inspector of Schools in violation of the principles of natural justice and in utter disregard of the order dated 18-9-1990 impugned in the writ petition No. 25955 of 1990. The Respondent No. 3 has defended the order dated 12-10-1990. It is stated by him that the order dated 9-10-1990 was based on misrepresentation of facts. The original membership list framed on 21-9-1990 could not be recalled. The order dated 18-12-90 passed by the prescribed authority was bad, therefore, the basis of the order dated 9-10-90 was totally incorrect. It is therefore, liable to be recalled as it was passed in the absence of Respondent No. 3.

21. I have considered the submissions made by the learned Counsel for the parties as also by the learned Standing Counsel on behalf of the District Inspector of Schools. The rise to this dispute, which is projected in this petition, has been given by the District Inspector of Schools. Had he not amended the list of membership dated 21-9-1990 at the instance of the Petitioner on 9-10-1990 on the basis of non-est grounds, the dispute would not have arisen. The order dated 9-10-1990 was also *ex parte* without hearing the Respondent No. 3. It was passed at the instance of the Petitioner on the basis of an order dated 18-9-1990 which was passed by the prescribed authority and which has been held to be bad in writ petition No. 25955 of 1990. Therefore, the very basis of the order dated 9-10-1990 was unfounded. The non-obtaining of certificate for renewal would not make the society of the Respondent No 3 as invalid. Its effect would be that it is an unregistered society. However, if a dispute was raised before the District Inspector of Schools by the Petitioner, he should have enquired into the dispute after hearing the Respondent No. 3 also. That was not done by him. He was approached again by the Respondent No. 3 and he corrected the mistake dated 9-10-1990. This time also he did not choose to hear the Petitioner and corrected the order dated 9-10-1990. Both the orders dated 9-10-1990 and 12-10-1990 are passed without hearing the concerned parties. It would have been fair if the Respondent No. 1 would have issued a notice to the Respondent No. 3 before he passed the order dated 9-10-1990. That order cannot be now restored because it suffers from infirmity inasmuch as it is passed in violation of

the principles of natural justice and on the basis of wrong premises.

22. The learned Counsel for the Petitioner has submitted that the Respondent No. 1 has No. power of reviewing. The submission is correct. But if the Respondent No. 1 was not precluded from passing any order which was required to be passed in accordance with law, for that purpose he could have, recalled any order passed by him which was infirm and bad in law. No question of reviewing in such case arises. An authority who had passed a wrong and infirm order, has an implicit power to correct the said order. For that purpose the wrong and infirm order can be recalled also, which would not amount to reviewing of the order.

23. Some case law was also referred to by the learned Counsel for the parties but I do not think it necessary to refer to the case law because the facts are clear. The effect of the order dated 12-10-1990 is that the order dated 21-9-1990 is restored. The effect of the order dated 9-10-1990 was that the order dated 21-9-1990 was eroded. This position had taken place in violation of the principles of natural justice and on the unfounded grounds. It is not possible for this Court to restore an order dated 9-10-1990 which is absolutely bad and infirm. Accordingly writ petition No. 26346 of 1990 is liable to be dismissed. However, this will not prevent the Respondent No. 1 to reconsider the validity of the list of members framed by him on 21-9-1990 in the presence of the parties, if he is approached in this regard.

24. In writ petition No. 2982 of 1991 Petitioner Ambika Prasad Singh has challenged the order of the Respondent No. 2 dated 28-1-1991 by which he has authorised the Respondent No. 3 to act as manager of the institution in question.

25. It is stated in the writ petition that the Respondent No. 1 had directed the Respondent No. 2 to get the election of the committee of management held. The Respondent No. 2 by his order dated 12-10-1990 ordered for holding of election on 25-10-1990. The Respondent No. 3 is said to have filed a writ petition in this Court, which came to be registered as writ petition No. 26346 of 1990 in which he challenges the order dated 12-10-1990 passed by the Respondent No. 2. The election proceedings were stayed by this Court by issuing an interim stay the Respondent No. 2 thereafter recognised the Respondent No. 3 as the Manager of a validly elected committee.

26. The Petitioner has set up that the election to the committee of management was held in the year 1990 in which he was elected as manager and the Respondent No. 3 as president. The term of the committee of management was five years. By virtue of the new scheme of administration the term of the committee of management was reduced to three years, which is also the term of the committee of the society. Giving the backgrounds of his claim it is stated that the election to the society as also to the committee of management of the institution was held on 25-5-1986. In this election the Petitioner was elected as Manager and Sri Bhagwati Prasad Dwivedi as president. The Petitioner's signatures were also attested as manager of the committee of management. The

Respondent No. 3 is said to have started acting against the interest of the society which resulted in his removal from the management on 2-2-1986. After his removal he is said to have formed another committee of management and he set up a claim that he was elected as manager in the election held on 18-5-1986. The dispute between the Petitioner and the Respondent No. 3 about the two elections--one alleged to have been set up on 18-5-1986 and the other on 25-5-1986 was referred to the Assistant Registrar u/s 25(1) of the U.P. Societies Registration Act the said dispute was decided in favour of the Respondent No. 3. Against that dispute a writ petition was tiled in this Court, which is writ petition No. 25955 of 1990. The term of the committee of management was three years and beyond three years it could not continue. The dispute about the management of the committee of management had also arisen which was referred to the Respondent No. u/s 16-A(7) by the Respondent No. 2. He is said to have issued an order to the Respondent No. 2 directing him to get fresh election of the committee of management held and asked him to look after the management of the institution until fresh election was held. The Respondent No. 2 is said to have taken over charge of the institution and initiated election process and verified the list of members, who could participate in the said election. The election proceedings were stalled on account of the interim order issued by this Court in another writ petition. However, the Respondent No. 2 was to be Incharge of the management of the institution in terms of the orders of the Respondent No. 1 but the Respondent No. 2 is said to have recognised the Respondent No. 3 as the manager of the validly elected committee of management. The Petitioner challenges that order in this writ petition.

27. The Respondent No. 2 has No. authority to make interim arrangement. He is bound to get the election held and till the election is held he is to remain Incharge of the management of the institution. Since he has granted recognition to the committee of management headed by the Respondent No. 3, therefore, the Petitioner is aggrieved. In his counter affidavit the Respondent No. 3 has denied that the Petitioner was ever elected as Secretary-cum-manager of the committee of management in a validly held election The Respondent No. 3 has set up election dated 18-5-1986 as valid election There was a dispute with regard to the committee of management of the society, which was decided by the prescribed authority on 18-9-1990. In view of the dispute the Respondent No. 3 was not allowed to function and the District Inspector of Schools was managing the affairs of the institution after the passing of the impugned order the Respondent No. 3 is said to have taken over charge and he is entitled to continue to manage the institution till 24-1-1994. Reliance is placed on the order dated 18-9-1990. It is stated by the Respondent No. 3 that since his signatures were attested on 25-1-1991, therefore the term of the committee of management headed by him which was elected on 18-5-1936 will start functioning from that date. The order of the Respondent No. 1 dated 18-12-1989 directing the Respondent No 2 to hold election is said to be not valid. The said order is said to have been passed on some misrepresentation.

28. The order passed by the District Inspector of Schools on 28-1-1991 recognising the Respondent No. 3 as Secretary of the validly elected committee of management does not appear to be sound in law. The Respondent No 2 had already referred the matter to the Deputy Director of Education after the two rival committees one headed by the Petitioner and the other headed by the Respondent No 3 were set up on 18-5-1986 and 25-5-1986. The Respondent No. 1 in accordance with the terms of the scheme of administration had issued directions to the Respondent No. 2 on 18-12-1989 directing him to manage the affairs of the institution and arrange for the fresh election of the committee of management of the institution. Till that was done the Respondent No. 2 was to be Incharge of the management of the institution This communication has remained unassailed Instead of conducting the election the Respondent No. 2 has recognised the Respondent No. 3 as the manager of the validly elected committee of management which he could not do in view of the order of the Respondent No. 1 dated 18-12-1989. The Respondent No. 2 appears to have been influenced by the stay order passed by this Court on 22-10-1990 in writ petition No 26346 of 1990 filed by the Respondent No. 3 in which the list of membership of the society of the institution was assailed It seems that the order dated 18-9-1990 passed by the prescribed authority in different writ petitions where by the Respondent No. 3 was recognised as Secretary-cum-manager of the society, had also influenced the mind of the Respondent No. 2. The order dated 18-9-1990 in writ petition No. 25955 of 1990 has been held bad elsewhere in this judgment, therefore, that could not be the basis for recognising the Respondent No. 3 as manager of the validly elected committee of management of the institution. This Court has also held the membership list dated 21-9-1990 as valid and refused to set aside the order dated 12-10-90 in writ petition No. 26346 of 1990 therefore, the entire basis for holding the Respondent No. 3 as validly elected manager of a validly elected committee of management disappears.

29. On merits also the impugned order cannot be sustained because the term of the committee of management had to expire after three years. The election to the committee of management and to the society in accordance with the scheme of administration was to be held after the expiry of the term The Deputy Director of Education had made directions in this regard to the Respondent No. 2. The Respondent No. 2 disregarding those directions has proceeded in a different direction. The directions issued by the Respondent No. 1 on 18-12-1989 to the Respondent No. 2 are binding on him, therefore, he was bound to hold election to the committee of management in pursuance of those directions for which he had initiated the process which was not carried forward by him due to subsequent development.

30. The contention of the Respondent No. 3 that his committee of management has taken over on 25-1-1991 when his signatures were attested is also not correct because the attestation of signatures cannot determine the commencement of the functioning of the committee of management. There was

No. stay order issued by any court in 1986 against the Respondent No. 3 and he was not prevented from taking over the management. The judgment relied upon by him in writ petition No. 12829 of 1986 decided on 26-4-1989 will not apply to the facts of the present case because in that case the elected committee of management was prevented by the stay order from taking over function of the committee of management. The life of the committee of management expired after completion of its term. The District Inspector of Schools seems to have been oblivious of his duties therefore, he has not complied with the directions of the Respondent No. 1. The impugned order passed by him in disregard of those directions is, therefore, infirm and bad as it is passed after the expiry of the term of the committee of management. The contention of the Respondent No. 3 that the committee of management headed by him started functioning on 25-1-1991 is to be rejected out-right.

31. The result of the aforesaid discussion is that:

(1) Writ petition No. 25955 of 1990 succeeds and is allowed. The order of the prescribed authority dated 18-9-1990 is hereby quashed as being invalid and bad in law.

(2) Writ petition No. 26346 of 1990 stands dismissed as it is devoid of merit. The interim order dated 22-10-1990 by which the order dated 12-10-1990 passed by the District Inspector of Schools was stayed shall stand vacated. However, this will not prevent the Respondent No. 1 to reconsider the validity of the list of membership dated 21-9-1990, if he is approached by any of the interested members of the society. Before he accords consideration to the list he will hear all the interested parties and observe the principles of natural justice before he passes any order.

(3) Writ petition No. 2982 of 1991 is allowed. The order of the Respondent No. 2 dated 28-1-1991 is hereby quashed as being illegal and against law. The Respondent No 2 is directed to comply with the directions of the Respondent No. 1 dated 18-12-1989 and hold the election of the committee of management of the institution within three months from the date of presentation of a certified copy of this order before him. He is directed to manage the affairs of the institution in question till a newly elected committee of management takes over the charge.

32. In view of the peculiar circumstances of the case, there will be No. order as to costs.