
(2011) 01 AHC CK 0268
In the Allahabad High Court
Case No : Writ C No. 2753 of 2011

Balram Singh Obeyrai and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:

Citation : (2011) 01 AHC CK 0268

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri Irshad Ali learned Counsel for the Petitioners and Sri Ashok Khare learned Senior counsel for the Respondent No. 5 Committee of Management.

2. This dispute relates to constitution of the Committee of Management of Harjinder Nagar Inter College, Harijinder Nagar Kanpur. The Respondent No. 5 Sardar Prakash Singh claims himself to be the elected Manager in the elections held on 28.11.2010 about which a report was submitted by the Associate District Inspector of schools on 30-.9.2010. The signatures of the elected office bearers came to be attested approving the elections vide order dated 18.12.2010. It is this order which has been assailed by the Petitioner contending that the entire elections are invalid primarily on the ground that it is in teeth of the directions of the Division Bench judgment dated 26.9.2008 passed in Special Appeal No. 1284 of 2008. It has also been submitted by Sri Irshad Ali that the District Inspector of Schools had to issue the program for holding of elections which was not done by him and therefore on this score also the order impugned deserves to be set aside.

3. The matter had been taken up on 18.1.2011 and Sri Ashok Khare learned Senior counsel for the Respondent No. 5 had been called upon to assist the court about the fact of finalisation of electoral college in term of the directions of the Division Bench order.

4. Sri Khare submits that the answering Respondent is not in possession of any such order of the District Inspector of School and so far as the dispute relating to finalisation of the electoral college is concerned this can be determined by the Joint Director of Education who is Chairman of the Regional Level Committee in view of the observations made by this Court in the judgment dated 17.1.2011 in Writ Petition No. 2282 of 2011.

5. At this juncture it would be appropriate to mention that the aforesaid recognition in favour of the Respondent impugned in the present writ petition was annulled by the Joint Director of Education by an order dated 5.1.2011. The said order had been passed by the Joint Director of Education without giving opportunity to the Respondent No. 5 on an alleged complaint that has been moved before the Commissioner.

6. This Court after hearing learned Counsel for the parties and in view of the aforesaid undisputed position that it was in violation of principles of natural justice quashed the same with the following observations:

Having heard learned Counsel for the parties and keeping in view the submissions advanced the order dated 5.1.2011 has been admittedly passed without putting the Petitioner to notice. It is further evident from the recognition order that the same was granted after the elections were held under the supervision of the Associate District Inspector of Schools.

The question as to whether the election was valid or not has to be determined before proceeding to annul the same or issue a further direction for holding fresh elections. The matter ought to have been referred to the Regional Level Committee in case there was a genuine and bonafide dispute. In such circumstances the order dated 5.1.2011 is infirm on both counts. It is accordingly quashed leaving it open to the District Inspector of School to refer the matter to the Regional Level Committee.

In case such a reference is made the Regional Level Committee shall proceed to decide the same as expeditiously as possible preferably within a period of 3 months after due notice and opportunity to the contending parties.

The writ petition is disposed of.

7. Sri Khare contends that in view the aforesaid observations this matter should be relegated to the Regional Level Committee. Learned standing counsel opts for the same argument. Since none of the Respondents propose to file any counter affidavit at this stage the matter is being disposed of finally with their consent.

8. The position that there was no determination of the electoral college in terms of the judgment dated 26.9.2008 remains undisputed. The fact is that the proceeding of finalising the electoral college had already been set aside vide judgments dated 14.11.2008 and 6.2.2009. The aforesaid writ petitions were in relation to the finalisation of electoral college itself that had been done by the District Inspector of Schools while complying with the directions dated

26.9.2008. The aforesaid facts are also undisputed that the order passed by the District Inspector of Schools had already been quashed. Thereafter, in the absence of any fresh determination by the District Inspector of Schools, the directions as per the Division Bench order dated 26.9.2008 still remains uncomplied. On this disputed position any elections held without finalising the electoral college would therefore be in breach of the final judgment of this Court dated 26.9.2008. Accordingly this renders the impugned order dated 18.12.2010 invalid.

9. Accordingly there is no necessity to relegate the matter to the Regional Level Committee for any decision on this undisputed position that has emerged. The District Inspector of Schools shall ensure compliance of the directions under judgment dated 6.2.2009 and proceed to determine the electoral college within a period of one month from the date of production of a certified copy of this order. The electoral college so determined shall then proceed to participate in the elections to be held in term of the directions issued by this Court. The elections maybe held within two months thereafter.

10. The writ petition is disposed of.