

(2004) 07 AHC CK 0049

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 23591 of 2004

Bua Ram Shukla and Others

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 30-07-2004

Acts Referred:

Citation : (2004) 5 AWC 4822 : (2004) 3 UPLBEC 2865

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : N.C. Tripathi, for the Appellant; Ashok Misra and S.C., for the Respondent

Judgement

Arun Tandon, J.—Heard Sri. N.C. Tripathi on behalf of the petitioner, Sri Ashok Misra on behalf of alleged elected Manager of the Committee of Management of Tyagi Inter College, Aianchwara, district Chitrakoot and learned Standing Counsel on behalf of respondents 1, 2 and 3. It is not necessary to call for counter affidavit from the respondents in view of the order proposed to be passed in the present writ petition.

2. The petitioners who are three in number have filed this writ petition for a writ of certiorari quashing the election programme published by the Prabandh Sanchalak, namely Sri Pushpendra Singh, Principal Government Inter College, Bargarh, district Chitrakoot, respondent No. 5, for the purposes of holding elections for constituting the Committee of Management for Tyagi Inter College, Aianchwara, district Chitrakoot.

3. This Court while entertaining the writ petition on 28.6.2004 passed an order that the elections pursuant to the notice dated 23.6.2004 (Annexure 9 to the writ petition) may be held but the result of the election will not be declared. An application (C.M. Application No. 126805 of 2004) has been filed on behalf of the petitioner on 27th July, 2004 wherein it has been stated that despite the notice and knowledge of the orders dated 28.6.2004 passed by this Court the Prabandh

Sanchalak has announced the results of the elections held on 29.6.2004. The elections which are said to have taken place on 29.6.2004 are challenged by the petitioners through amendment on the following contentions :

(a) The Prabandh Sanchalak was appointed in the institution under the order of the Regional Joint Director of Education dated 4.3.2004 for a period of 90 days only. Admittedly the Prabandh Sanchalak took charge on 23rd March, 2004 and therefore, his term came to an end on 22nd June, 2004. Therefore, no election could have been held by him after expiry of this term as Authorized Controller.

(b) The Prabandh Sanchalak is a close relation of the members of the Committee of Management of the College. In this regard petitioners have brought on record copy of letter of District Inspector of Schools dated 18.6.2004 informing the Regional Joint Director of Education that the term of the Prabandh Sanchalak is coming to an end in near future and further it has been requested that because of the relationship between the Prabandh Sanchalak and the members of the Committee of Management of the Tyagi Inter College, Aianchwara, District Chitrakoot, it would be appropriate that some other person be appointed as Prabandh Sanchalak of the aforesaid College.

(c) The Regional Joint Director, of Education has not acted fairly in permitting the Authorized Controller, respondent No. 5, who is a close relation of Sri Dinesh Singh (the elected Manager) to continue despite repeated requests that the Prabandh Sanchalak, respondent No. 5, be not permitted to hold elections.

(d) It has also been submitted that against the voters list published by the Prabandh Sanchalak the petitioners filed objections and the District Inspector of Schools by means of order dated 22.6.2004 required "the Prabandh Sanchalak to decide the said objections before holding the elections but without any opportunity of being heard to the petitioner and without communicating any orders to the petitioners the Prabandh Sanchalak decided the said objections to the voter list.

(e) Petitioners have been held to be valid members under the judgment and order dated 12.2.2004 passed by the 1st Additional District Judge, Chitrakoot in Appeal No. 10 of 2001 and consequently they were entitled to participate in the elections held on 29.6.2004. They have been illegally debarred from participating in the said election by the Prabandh Sanchalak.

4. On behalf of the elected Manager the said allegations made by the petitioners have been denied. It has been stated that the Prabandh Sanchalak had commenced the election process prior to expiry of his term and he completed the same after the expiry of his term and therefore, the elections held on 29.6.2004 cannot be faulted. The alleged relationship between the Prabandh Sanchalak and the members including the elected Manager of the Committee of Management is also denied. It is further stated that the objections filed by the petitioner against the voter list were decided by means of a reasoned order dated 23.6.2004 which has not been disclosed by the petitioners in the writ petition. Lastly it has been

submitted that the order dated 12.2.2004 passed by the 1st Additional District Judge, Chitrakoot in Appeal No. 10 of 2001 has been recalled and therefore, the names of the petitioners were not included in the voter list by the Prabandh Sanchalak. The petitioners are outsiders and have no right to question the election or to maintain the writ petition.

5. From the contentions made by the parties referred to above it is clear that disputed questions of fact are required to be adjudicated upon and as such the writ petition is not a proper remedy.

6. However, it is an admitted position that the elections which have taken place on 29.6.2004 are in respect of the Committee of Management of a recognized Intermediate College. Before any election of a recognized Intermediate College can be acted upon/approved it is necessary that the relevant documents should be placed before the Regional Level Committee constituted in accordance with the provisions of the Government Order dated 19.12.2000 of which Regional Joint Director of Education is the Chairman. In such circumstances it would be appropriate that the petitioners be asked to file their objection in respect of the alleged elections which are said to have taken place on 29th June, 2004, before the Regional Joint Director of Education. In the objections so filed the petitioners may raise all such objections as referred to hereinabove as also others as they may be so advised. The Regional Joint Director of Education on receipt of such objections along with relevant record pertaining to the elections of the Committee of Management of Tyagi Inter College, Aianchwara, district Chitrakoot shall place the same before the Regional Level Committee. The Regional Level Committee shall, thereafter, afford opportunity of hearing to the parties concerned before proceeding to decide the legality of the elections held on 29th June, 2004 including the objections raised by the petitioners. The aforesaid exercise shall be undertaken by the Regional Level Committee within two months from the date the objections/relevant papers pertaining to the elections held on 29.6.2004 are received by the Regional Joint Director of Education. The Regional Level Committee shall decide the matter by means of a reasoned speaking order.

7. It is stated that under the orders of the Regional Joint Director of Education dated 12.7.2004 Srimati Chitra Thakur, Principal, Government Inter College, Rajapur, district Chitrakoot is working as Prabandh Sanchalak of Tyagi Inter College, Aianchwara, district Chitrakoot. She shall continue to work as Prabandh Sanchalak of the said College till the orders as aforesaid are passed by the Regional Level Committee in accordance with law.

8. Writ petition stands disposed of accordingly.