
(2012) 01 AHC CK 0277
In the Allahabad High Court
Case No : Writ C No. 1863 of 2012

C/M Inter College and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-01-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 01 AHC CK 0277

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Rajes Kumar, J.—By means of the present petition, the petitioners are challenging the order dated 3.1.2012, passed by the District Inspector of Schools, Gautam Buddh Nagar by which he has rejected the election held by the petitioners on 16.10.2011 and appointed the Authorised Controller to hold the election.

2. The brief facts of the case are that the election of the committee of management was held on 21.5.2008. The term of the committee of management is three years as per the scheme of administration. There is no dispute in this regard. Accordingly, the term of the committee of management expired on 20.5.2011 and admittedly the election was held on 16.10.2011 by the outgoing committee of management, which has been held as illegal by the impugned order.

3. Learned counsel for the petitioners submitted that the election has been held at the instances of the District Inspector of Schools. He submitted that on the letter of the petitioners, dated 29.8.2011, based on the resolution dated 28.8.2011, the District Inspector of Schools has appointed Sri Pritam Singh, Assistant Teacher of the Adarsh Uchchattar Madhyamik Vidhayalay, Gautam Buddh Nagar as the Returning Officer and directed to publish the programme of the election in "Rashtriya Sahara" news paper. Further, by the order dated

16.9.2011, the District Inspector of Schools has appointed the Principal of the Government Inter College, Gautam Buddh Nagar as the Observer. The election was held on 16.10.2011 and in this regard a report has been submitted by the Returning Officer to the District Inspector of Schools. He further submitted that in the election the complainant also participated and when he defeated in the election, he filed the complaint and on such complaint, the impugned order has been passed. He also submitted that once the complainant participated in the election, it was not open to the complainant to dispute the election. Therefore, the order of the District Inspector of Schools is unjustified. He placed reliance on the decision of the learned Single Judge of this Court in the case of Ravindra Kumar Saxena vs. State of U.P. and others, reported in (2004) 3 UPLBEC, 307.

4. Sri S.N. Pandey, Learned Counsel appearing on behalf of the respondent no.4, submitted that the election of the petitioners has never been approved by the District Inspector of Schools. He submitted that the outgoing committee of management, after expiry of the term of the committee, cannot hold the election. The reliance has been placed on the decision of the Division Bench of this Court in the case of Raj Pati vs. Regional Committee, Vindhyachal Mandal, Mirzapur and others, reported in 2007(6) ADJ, 733. He further submitted that in the case cited by the Learned Counsel for the petitioners, the defeated persons, who participated in the election, filed the writ petition.

5. Though the Court has upheld the legal position that the outgoing committee, after expiry of the term of the committee, cannot hold the election, but has declined to interfere in the matter on the ground that the petitioner has no equity in his favour to approach this Court under Article 226 of the Constitution of India for challenging the competency of the outgoing committee to hold the election in such a fact situation. Such situation does not exist in the present case.

6. I have considered submissions of Learned Counsel for the petitioners and learned Standing Counsel, appearing on behalf of the respondent nos. 1, 2 and 3 as well as Sri S.N. Pandey, appearing on behalf of the respondent no.4.

7. The election held by the petitioners-committee of management on 16.10.2011 has never been approved by the District Inspector of schools or any other competent authority. The question is whether such election was a valid election or not. It is not in dispute that the term of the committee of management was three years, which expired on 20.5.2011. After the expiry of the term of the committee, the permission granted by the District Inspector of Schools to hold the election by the petitioners will not validate the election, which is illegal in law and is not permissible. The Division Bench of this Court, in the case of Raj Pati vs. Regional Committee, Vindhyachal Mandal, Mirzapur and others (supra), has held that once the tenure of the committee has expired, then such committee cannot hold the election and the Authorised Controller, who has to take the charge, only can proceed to hold the election. Similar view has also been taken by the learned Single Judge of this Court in the case of Ravindra Kumar Saxena vs. State of U.P. and others (supra), in which reference of the decisions of the

Apex Court, namely, Dhirendra Nath Gorai and Subal Chandra Shaw and Others Vs. Sudhir Chandra Ghosh and Others, , Shri Lachoo Mal Vs. Shri Radhey Shyam, , The Director of Inspection of Income Tax (Investigation), New Delhi and Another Vs. Pooran Mal and Sons and Another, , Brijendra Nath Bhargava and Another Vs. Harsh Wardhan and Others, and Indira Bai Vs. Nand Kishore, have also been given. The decision cited by the Learned Counsel for the petitioners is not applicable to the present case. In the said case, the persons, who participated in the election and defeated, have approached this Court by filing the writ petition under Article 226 of the Constitution of India and this Court has held that the petitioner has no equity in his favour to approach this Court under Article 226 of the Constitution of India and accordingly the Court refused to exercise its jurisdiction under Article 226 of the Constitution of India.

8. In view of the discussions made above, the writ petition has no merit and it is, accordingly, dismissed.