
(2015) 07 AHC CK 0010
In the Allahabad High Court
Case No : Writ-C No. 25887 of 2015

C/M Janta Inter College

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 06-07-2015

Acts Referred:

Citation : (2015) 6 ADJ 268

Hon'ble Judges : Yashwant Varma, J

Bench : Single Bench

Advocate : Awadh Narain Rai, for the Appellant; S.A. Gilani, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Yashwant Varma, J.—The challenge in the present petition is to an order dated 16th March, 2015 passed by the Regional Level Committee refusing to accord recognition to elections stated to have been held on 4th November, 2012. The order impugned carries a further direction providing for appointment of an Authorised Controller who may then proceed to finalise a list of the general body of the Society and proceed to convene and hold elections to constitute the Committee of Management in accordance with the Scheme of Administration within a period of three months.

2. This Court has heard Sri G.K. Singh, learned Senior Counsel assisted by Sri Awadh Narain Rai for the petitioners, the learned Standing Counsel for the State-respondents and Sri Gilani who has appeared for the contesting respondents.

3. It is not disputed by parties that the last undisputed elections of the Committee of Management came to be held on 15th September, 2009. In terms of the Scheme of Administration the term of this Committee was provided to be of three years with a further extension of one month for the purposes of fresh elections being convened and held during the above period and the new Committee of Management joining.

4. The petitioners allege that during the continuance of the erstwhile Committee of Management which had been duly recognized by the District Inspector of Schools by his order dated 3rd October, 2009, fresh 303 members were enrolled as members of the general body of the Society. This list of 303 members is stated to have been submitted before the Assistant Registrar. However, this body of members comprising of 303 individuals does not appear to have been registered by the Assistant Registrar. This is evident from the endorsement appearing on the list as made by the office of the Assistant Registrar which states that the document in question has not been registered under the provisions of the Act, 1860.

5. The erstwhile Committee appears to have also suggested various amendments to the Scheme of Administration for the consideration of the Director of Education.

6. On 28th August, 2012, the Committee is stated to have written to the District Inspector of Schools for appointment of an Election Officer and Observer so that the elections to the Committee of Management may be convened and held. Acceding to the above request, the District Inspector of Schools by his communication dated 13th September, 2012 advised the Manager of the Committee of Management of appointment of one Sri Sandeep Sharma, Principal as the Election Officer and Sri Praveen Kumar Mishra to act as the Election Observer. He further directed the Committee of Management to publish the election programme in the daily newspapers.

7. The petitioners contend that the new general body comprising of 303 members and which included the newly enrolled members became entitled to participate in the elections consequent to the provisions of the amended Scheme of Administration.

8. The Election Officer namely, Sri Sandeep Sharma is stated to have published an election programme on 14th December, 2012 and pursuant thereto, and as is averred in the writ petition, all steps towards finalization of the voter list, acceptance of nominations etc. was completed by him on 29th October, 2012. As per the programme published by the Election Officer, the elections were scheduled to be held on 4th November, 2012. It is here that the dispute inter parties manifests itself.

9. The District Inspector of Schools purportedly acting on the directions of the District Magistrate is stated to have issued an order on 3rd November, 2012 to Sri Sandeep Sharma directing that the elections be stayed. The writ petitioners however aver that this order did not see the light of day and that on 4th November, 2012 when the Election Officer did not appear at the venue, one Sri Yogesh Kumar was appointed as the Election Officer and the election proceedings held on 4th November, 2012. The papers for obtaining approval of the Committee of Management which is averred to have come into existence on 4th November, 2012 is asserted to have been then forwarded to the District Inspector of

Schools. The Petitioners would assert that it was during the pendency of proceedings before the District Inspector of Schools at this stage that the order of 3rd November, 2012 was brought to their attention and accordingly challenged by means of Writ Petition No. 63630 of 2012. This petition however, was dismissed as having become infructuous on 19th December, 2012 consequent to this Court being informed that the elections had already been held.

10. The papers which were submitted to the District Inspector of Schools in relation to the grant of approval to the elections stated to have been held on 4th November, 2012 did not find any favour with the said authority and came to be rejected on 28th February, 2013. The dispute with respect to the said election is then averred to have been referred to the Regional Joint Director of Education who in turn is stated to have referred the papers back to the District Inspector of Schools with an observation that in the absence of any rival claim the validity of the elections was to be decided by him. This Court by its order dated 6th March, 2013 passed on Writ Petition No. 12456 of 2013 set aside the order passed by the District Inspector of Schools and directed him to decide the entire issue afresh. The District Inspector of Schools reiterated his earlier decision by again upholding the objections recorded by him and refusing to accord recognition to the Committee of Management stated to have come into existence on 4th November, 2012. This order passed by the District Inspector of Schools on 1st May, 2013 again came to be subjected to challenge in Writ Petition No. 30085 of 2013 and this Court vide its judgment dated 27th May, 2013 referred the matter to the Regional Level Committee for its decision.

11. The Regional Level Committee accorded recognition to the said election vide its order dated 4th December, 2013. This led to the third foray with respect to these elections before this Court. However, this time it is the respondent No. 4 herein who along with 8 others approached this Court assailing the validity of the order passed by the Regional Level Committee. This Court examining the validity of the order passed by the Regional Level Committee found that it was wholly perfunctory, it had not considered any of the objections raised by the petitioners therein and carried no reasons. Accordingly the order stood set aside. This order passed by the learned Single Judge was subjected to challenge in Special Appeal No. 317 of 2014 when the appeal was dismissed and the judgment of the Learned Single Judge affirmed.

12. Pursuant to the order of remand, the Regional Level Committee by its order dated 18th October, 2014 this time has refused to approve the elections stated to have been held on 4th November, 2012. Aggrieved thereby the Committee of Management again approached this Court by preferring Writ Petition No. 61387 of 2014. This Court allowed the said writ petition vide its judgment and order dated 20th November, 2014 finding that the Regional Level Committee had not examined the questions that arose before it in their correct perspective. The Court further recorded that the Regional Level Committee had only recorded its conclusions and had failed to return any findings. Accordingly, the matter stood

remitted back to the Regional Level Committee for decision afresh.

13. It is at this stage that the petitioners also appear to have filed detailed objections before the educational authorities including that the nominations received by the Election Officer prior to him withdrawing from the process established that more than one person had submitted nomination for the purposes of election to the Committee of Management. It is highlighted that no elections were held on 4th November, 2012 and that the fact that the report of elections held on that day show that the officer bearers were elected unanimously itself casts a serious doubt on the validity of the elections themselves.

14. It was pursuant to this last order of remand that the Regional Level Committee again assumed jurisdiction in the matter and ultimately by the order dated 16th March, 2015 (impugned herein) refused to accord recognition to elections stated to have been held on 4th November, 2012.

15. Sri Singh, learned Senior Counsel has submitted that the Regional Level Committee committed a manifest illegality in considering the objections and complaints made by the respondent No. 4 and other individual members inasmuch as, and as was contended by him, they had no right to raise objections before the educational authorities. Sri Singh submits that such individual claims or disputes cannot be countenanced by the Regional Level Committee as well as the other educational authorities inasmuch as the powers to adjudicate as bestowed upon the said Committee could have been invoked only in case a rival claim of elections had been set up.

16. Sri Singh, learned Senior Counsel has submitted that individual members had no right to prefer claims before the Regional Level Committee inasmuch the said forum has been created for the Committee to resolve only such disputes as may arise between rival claimants. He further submits that all those persons who are stated to have filed nomination for elections to be held on 4th November, 2012 have not raised any objections and therefore the Regional Level Committee has clearly erred in proceeding in the matter on the objections of the respondents. Sri Singh, in this connection, has also relied upon a judgment rendered by a Single Judge of this Court in Committee of Management, Janta Inter Colege and another Vs. Joint Director of Education, Merrut and others, AIR 1999 All 201 : (1999) 1 AWC 879 : (1999) 1 UPLBEC 170 . Sri Singh further contends that the order dated 3rd November, 2012 was never brought to the attention of the members of the general body and it was in the above light that a new Election Officer came to be appointed and the elections held and convened on 4th November, 2012. Sri Singh submits that the challenge as laid by the respondents and his other followers were not liable to be countenanced and he submitted that the respondents could not object to the inclusion of new members numbering 303 on the principle that the respondents cannot be said or permitted to espouse the cause of others.

17. Learned counsel for the respondents has however submitted that no elections were in fact held on the said date and the results and papers submitted in respect thereof are a fabrication of the records and only a paper transaction. He further submits that the respondents were all deprived of their rights to participate in the elections and therefore they were fully entitled to appear before the Regional Level Committee and urge rejection of the prayer for approval of the elections in question. The learned counsel for the respondents has, in this connection, invited the attention of the Court to the detailed objections preferred by them before the Regional Level Committee specifically to the fact that prior to the order having been issued by the District Inspector of Schools on 3rd November, 2012, various processes of election had been completed by the original Election Officer. Learned counsel submits that for the posts of President, Manager and Treasurer more than one nomination had been filed whereas the report of the Election Officer seeks to convey and clarify that the office bearers of the Committee of Management came to be elected unopposed. Learned counsel for the respondents has also relied upon the judgement of this Court in *Ratan Kumar Solanki Vs. State of U.P. and Others* to submit that individual members would have a right to assail the elections in cases where their rights to participate are directly affected.

18. In rejoinder, Sri Singh, learned Senior Counsel has countered the above submission by contending that when the Election Officer did not report at the designated venue and at the designated time fresh proceedings were taken by the Election Officer and it was in these proceedings that the members of the Committee of Management came to be elected unopposed. He, therefore, contends that the elections held on 4th November, 2012 must be accorded recognition.

19. Dealing with the first submission as advanced by Sri Singh, it must be noted that the judgment of this Court in *Committee of Management Janta Inter College (supra)* had been rendered in the light of the provisions of Section 16-A(7) of the Act, 1921. It came to be rendered at a time when the position in law as prevailing in light of the statutory provision referred to above, restricted the scope of enquiry to issues such as effective control. In fact it was in the above legal scenario that the Single Judge held that the authority could not be expected to go into the validity of elections and that the said issue could be looked into only incidentally. Today the Regional Level Committee stands conferred with powers under the Government Order dated 19.12.2000 in terms of which it does go into the issue of validity of elections although its adjudication is not final and is only summary in character.

20. More fundamentally the objection to the respondents preferring their representations against the elections must be viewed in light of the facts of this case as noticed above. It is contended that the respondents were denied their right to vote in the elections. The elections are stated to have been held in the absence of any Election Officer or Observer appointed by the authorities. The

elections are stated to have been held despite the order of the District Inspector of Schools dated 3rd November 2012. More significantly, the entire process of elections as finalised by the original Election Observer appears to have been set at naught and the composition of candidates in the fray also completely changed. Sri Singh has admitted to the above by urging that in the absence of the Election Officer, steps were taken afresh to conduct the elections. This according to his submission included redrawing the list of persons who were vying for the posts in the Committee of Management itself. If that be the admitted position it is apparent that the nominations etc which had been earlier received were all rendered nugatory. All these aspects did effect the respondent and other objectors directly. Can it then be said that they were not entitled to be heard in the matter?

21. This Court must negative the above submission as advanced on behalf of the Petitioners by applying the test of "directly affected" as propounded and laid down in Ratan Kumar Solanki (supra) wherein the Division Bench unequivocally held that the principle of an individual member having no locus to challenge elections could not be held to be a rule of inviolable application. This rule would have to give way in the facts and circumstances of a particular case where the rights of an individual were directly affected by the elections. In the instant case the holding of the elections in a state of uncertainty, the absence of independent observers, the petitioners being deprived of their right to vote, the nominations being changed on the voting date itself are all factors which meet the test of "directly affected" and therefore this Court refuses to accept the first submission advanced on behalf of the Petitioners on this score.

22. While the above would have ordinarily sufficed to lay to rest the submissions advanced on behalf of the Petitioners on this score, this Court must further note that the right of the respondent to assail the validity of the election allegedly held on 04.11.2012 flowed not just from what this Court has recorded above, but also from the orders passed by the Court upon Writ Petition No. 5111 of 2015 and 61387 of 2014. While the former was a petition filed by the respondent No. 4 and others, the latter petition came to be heard and decided in their presence. In none of these petitions did the Petitioners assert that the respondent No. 4 and other like persons were not entitled to audience or consideration before the Regional Level Committee. In fact the orders of remit made by this Court on the writ petitions aforementioned came to be passed in their presence before the Court. The orders of this Court mandated the Regional Level Committee hearing all concerned parties. For this reason also this Court finds itself unable to accept the contention advanced on behalf of the Petitioners.

23. Last but not the least this Court finds that the Regional Level Committee has recorded cogent reasons to refuse according recognition to the elections in question. It records that due to the order dated 03.11.2012, the departmental representative appointed to act as the Election Officer and Observer was not present. Despite the above, the elections are stated to have proceeded. Was it

not incumbent upon the Petitioners to adjourn the election meeting? Further and as has been noticed hereinabove, various persons had filed nominations for election to the Committee of Management. These nominations appear to have been shelved and fresh nominations invited on the date of election itself or at least the field of candidates changed and 12 persons stated to have been elected unopposed. All this on the date of elections themselves. This even though, and as is recorded by the Regional Level Committee, the last date for submission and Withdrawal of nominations was already over. These were all, in the opinion of this Court, defects of a significant character and which were sufficient to annul the elections in question. In doing so, the Regional Level Committee, in the opinion of this Court, has neither transgressed its jurisdiction nor assumed powers and issued directions which were unwarranted in the facts and circumstances of the case.

24. Before parting, this may also be recorded. The erstwhile Committee was under eclipse and was holding elections for constituting a new Committee. The elections therefore were to be held as per the directions of the DIOS. The authority appointed by the DIOS had already taken steps towards and in aid of the elections. The above being the undisputed factual position, it was not open to the erstwhile Committee to rewind the entire process and hold elections on 04.11.2012 in the manner undertaken.

25. Accordingly this writ petition shall stand dismissed. The authorities will proceed in the matter in accordance with the orders passed by the Regional Level Committee impugned herein.