

(2011) 04 AHC CK 0284
In the Allahabad High Court
Case No : Writ C. No. 21499 of 2011

C/m Prakash Inter College and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 15-04-2011

Acts Referred:

Citation : (2011) 04 AHC CK 0284

Hon'ble Judges : Devendra Pratap Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Devendra Pratap Singh, J.—Heard learned Counsel for the parties.

2. With regard to holding of election of the Committee of Management of Prakash Inter College, Bharthana in Etawah, the Petitioners had approached this Court contending that the term of the Committee of Management of 2006 would expire in 2011 and thus, the District Inspector of Schools cannot appoint any person to hold the election.

3. A learned Single Judge of this Court by the following order dated 21.9.2010 passed in Writ Petition No. 57997 of 2010 disposed it off directing the District Inspector of Schools to hold the election under his supervision:

Heard learned Counsel for the Petitioners and learned Standing Counsel.

Petitioners have approached this Court for quashing the order dated 12.11.2009 and order dated 07.08.2010, passed by Respondent Nos.2 and 3. Further, a writ in the nature of mandamus commanding the Respondents to approve the election held by the Petitioners-Committee of Management and to attest the signature. The Petitioners-Institution is recognized under the provisions of U.P. Intermediate Education Act and comes under the purview of the provisions of Payment of Salary Act. According to Scheme of Administration, the term of the Committee of Management was three years. The earlier Committee of

Management proposed an amendment regarding provision 7 of the Scheme of Administration amending the same that term of the Committee of Management will be five years. A proposal was sent to the Regional Joint Director of Education and by order dated 29.01.2005 it was approved. The election of Committee of Management was held on 25.05.2005 and the Petitioners-Committee of Management was elected and the papers were submitted for attestation of the signature. The same was approved by the competent authority on 01.05.2006. According to Petitioners, being the term of the Committee of Management as five years, they are entitled to continue up to 01.05.2011. It appears that Respondent claiming rival election in 2009 filed a writ petition before this Court being Writ Petition 42145 of 2009 that was finally disposed of by this Court on 18.08.2009 directing the relevant authority to take an appropriate decision. The District Inspector of Schools by order dated 03.11.2009 rejected the claim of the Respondent treating it that no election has been held. It appears that on the basis of some application/complaint an order of single operation was passed by the District Inspector of Schools treating the fact that term of the Committee of Management has already expired as it was only three years. According to Petitioners, they filed a writ petition before this Court being Writ Petition No. 42067 of 2009. Petitioners submit that matter was heard and judgment was reserved, but no order was passed and the matter was released on 12.05.2010. In the meantime, now the order impugned has been passed directing that Sri G.P. Yadav (Principal) is appointed as observer to hold the election.

According to Petitioners, the ground taken by the Respondent treating the term of the Committee of Management as three years cannot be sustained in view of the fact that amended Scheme of Administration was approved prior to the date of last election held in the month of May 2005, therefore, the term of Committee of Management according to the approved Scheme of Administration will be treated as five years and as it was approved by order dated 01.05.2006, therefore, the present Committee of Management i.e. Petitioners are entitled to continue till 01.05.2011, but in spite of the aforesaid fact at least they are entitled to continue till 25.05.2010 and any election can only be held under the supervision of the Petitioners-Committee of Management. Petitioners made an application to this effect for appointing an observer to hold the election treating the term of the Committee of Management as five years, but the Respondent has not sent any observer and the papers submitted by the Petitioners has not yet been considered and now the order impugned dated 07.08.2010 has been passed directing the Principal of the College to hold the election under his supervision.

I have considered the submissions of the parties. Apart from the arguments raised by the learned Counsel for the Petitioners now it is clear that if the term of Committee of Management is treated to be five years that period has already lapsed and now the Petitioners according to relevant rules and the decisions of this Court cannot hold any election under his supervision. Admittedly, the election held by the Petitioners on 11.04.2010 is not under the supervision of the

District Inspector of Schools or any observer sent by the competent authority, therefore, this question has to be considered whether Petitioners can hold the election treating the term of the Committee of Management as five years or not in spite of the fact that Scheme of Administration has already been amended. Admittedly, from 2009 the order of single operation is operating and the payment of salary etc. is being made through counter signature of the District Inspector of Schools, therefore, in my opinion, it will be appropriate in the interest of justice that fresh election of Committee of Management be held immediately to manage the affairs of the Institution. Therefore, this writ petition is being disposed of finally directing the District Inspector of Schools to hold an election under his supervision within a period of two months from the date of production of certified copy of the order, with the consultation of the outgoing Committee of Management.

The writ petition is disposed of accordingly. no order as to costs.

4. In pursuance thereof, the District Inspector of Schools has appointed the Principal of the Government Inter College, Sefai, Etawah to hold the election, which is under challenge.

5. It is contended that since there was direction to the District Inspector of Schools to himself hold the election, he cannot have appointed another person to hold the election.

6. A perusal of the aforesaid order dated 21.9.2010 does not show that only the District Inspector of Schools would hold the election, but the direction to the District Inspector of Schools was only to hold the election under his supervision. Therefore, the argument does not appear to be correct.

7. It is then urged that the District Inspector of Schools is not consulting the Petitioners as directed by this Court vide order dated 21.9.2010. In the opinion of the Court, the consultation would arise only when some deficiency or clarification is required and it does not appear that at present the District Inspector of Schools has considered it necessary.

8. In view of the aforesaid, no case for interference is made out. Rejected.