
(2015) 08 AHC CK 0032
In the Allahabad High Court
Case No : Writ-C No. 45196 of 2015

C./M., Siwal High School and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 14-08-2015

Acts Referred:

Citation : (2015) 112 ALR 431

Hon'ble Judges : Abhinava Upadhyaya, J

Bench : Single Bench

Advocate : Vinod Kumar Singh, for the Appellant; S.N. Tripathi, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Abhinava Upadhyaya, J—Heard Shri Vinod Kumar Singh for the petitioners as well as Shri R.P. Dubey and Shri Satendra Nath Tripathi for the respondent No. 4. Learned Standing Counsel represents the State Authorities. By means of this writ petition the petitioners have challenged the order of the Joint Director of Education, Meerut Region, Meerut dated 27.7.2015 by which while recalling its order dated 16.6.2014 it has reappointed authorized controller in the institution.

2. It is submitted that the petitioners conducted an election on 28.8.2013 of the committee of management. There was no dispute with regard to election or the membership of the committee of management and the election was recognized on 26.9.2013 by educational authorities and the signature of the Manager of the newly constituted committee of management was attested by the competent authority, i.e., the D.I.O.S.

3. The respondent No. 4-Noor Mohammad appears to have approached the D.I.O.S. presenting resignation letters of the office bearers of the committee of management and the D.I.O.S. upon receiving the resignation letters at the behest of Noor Mohammad recommended on 22.4.2014 for appointment of authorized controller and the authorized controller was appointed. When the

petitioners came to know about the aforesaid, it made a representation to the Joint Director of Education as well as the D.I.O.S. on 28.4.2014. Upon receipt of such objection an inquiry was ordered on 23.5.2014 by a three members committee including the D.I.O.S. and a inquiry report was submitted on 7.6.2014 reporting that the allegations made by respondent No. 4. were incorrect and no member of the committee of management has resigned. The Joint Director of Education vide order dated 16.6.2014 recalled its order for appointment of authorized controller and the committee of management continued to run the institution. Noor Mohammad-respondent No. 4 then again made a complaint that the election held in 2013 by the petitioners was illegal and no proper notice was issued for calling for the meeting for holding of the election. The Joint Director of Education vide its order dated 27.7.2015 passed an order and recalled its earlier order by which the appointment of authorized controller was cancelled and appointed an authorized controller on the ground that proper notice was not issued and upon being asked the petitioners have not given any satisfactory answer.

4. Learned Counsel appearing for the petitioners submits that in the meantime the institution has been declared a minority institution on 4.6.2015.

5. I have considered the submissions made by learned Counsel for the petitioners.

6. It appears that prior to the present election the undisputed election was held on 25.1.2009. From the approved scheme of administration it is not disputed that the term of the committee of management was three years plus one month. The scheme of administration also provided that in case a fresh election is not held within this period, an authorized controller would appointed for holding fresh election as per Clause 7 of the approved scheme of administration.

7. As stated above, the last election was held on 25.1.2009 and the term of that committee of management being three years, its term ought to have come to an end on 24.1.2012, but the election was held on 28.8.2013 under the supervision of the erstwhile Manager of the committee of management constituted pursuant to election dated 25.1.2009. As per approved scheme of administration the petitioners were not entitled to hold the election held on 28.8.2013 as it could have been done only through an authorized controller as per their own approved scheme of administration.

8. Shri Vinod Kumar Singh, learned Counsel appearing for the petitioners submits that once the institution has been declared minority in 2015, the educational authorities have no control over the institution and authorized controller could not have been appointed. It is further submitted that the provisions of approved scheme of administration as provided in Clause 7 cannot be made applicable for appointment of authorized controller since the institution has been declared a minority institution. It is next submitted that the Joint Director of Education has no jurisdiction to review its own order and the complaint was for sending the

matter to the regional level committee, but the Joint Director of Education has passed an order himself which cannot be sustained.

9. I am not inclined to go into all these questions as apparently according to approved scheme of administration the term of the committee of management came to an end in 2012 after the undisputed election of 25.1.2009. As such, according to Clause 7 of the approved scheme of administration it was only the authorized controller who could have conducted the election and the petitioners have no right to hold election. So far as the argument of the petitioners is concerned, upon the institution being converted into a minority institution Clause 7 of the approved scheme of administration cannot be made applicable with respect to appointment of authorized controller, I am unable to accept the same as even if the institution has been converted into a minority institution, no steps were taken by the petitioners or amend the approved scheme of administration and Clause 7 of the approved scheme of administration continuous in operation.

10. Learned Counsel for the petitioners then submits that since the institution is a minority institution the State authorities have no power to appoint authorized controller. For the aforesaid purpose learned Counsel for the petitioners has relied upon a decision of the Hon''ble Supreme Court in the case of In Re: The Kerala Education Bill, 1957. Reference Under Article 143(1) of The Constitution of India, AIR 1958 SC 956 : (1959) 1 SCR 995 .

11. The aforesaid judgment has no application as in the present case the approved scheme of administration drawn by the petitioners itself provides that in case the committee of management becoming the time barred, the election would be held in the supervision of the authorized controller.

12. With the aforesaid view of the matter, I am not inclined to interfere in the order impugned dated 27.7.2015. The writ petition is dismissed.