
(2012) 06 AHC CK 0040
In the Allahabad High Court

C/M S.N.Inter College Indaipur Thr. Manager & Anr.	APPELLANT
Vs	
State of U.P. Through Secy. Secondary Education & Ors.	RESPONDENT

Date of Decision : 26-06-2012

Acts Referred:

Citation : (2012) 06 AHC CK 0040

Hon'ble Judges : Anil Kumar, J

Final Decision : Allowed

Judgement

Anil Kumar, J.—Heard Sri H.G.S. Parihar, learned counsel for the petitioners , Learned State Counsel and Sri Vinod Pandey, learned counsel appearing for opposite party no.5.

2. Sri Parihar, learned counsel for the petitioners, for the purpose of interim relief, submits that in the city of Ambedkar Nagar, there is an institution known as S.N. Inter College, Indaipur, Ambedkar Nagar (hereinafter referred to as "Institution") recognized by the U.P. Intermediate Education Board and receives GrantinAid from the State Government under the provisions as contained in U.P. Intermediate Education Act, 1921, U.P Secondary Education Service Selection Board Act, 1982 (U.P. Act No. 5 of 1982) as well as the U.P. High School and Intermediate College (Payment of Salaries to Teachers and other Employees) Act 1971(U.P. Act No.24 of 1971) .

3. He further submits that in the matter in question previously the dispute came up for consideration before this Court in Special Appeal no. 283 of 2010(Educational Sahyogi Association , Indaipur Ambadkar Nagar and another Vs. Deputy Registrar, Firms , Societies and Chits Faizabad and others) and in the said matter , the point which is subjudiced in respect to election of the Committee of Management in the institution held on 8.1.2010 as well as the Society .

4. After hearing the learned counsel for the parties, by means of judgment and order dated 27.4.2010 the Division Bench of this Court has allowed the Special

Appeal , the relevant portion is quoted herein below:

"The persons who feel aggrieved by the fact that despite they being genuine members who should have been inducted in the list of members, but their names were not included even after giving opportunity and the elections were held, are free to challenge the elections on the same ground in the appropriate forum, but simply because dispute of membership was under challenge in an earlier writ petition where there is no interim order, it cannot be said that the Authorized Controller or the Deputy Registrar was having no authority to hold the elections. The power and authority to hold election is different than to question the validity of the election. The elections can be challenged by the aggrieved persons, by filing an election petition.

Even otherwise, if an election is said to be held in violation of any statutory rule or may be on the ground, that lawfully enrolled members were excluded from participating in the election or the voter list was wrongly prepared, the invalidity of such elections can be raised in the election petition and not in writ petition."

5. He further submits that in spite of the directions given by this Court in Special Appeal No.283 of 2010 by means of judgment and order dated 27.4.2010 ,the validity of the election held on 8.1.2010 has not been challenged by any appropriate forum on the one hand and on the other hand the order dated 27.5.2010 (Annexure no.13) the District Inspector of Schools, Ambedkar Nagar , has authorized the signature of Sri Abul Kalam Khan as Manager of the Committee of the Management of the Institution.

6. Sri Parihar learned counsel for the petitioners further submits that thereafter in the matter in question another order dated 11.5.2012 (Anexure no.15) has been passed by the Deputy Registrar , Faizabad Division, Faizabad , the same was challenged by the person aggrieved by means of Writ Petition No. 3057 (M/ S) of 2012 which is still pending for adjudication before this Court.

7. Learned counsel for the petitioner in addition to above said facts also submits that in the matter in question in pursuance to the order dated 11.5.2012 passed by Deputy Registrar, Faizabad Division , Faizabad/ opposite party no.2 the election of the Committee as well as society has been held on 7.6.2012, the same is utter violation of the directions as given by this Court by order dated 27.4.2010 passed in Special Appeal no. 283 of 2010, the same was challenged before this Court by filing writ petition no. 3658 (M/S) of 2012 which is also still pending for adjudication before this Court.

8. In the meantime, District Inspector of Schools, Ambedkar Nagar / Opposite party no.3 has passed the impugned order dated 11.6.2012(Annexure no.1) thereby recognizing /attesting the signature of Sri Masood Ahmad/opposite party no.5 as Manager of the Committee of Management .

9. It submitted by the Sri Parihar, learned counsel for the petitioner that the impugned order dated 11.6.2012 passed by opposite party no.3 is contrary to

law as laid down by the judgment and order dated 27.4.2010 passed in Special Appeal No. 283 of 2010, as the term of the Committee of Management to which petitioner no.2 is a Manager , up till 7.1.2013 and the said election has not been challenged till date before any forum.

10. In rebuttal, Sri Vinod Pandey, learned counsel for opposite party no.5 submits that after passing of the order dated 27.4.2010 in Special Appeal no. 283 of 2010, has come up for consideration before opposite party no.2, who after hearing the parties concerned , passed an order dated 11.5.2012 (Annexure no.15), the same has been challenged by the person aggrieved by filing writ petition no. 3057(M/S) of 2012 in which no interim order has been granted by this Court and the matter is listed on 13.7.2012.

11. He further submits that thereafter in pursuance to the order dated 11.6.2012, the election of the Committee of Management as well as Society of the Institution has taken place on 7.6.2012 in which opposite party no.5 was elected as Manager of the Committee of Management of the Institution and the said election was again challenged by the person aggrieved by filing Writ Petition No. 3658 (M/S) of 2012 and no interim order has been granted by this Court. In pursuance of the said fact, impugned order dated 11.6.2012 has been passed opposite party no.3/District Inspector of Schools , Ambadkar Nagar as such there is neither any illegality nor infirmity in the said order.

12. After hearing the learned counsel for the parties , I am of the opinion that in order to resolve the controversy involved in the present case, it will be appropriate that the present writ petition shall be heard alongwith Writ Petition nos. 3057(M/S) of 2012 and 3658 (M/S) of 2012.

13. Accordingly, the office is directed to connect the present Writ Petition alongwith Writ Petition nos. 3057(M/S) of 2012 and 3658 (M/S) of 2012 and to list on 13.7.2012.

14. As an interim measure , it is provided that the impugned order dated 11.6.2012 passed by opposite party no.3 which is under challenge in the present writ petition shall be subject to further order passed by this Court.

15. Parties are at liberty to exchange the affidavits in the meantime.