
(2010) 03 AHC CK 0158

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 14617 of 2010

Committee of Management, Adarsh Bharati Inter College,
Kalwa, Aligarh and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-03-2010

Acts Referred:

Citation : (2010) 03 AHC CK 0158

Hon'ble Judges : Dilip Gupta, J

Final Decision : Allowed

Judgement

Dilip Gupta, J.—The Committee of Management of Adarsh Bharti Inter college, Kalwa, Aligarh and Gopal Das Garg claiming himself to be its Manager have filed this petition for setting aside the order dated 8th February, 2010 passed by the Regional Level Committee. The petitioners have also sought the quashing of the order dated 2nd December, 2009 passed by the Joint Director of Education as also the consequential order dated 14th December, 2009 passed by the District Inspector of Schools.

2. It transpires from the records that the elections of the Committee of Management of the Institution were held on 22nd June, 2005 in which Jang Pal was elected as the President and petitioner No. 2 Gopal Das Garg was elected as the Manager. This election was approved by the Regional Level Committee on 6th January, 2006 and the District Inspector of Schools also attested the signatures of petitioner No. 2 as the Manager of the Committee of Management of the Institution on 19th January, 2006. On 5th April, 2009, the Committee of Management of the Institution passed no confidence motion against the President Jang Pal Singh. On the other hand, Jang Pal Singh claims that a meeting of the Committee of Management of the Institution was held on 19th April, 2009 in which petitioner No. 2 was removed from the post of Manager of the Committee of Management of the Institution.

3. The District Inspector of Schools passed an order on 22nd September, 2009 by

which the earlier order dated 19th January, 2006 recognising petitioner No. 2 as the Manager of the Committee of Management of the Institution was recalled. This order was challenged by the petitioners in Writ Petition No. 52168 of 2009 which was allowed by the judgment and order dated 8th October, 2009 with the following observations:

"Having considered the submissions advanced, the Court is of the opinion that the petitioner has been denied opportunity in the matter and as such it would be appropriate that the matter may be remitted to the District Inspector of Schools, Aligarh for a fresh decision. At this stage it has been submitted by Sri Gupta that he does not expect any kind of fair decision from the District Inspector of Schools, Aligarh (Respondent No. 5) and in this regard the petitioner has also made representation to the Joint Director of Education, Aligarh for transfer of the case to some other District Inspector of Schools of the neighboring districts. In these circumstances it is submitted that this Court may direct that the matter be decided by some other officer other than the respondent No. 5. Sri G.K. Singh has suggested that the matter be heard by the Joint Director of Education, Aligarh himself. Sri Gupta has no objection to this suggestion.

Accordingly in view of the discussion made above this petition succeeds and is allowed. The impugned order dated 22.9.2009 passed by the District Inspector of Schools, Aligarh (Annexure No. 11 to the writ petition) is hereby quashed and in view of the agreement expressed by the parties, the matter is remitted to the Joint Director of Education, Aligarh Region, Aligarh to decide the matter afresh strictly in accordance with law after affording due opportunity of hearing to the parties concerned. The Joint Director of Education shall further make an endeavour to decide the matter within a period of two months from the date of production of a certified copy of this order. It is further provided, on the consent of the learned counsel for the parties, that both the parties shall appear before the Joint Director of Education, Aligarh Region, Aligarh on 22.10.2009. Certified copy of this order may be presented before the Joint Director of Education, Aligarh Region, Aligarh even before the said date by either of the parties.

4. The records indicate that pursuant to the aforesaid directions of this Court, the Regional Level Committee assumed jurisdiction in the matter and has taken a decision on 8th February, 2010 that since a dispute has arisen, the District Inspector of Schools should hold the elections of the Committee of Management of the Institution within three months. The Regional Level Committee consisted of Joint Director of Education, Deputy Director of Education and the same District Inspector of Schools who had earlier decided the matter on 12th September, 2009.

5. Sri M.K. Gupta, learned counsel appearing for the petitioners submitted that this Court by the judgment and order dated 8th October, 2009 directed the Joint Director of Education, Aligarh to decide the matter but the matter has been decided by the Regional Level Committee which included the same District Inspector of Schools who had earlier decided the matter. It is his submission that

in view of the serious allegations of bias made against the District Inspector of Schools, the Court had directed that the matter should be decided by the Joint Director of Education, Aligarh. He has, therefore, submitted that the decision taken by the Regional Level Committee should be set aside on this sole ground and the matter may be sent to the Joint Director of Education to decide the dispute in terms of the judgment dated 8th October, 2009.

6. Learned counsel for the petitioners has also submitted that the order dated 2nd December, 2009 passed by the Joint Director of Education that till the matter is decided, the joint salary account of the Institution should be operated singly deserves to be set aside because the signatures of petitioner No. 2 as the Manager of the Committee of Management had been attested and only an objection had been taken that petitioner No. 2 had been removed from the post of Manager. He has, therefore, submitted that the Joint Director of Education was not justified in passing the order dated 2nd December, 2009 and that too without giving any opportunity to the petitioners to show cause.

7. Learned Standing Counsel appears for respondent Nos. 1,2,3 and 6. Sri Bheem Singh appears for respondent No. 4. They state that it is not necessary to file any counteraffidavit and the petition may be disposed of. In view of the order that I propose to pass it is not necessary to issue notice to respondent No. 5.

8. Sri Bheem Singh, learned counsel for the respondent No. 4 has placed before the Court the order dated 7th October, 2009 passed by the District Inspector of Schools for single operation of the account but learned counsel for the petitioners pointed out that the said order was subsequently recalled by the District Inspector of Schools on 20th October, 2009, when it was brought to his notice that the earlier Writ Petition No. 52168 of 2009 was allowed by this Court.

9. Sri Bheem Singh, learned counsel for respondent No. 4 and the learned Standing Counsel have, however, very fairly stated that the matter was required to be decided by the Joint Director of Education and not the Regional Level Committee. They, therefore, state that the matter may be remitted to the Joint Director of Education, Aligarh to decide it in accordance with the directions earlier issued by this Court on 8th October, 2009 in Writ Petition No. 52168 of 2009.

10. It is not possible to sustain the order dated 2nd December, 2009 passed by the Joint Director of Education and the consequential order dated 14th December, 2009 passed by the District Inspector of Schools authorising the Associate District Inspector of Schools, Aligarh to singly operate the joint salary account of the Institution. Petitioner No. 2 had been duly recognised by the Regional Level Committee on 6th January, 2006 as the Manager of the Committee of Management elected on 22nd June, 2005 and the District Inspector of Schools had also attested his signatures on 19th January, 2006. Only an allegation has been made at this stage by Jang Pal Singh that petitioner No. 2 had been removed from the post of Manager on 19th April, 2009 and the validity

of this resolution has yet to be determined by the Joint Director of Education. It also needs to be noted that the case of the petitioners is that Jang Pal Singh had been removed as the President on 5th April, 2007 on the basis of no confidence motion and as a counter blast Jang Pal Singh set up a case about removal of the petitioner from the post of Manager.

11. In view of the aforesaid, the decision taken by the Regional Level Committee 8th February, 2010 and the order dated 2nd December, 2009 passed by the Joint Director of Education as also the consequential order dated 14th December, 2009 passed by the District Inspector of Schools are set aside. It shall, however, be open to the Joint Director of Education, Aligarh to decide the matter in accordance with directions issued by this Court on 8th October, 2009 in Writ Petition No. 52168 of 2009 without being influenced by any of the observation made in the decision taken by the Regional Level Committee.

12. The writ petition is allowed to the extent indicated above.