

(2005) 02 AHC CK 0156

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 20346 of 2002

Committee of Management, Adarsh Inter College and
Manager/Secretary, Adarsh Inter College

APPELLANT

Vs

District Inspector of Schools and Hari Shanker Shukla, Acting
Principal (Under Suspension) Adarsh Inter College

RESPONDENT

Date of Decision : 11-02-2005

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16G, 16G(7)
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 35, 36

Citation : (2005) 6 AWC 5389 : (2005) 2 ESC 996 : (2005) 2 UPLBEC 1748

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Govind Saran, for the Appellant; G.K. Singh, T.S. Shukla,
Kushmandey Shahi and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

Arun Tandon, J.—Heard Sri Govind Saran Advocate on behalf of the petitioners, Sri G. K. Singh Advocate on behalf of respondent No. 2 and the Standing Counsel on behalf of respondent No. 1.

2. Adarsh Inter College, Saltawa, Gopalpur, district Basti is an institution recognized under the provisions of the U.P. Intermediate Education Act, 1921. The provisions of the said act as also those of the U.P. High School and Intermediate (Payment of Salary to Teachers and other employees) Act, 1971 as well as the Regulations framed thereunder are fully applicable to the teachers and employees of the said institution. Respondent No. 2, Hari Shankar Shukla, was working as Principal of the aforesaid Intermediate College.

3. The Committee of Management of the said College, on the basis of certain charges, passed a resolution dated 3rd July, 2001 where by Sri Hari Shankar Shukla was placed under suspension pending enquiry. A three member Committee was constituted for the purposes of conducting the enquiry in

accordance with Regulations 35 and 36 of the Regulations as contained in Chapter III framed u/s 16-G of the Intermediate Education Act. In accordance with Section 16-G(7) of the Act the suspension of Head Master/Principal of a recognized institution is necessarily to be approved in writing by the District Inspector of Schools within a period of 60 days from the date of the order of suspension failing which the order of suspension becomes inoperative in the eye of law. The legal position in that regard has been settled by a Full Bench judgment of this Court reported in The Full Bench has held that after expiry of 60 days the District Inspector of Schools does not become functus officio and he still has power to pass orders approving/disapproving the order of suspension. Reference in this regard may also be had to the case reported in 1994 A.W.R. 334 (para 9) wherein it has been held that during the interregnum period i.e. after expiry of 60 days if there is no order in writing of the District Inspector of Schools approving the suspension of teacher /Principal concerned he is entitled to work in the institution.

4. The Committee of Management claims to have forwarded relevant documents to the District Inspector of Schools for necessary approval but the District Inspector of Schools did not pass any order within the reasonable time as a result whereof the Committee of Management filed Civil Misc. Writ Petition No. 36235 of 2001 before this Court. The said writ petition was disposed of vide judgment and order dated 21.11.2001 with a direction to the District Inspector of Schools to take appropriate decision in the matter of approval of suspension of Principal of the institution. The District Inspector of Schools in compliance of the orders of this Court passed an order dated 08.01.2002 whereby he refused to consider the issue of approval of suspension of respondent No. 2 on the ground that the period of 60 days has already expired.

5. Feeling aggrieved by the order dated 08.01.2002 the Committee of Management filed Civil Misc. Writ Petition No. 2499 of 2002. The said writ petition was disposed of by means of order dated 22.01.2002 with a direction to the District Inspector of Schools to pass a reasoned speaking order whether approving or disapproving the decision of the Committee of Management to place the respondent No. 2, the Principal of the institution, under suspension. The District Inspector of Schools vide order dated 29.04.2002 has refused to grant approval to the decision of the Committee of Management suspending the Principal of the institution on various grounds as stated in the order itself. The order dated 29.04.2002 has been challenged by the Committee of Management by means of the present writ petition.

6. This Court while entertaining the present writ petition on 16.05.2002 passed an order whereby the Committee of Management was conferred a discretion to take or not to take work from respondent No. 2. However, it was provided that the Principal shall not be deemed to be under suspension and he shall be entitled to full salary.

7. The order dated 29.04.2002 passed by the District Inspector of Schools has

been challenged by the Committee of Management amongst others on the grounds (a) that the impugned order has been passed in manifest violation of the principles of natural justice and (b) that no reasons have been assigned by the District Inspector of Schools for disapproving the decision of the Committee of Management. It is, therefore, contended that the order passed by the District Inspector of Schools cannot be legally sustained.

8. On behalf of respondent No. 2 it is contended that the District Inspector of Schools has recorded specific finding that the entire action of the Committee of Management was mala fide. The said finding has not been questioned by the Committee of Management in any manner in the present writ petition. Even otherwise from the facts of the present writ petition it is apparently clear that the respondent No. 2 was placed under suspension as early as in July, 2001, nearly 4 years have elapsed and the Committee of Management has not completed the enquiry proceedings against the petitioner. It is, therefore, contended that this Court may not interfere with the order passed by the District Inspector of Schools.

9. In the rejoinder it is submitted by the counsel for the petitioners that the delay in completing the enquiry proceedings has occasioned only because of the conduct of respondent No. 2 inasmuch as he has locked the door of the office of the Principal and therefore the enquiry proceedings could not be completed.

10. I have heard learned counsel for the parties and gone through the record of the writ petition.

11. From the record of the present writ petition it is undisputed that respondent No. 2 was placed under suspension as early as on 3rd July, 2001 by the Committee of Management. He was also issued a charge-sheet in respect of the charges which were to be enquired into against the petitioner. Regulation 36 of Chapter III makes it obligatory upon the management to intimate the charges on which the enquiry is to be conducted against the teacher/Principal of the College in the form of definite charge/charges giving sufficient indication to the charged employee of the facts and circumstances against him. The employee is to be afforded three weeks' time to file written statement in his defence and to state as to whether he desired to be heard in person. According to the scheme as contemplated by the Regulations of Chapter III the enquiry against the Principal/Teacher of an institution must necessarily be completed in a time bound manner and there should not be delay in conclusion of the enquiry proceedings. Section 16-G(a) of the Intermediate Education Act confers a power upon the District Inspector of Schools to revoke the order of suspension (after the suspension order has been approved by him), on the ground that there has been delay in the enquiry being completed.

12. So far as the allegation that the enquiry proceedings could not be completed because the respondent No. 2 had locked the office of the Principal, is concerned, this Court is satisfied that the plea taken by the management is an after thought

inasmuch as from the own resolution of the Committee of Management dated 3rd July, 2002 which is enclosed along with the supplementary affidavit filed on behalf of the petitioners it is apparently clear that the Committee of Management had resolved, that because of the office of the Principal being locked by the respondent No. 2 there is difficulty in running and managing the institution. In the same resolution the Committee of Management has taken a decision to issue a charge-sheet to respondent No. 2 containing 29 charges without making any reference to the non-availability of the relevant records for completion of the enquiry. Even in the writ petition there is no allegation that the records which are lying closed in the office of the Principal are in any way connected with the charges leveled against the respondent No. 2 nor the charge-sheet makes reference to any such document which the management has not been able to obtain in view of the office of the Principal being locked.

13. In any view of the matter on behalf of respondent No. 2, the Principal, of the institution, a categorical statement has been made that the office of the Principal of the institution has not been locked by him and there is no lock on the doors of the office of the Principal. In view of the said statement it will be open to the management to break upon the lock, if any, put on the door of the office of the Principal, under the order of this Court.

14. In the circumstances as stated above this Court is satisfied that there has been inordinate delay in conclusion of the enquiry against the Principal of the institution. Therefore, it would be appropriate that the said disciplinary proceedings itself be completed at the earliest possible. Counsel for the petitioners states that the enquiry shall be completed within three months provided the Principal cooperates with the same. On behalf of the Principal it is stated that he has never obstructed the enquiry proceedings and is always willing to cooperate with the same. It is, therefore, provided that the management of the institution shall complete the enquiry against the Principal, respondent No. 2, within 3 months from today in accordance with the provisions of the Regulations regulating the enquiry proceedings, as contained in Chapter III of the Regulations framed under the Intermediate Education Act.

15. In view of the aforesaid it is not necessary to adjudicate upon the legality or otherwise of the order passed by the District Inspector of Schools disapproving the suspension of the Principal of the institution inasmuch as in the opinion of the Court the enquiry having been prolonged for more than nearly 4 years is in itself a sufficient ground for revoking the suspension of respondent No. 2 with reference to Section 16-G(a) of the Act.

16. Having regard to the judgment of this Court reported in 1994 AWR 334 and and there being no order of the District Inspector of Schools approving the suspension of the Principal in writing within 60 days, the suspension order loses its force by operation of law and, therefore, the respondent No. 2 is entitled to continue to work as Principal of the institution.

17. In view of the above the writ petition is disposed of. Interim order, if any, stands discharged.