

(1978) 10 AHC CK 0047
In the Allahabad High Court
Case No : Civil Misc. Writ No. 8701 of 1978

Committee of Management	Vs	APPELLANT
District Inspector of Schools and Another		RESPONDENT

Date of Decision : 05-10-1978

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Intermediate Education Act, 1921 — Section 16A(1), 16C
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 100, 4, 5

Citation : (1979) AWC 24

Hon'ble Judges : R.R. Rastogi, J;N.D. Ojha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.D. Ojha, J.—Since the decision of this writ petition hinges only on the interpretation of Regulation 5 framed for purposes of Section 16-C of the U.P. Intermediate Education Act and since both the Respondents are represented by the standing counsel, we are of opinion that this writ petition should be finally disposed off as contemplated by the II proviso to Rule 2(1) of Chapter XXII of the Rules of the Court.

2. The Petitioner is the committee of management of Janta Shiksha Niketan Intermediate College, Orwara, District Basti. It appears that one Bishwa Dev Shukla was the manager of this committee of management, He resigned from the office and Paras Nath Shukla thereafter claimed to be the Manager. The matter was referred to the District Inspector of Schools presumably for recognising Paras Nath Shukla as the new Manager. The District Inspector of Schools by means of order dated 12-9-1978, a copy of which has been attached as Annexure "1" to the writ petition, refused to recognise Paras Nath Shukla as the Manager of the Petitioner committee of management. It is this order of the District Inspector of Schools which is sought to be quashed in the present writ petition.

3. Having heard counsel for the Petitioner as well as the Standing Counsel we are of opinion that the view taken by the District Inspector of Schools does not suffer from any such error which may justify interference under Article 226 of the Constitution. Before the District Inspector of Schools even Bishwa Dev Shukla contended that he was continuing as Manager of the committee of management and that he had not submitted resignation. This plea did not find favour with the District Inspector of Schools and he came to the conclusion that Bishwa Dev Shukla had actually resigned from the office of the Manager. In regard to Paras Nath Shukla, the view which the District Inspector of Schools took was that since he was also a class IV employee of another recognised institution, he could not, in view of regulation 5 aforesaid, act as an office bearer of the Petitioner committee of management.

4. It has been urged by the counsel for the Petitioner that the interpretation put by the District Inspector of Schools on Regulation 5 is erroneous inasmuch as Regulation 5 prohibits only a member of the teaching staff or the Principal or Head Master, or members of the clerical staff or Class IV employees from acting as an office bearer of the committee of management of that very recognised institution in which they are employed and it does not place any restriction on their acting as an office bearer of a committee of management of a different recognised institution. We find no substance in this submission. Chapter III of the regulations deals with conditions of service of the employees of a recognised institution. We are of opinion that in order to appreciate the true import of Regulation 5 it is also necessary to take into consideration Regulation 4. These two regulations are as follows:

4. No teacher shall be appointed whether in a temporary or clear vacancy in an institution who is related to any member of the committee of Management or the Principal or Headmaster, nor shall a Headmaster or Principal be appointed in an institution who is related to any member of the Committee of Management.

5. No member of the teaching staff or the principal or Headmaster shall act as an office-bearer of the Committee of Management of any recognised institution.

5. A perusal of Regulation 4 indicates that in the said regulation article "any" has not been used before the word "institution". Instead article "an" has been used. Regulation 4 clearly, therefore, indicates that no teacher shall be appointed whether in a temporary or clear vacancy only in that institution where any member of the committee of management or the Principal or the Headmaster is related to such teacher. Likewise, no one can be appointed as a Headmaster or principal of an institution if he is related to any member of the committee of management of the said institution. Regulation 5 on the other hand in clear terms indicates that no person, who is member of the teaching staff or who is Principal or Headmaster shall act as an office-bearer of the committee of management of any recognised institution, meaning thereby that such person is debarred under the conditions of service, which have been made on uniform basis for the members of the teaching staff, Principal or Headmaster from acting

as an office bearer of the Committee of Management not only of the institution in which they are employees but also in any other recognised institution. At this place we may point out that a new Regulation being Regulation 100 has been added to the Regulations aforesaid whereby the provisions of Regulation 5 have been made applicable even to the clerical staff and class IV employees of a recognised institution. The conditions of service contained in Chapter III being of uniform application are binding on the employees concerned of every recognised institution. Consequently any person who gets himself employed in a recognised institution either as a member of the teaching staff or Principal or Headmaster or on the clerical staff or as a class IV employee is bound by Regulation 5 which constitutes one of the conditions of his service, The reason why Regulation 5 was couched in the present form apparently seems to be that these employees should not be permitted to participate in the management of any recognised institution and should devote their full attention to the job for which they are employed. The matter can be looked into from yet another angle. There may be two institutions in the same district. If a person is permitted to be, for instance, the Principal of one of them and also the Secretary or the Manager of the other, there are chances of conflict of interest coming into being with the result that the interest of one of them is likely to suffer. Apart from this the appointment of a person as Principal, Headmaster, a teacher or on the clerical staff or as a class IV employee in a recognised institution is made by the Committee of Management of that institution. The Committee of management is constituted under a scheme of administration. It is an elected body except for the head of the institution and the teachers thereof, as laid down in Section 16-A(1) of the U.P. Intermediate Education Act. Now if an employee of an institution is permitted to act as an office bearer of the committee of management of another institution it may not only interfere in the discharge of his duties for which he has been employed, but may lead to undesirable result and divided loyalty by his seeking election to the committee of management.

6. In this view of the matter we are of opinion that Regulation 5 places complete embargo on the right of a person, who is employed in a recognised institution as aforesaid, to act as an office bearer of the committee of management of any recognised institution irrespective of the fact whether it is the committee of management of the same institution where he is employed or of some other institution.

7. We accordingly find no merit in this writ petition and it is hereby dismissed, but in the circumstances of the case there will be no order as to costs.