

(1998) 07 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 30872 of 1997

Committee of Management, Brahmarshi Sri Ram Krishna
Inter College and Another

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 24-07-1998

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Intermediate Education Act, 1921 — Section 16A(7)

Citation : (1999) 1 UPLBEC 461

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : R.G. Padia, for the Appellant; M.D. Singh Shekhar, for the Respondent

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—The petitioners filed writ petition seeking writ of certiorari quashing the order dated 26th August, 1997, passed by the District Inspector of Schools, Mau, respondent No. 1 whereby he prepared the list of the members of Bramharshi Shri Ram Krishna Inter College. Walidpur, District Mau (hereinafter referred to as the Institution).

2. In respect of the election of the Committee of Management of the Institution two writ petitions were filed numbered 18284 of 1989 and 31252 of 1990. These writ petitions were held to be infructuous as the term of the Committee of Management had expired. The Court dismissed the writ petitions with the following observations :-

"In that view of the matter these two writ petitions are dismissed as having become infructuous, with a direction to the District Inspector of Schools to decide the rival claim of membership after scrutinising the list of members submitted by both the parties, by affording reasonable opportunity of hearing within a period of four weeks from the date a certified copy of this order is produced

before him. The District Inspector of Schools, Azamgarh shall also take steps to appoint the Authorised Controller, if not already appointed, in respect of the institution, who will manage the affairs of the institution. The District Inspector of Schools shall also take steps for conduct of the election of the institution, after the list of members are scrutinised, through the Authorised Controller, in accordance with law, within a period of six weeks from the date of finalisation of the members list."

The district Inspector of School gave notice to the parties concerned and three sets of the lists of the members were produced before him. One list was submitted by Surya Bhan Ojha, petitioner No. 2, second by Shyam Narain Rai and the third list was produced by Pradumn Nath Mishra. There was dispute in the Civil Court in respect of the members of the Institution in the year 1961, which was decided on the basis of the consent of the parties. This list was also taken into account by the District Inspector of Schools. He did not accept the list submitted by petitioner No. 2 and the lists submitted by Hari Narain Rai, Shyam Narain Rai and Pradumn Nath Mishra were accepted as correct.

3. On this petition this Court passed on interim order on 19th September, 1997-"the election shall be held but its result shall not be declared, which will be subject to the decision of this petition, till the next date of listing". The election took place on 21-9-1997 and the result was also declared on the same day. The signature of the Manager, Shri Shyam Bihari, was attested on 22-9-1997. The petitioner thereafter has filed application for amendment of the writ petition seeking to quash the attestation of the signature of Shri Shyam Bihari Tiwari dated 22-9-1997.

4. I have heard Dr. R.G. Padia, learned Counsel for the petitioner and Sri M.D. Singh Shekhar, learned Counsel for Shyam Bihari Tiwari.

5. Learned Counsel for the petitioner submitted that the District Inspector of Schools has not decided the controversy regarding to members of the institution in accordance with the direction of the High Court in the Writ Petitions noted above. It is contended that petitioner No. 2 had submitted a detailed representation giving the list of the member and it was incumbent upon respondent No. 1 to examine regarding the membership of each of such persons. It is further urged that the petitioner, being Head Clerk of the institution, is not deprived from being a, member of the Society of the Institution. It is not denied that the petitioner No. 2 was afforded opportunity by respondent No. 1. He had taken into consideration the various lists submitted by three sets of persons. If the petitioner was aggrieved against the decision, he could have filed a suit in respect of the membership of the society of the institution. The question of membership in a society depends upon the various facts and that can be properly investigated in a civil suit.

6. The second submission of learned Counsel for the petitioner is that the election was not properly held on 21st September, 1997 , in accordance with the

Scheme for Administration. The District Inspector of Schools has finalised the list of the members. The date of the election was fixed as 21st September, 1997 and on the said date the election had taken place. In *Shandar Hussain v. Deputy Director of Education*, 1995 ACJ 1244, it was held that the Deputy Director of Education has jurisdiction to examine the validity of an order passed by the District Inspector of Schools in administrative capacity. In respect of the election if the petitioners had any grievance, they could have submitted representation before the Deputy Director of Education.

7. The last submission of learned Counsel for the petitioners is that the signature of respondent No. 4 was attested by respondent No. 1 in defiance of the interim order passed by this Court dated 19-9-1997, wherein the election was directed to be held but its result was not to be declared till the next date of listing but respondent No. 1 acted illegally in declaring the result on 21-9-1997 and the signature was attested on 22-9-1997. The version of respondent No. 5 is that the order passed by this Court was served on 22-9-1997 after the signature was attested. Petitioner No. 2 is alleged to have filed contempt petition in this Court and that matter can be examined in that petition.

8. The writ petition is accordingly dismissed with the observations made above.