
(2002) 12 AHC CK 0116
In the Allahabad High Court

Case No : C.M.W.P. No"s. 20967 of 1997 and 7862 and 23730 of 1999

Committee of Management, Chandra Shekhar Azad Inter
College and Another

APPELLANT

Vs

Deputy Director of Education and Others

RESPONDENT

Date of Decision : 05-12-2002

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16A, 16G(3)

Citation : (2003) 1 AWC 263

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : A.P. Sahi and G.K. Singh, for the Appellant; Vashishtha Tewari, S.C.,
for the Respondent

Final Decision : Disposed Of

Judgement

Rakesh Tiwari, J.—Heard the learned counsel for the parties and perused the records.

2. These three writ petitions are connected and are being decided together with the consent of the parties.

3. Writ Petition No. 20967 of 1997, has been filed challenging the validity and correctness of the orders dated 23.5.1997 and 20.5.1996, passed by respondent Nos. 1 and 2 respectively in which the following interim order was passed on 4.7.1997 :

"As prayed list it on 10th July. 1997 for further hearing. Till then status quo as on today shall be maintained.

4.7.1997

Sd. B. S. Chauhan."

This stay order exhausted itself during the pendency of the writ petition.

4. The second Writ Petition No. 7862 of 1999, Brahm Dutt Singh v. Regional Joint Director of Education, has been filed for mandamus commanding the respondents to hold a fresh election of the Committee of Management in pursuance of the orders dated 20.5.1996 and 23.5.1997, Annexures-1 and 2 to the writ petition which are also impugned in connected Writ Petition No. 20967 of 1997.

5. The third Writ Petition No, 23730 of 1999, Raj Nath Singh v. Deputy Director of Education and Ors. has been filed for a writ in the nature of mandamus directing the respondents not to hold election of Committee of Management of the college with 193 members of General Body.

6. The brief facts of the case are that the election of the Committee of Management of Chandra Shekhar Azad Inter College, Deogaon, were held on 17.1.1993 in which Raj Nath Singh petitioner in Writ Petition No. 23730 of 1999 was elected as Manager. It appears that a complaint was made before the District Inspector of Schools, respondent No. 2 to the effect that "no confidence motion" had been passed against Raj Nath Singh and that one Brahm Dutt Singh had been elected as Manager in his place. By order dated 22.3.1995 the District Inspector of Schools dis-approved the said election dated 17.1.1993 against which Writ Petition No. 11322 of 1995 was filed by Raj Nath Singh and the interim order was granted on 28.4.1995 in his favour.

7. Thereafter elections of the Committee of Management were again held on 10.3.1996. It was submitted by Raj Nath Singh in the aforesaid two writ petitions that he was again elected as Manager. The election held on 10.3.1996 was again dis-approved by the District Inspector of Schools vide order dated 20.5.1996, which was challenged in Writ Petition No. 18977 of 1996. Later on the said writ petition was dismissed on 11.7.1996 against which Special Appeal No. 579 of 1996 was preferred. The special appeal was also dismissed by this Court with the observation that the Deputy Director of Education shall decide the statutory appeal without being influenced by the order dated 11.7.1996 in Writ Petition No. 18977 of 1996. Thereafter, the petitioner approached the Deputy Director of Education, VIIth Region, Gorakhpur in appeal, but his appeal was dismissed. The Deputy Director of Education, Gorakhpur Region, Gorakhpur, after hearing both the parties, affirmed the order passed by the District Inspector of Schools, Deoria. dated 23.5.1997. who was also appointed as authorized controller for purposes of holding a fresh election amongst valid and recognized members. Aggrieved by the aforesaid orders, the Committee of Management as well as Raj Nath Singh filed Writ Petition No. 20967 of 1997, in which the impugned order dated 20.5.1996, passed by the District Inspector of Schools and the order dated 23.5.1997, passed by the Deputy Director of Education were challenged.

8. Sri A. P. Sahi, counsel for the petitioner in Writ Petition No. 20967 of 1997, states that this writ petition has become infructuous as the term of the Committee of Management which is three years under the Scheme of Administration has expired. He further states that the Administrator had already

been appointed in the institution and there is no dispute to be decided in this writ petition regarding membership of the Committee of Management. In view of the submissions, the Writ Petition No. 20967 of 1997 is dismissed as having become infructuous. The interim order dated 4.7.1997 stands vacated.

9. Sri R. C. Singh, counsel for the petitioner in Writ Petition No. 23730 of 1999, submits that the last election of the Committee of Management was held in the year 1996 and thereafter the Administrator had been appointed in the year 1998. A perusal of Annexure-C.A. 1 in this petition shows that Raj Nath Singh had submitted letter dated 25.9.1993 to the Assistant Director, Chit, Funds and Societies admitting that last valid election of the Committee of Management was held in 1985 and thereafter elections held in 1993 were not in accordance with the provisions of the Education Act, 1980 and as such the Committee of Management elected in 1993 cannot be recognized. He further stated in the aforesaid letter that the renewal may be granted on the basis of the membership in 1985. Sri R. C. Singh does not dispute the letter dated 25.9.1993, Annexure-C.A. 1 submitted by Raj Nath Singh. He also does not dispute that the term of elected Committee of Management is three years and the same had expired in the year 1999. I.e., even after the expiry of the term of Committee of Management, which was allegedly constituted illegally in 1996. The counsel for the petitioner in this case could not point out any legal right on the basis of which the elected Committee of Management could continue even after three years i.e., after the term of Committee of Management according to the by-laws and in accordance with the Scheme of Administration came to an end.

10. The counsel for the petitioner in Writ Petition No. 7862 of 1999 contends that initially the election was held on 17.1.1993, which was against the Scheme of Administration and was beyond the powers of the Secretary. The election was held in the year 1993 and Raj Nath Singh, in Annexure-C.A. 1 to the Writ Petition No. 23730 of 1999 has also admitted this fact.

11. Since Raj Nath Singh had admitted before the Assistant Registrar, Firms, Societies and Chits, Gorakhpur vide his affidavit dated 25.2.1993, that the election of the Committee of Management should be held in pursuance of the list of the year 1985, hence the election held on 17.1.1993 was not valid but he succeeded to complete his tenure upto 1996. Again on 10.3.1996, an election was held by Raj Nath Singh without intimation to the District Inspector of Schools, Deoria, in absence of any observer and without giving any notice or information for participation of approved and valid members. This election was held on the basis of forged membership list of 271 members, who are said to have been enrolled during the period of dispute. Protests applications were filed by all those 193 valid members to whom the department has already recognized as valid members.

12. The District Inspector of Schools, Deoria, after hearing both the parties held that the election dated 10.3.1996 and the earlier election dated 17.1.1993 have been held by unauthorised and unapproved members, therefore, vide his order

dated 20.5.1996 held that the election of the society is against the approved Scheme of Administration and further held that 193 approved and valid members have neither been noticed nor permitted to participate in the election, hence a fresh election under the observation of District Inspector of Schools be held within a month.

13. It is not disputed between the parties that the last valid election of the Committee of Management came to an end in the year 1985 and the authorized controller is at present running the affairs of the institution. The parties agree that in view of the peculiar facts and circumstances of the case, the Joint Director of Education may be directed to decide the objections of all the interested parties concerned after giving them an opportunity of hearing and hold fresh election of the Committee of Management within a time bound programme.

14. The Deputy Director of Education, VIIth Region, Gorakhpur, is directed to decide the objections of all the interested parties concerned regarding membership of the society on the basis of undisputed membership list of Committee of Management of the year 1985, within a period of one month after giving opportunity of hearing to all concerned persons. He shall, thereafter take necessary steps for holding fresh election of the new Committee of Management under his supervision in accordance with law and shall ensure that the new elected body resumes the office within a period of two months from the date of decision of the objections regarding membership of the society.

15. In this view, the writ petitions are disposed of with the aforesaid directions. The interim orders stands vacated. No order as to costs.