

(2000) 12 AHC CK 0057
In the Allahabad High Court
Case No : C.M.W.P. No. 53348 of 2000

Committee of Management, Intermediate College, Gorai	APPELLANT
Vs	
District Inspector of Schools, Varanasi and Another	RESPONDENT

Date of Decision : 18-12-2000

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16G(7) , 16G(8)

Citation : (2001) 1 AWC 471 : (2001) 88 FLR 373 : (2001) 1 UPLBEC 468

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : B.P. Srivastava and R.D. Singh, for the Appellant; A.P. Sahi, S.K. and G.K. Singh, for the Respondent

Final Decision : Allowed

Judgement

V. M. Sahai, J.—Shri Bhagwati Prasad Srivastava, the learned counsel for the petitioner states that he be permitted to delete respondent No. 3 from the array of parties. He is permitted to do so during the course of the day. I have heard Shri Bhagwati Prasad Srivastava and Shri R. D. Singh the learned counsel for the petitioner and Shri K. K. Chand learned standing counsel appearing for respondent No. 1 and Shri V. K. Singh holding brief of Shri G. K. Singh appearing for respondent No. 2. Counsel for the parties have agreed that this matter can be disposed of finally at the admission stage without calling for any counter-affidavit. Therefore, this petition is taken up for final disposal at the admission stage.

2. This writ petition has been filed by Committee of Management, challenging the orders of the District Inspector of Schools passed on 29.8.2000 and 31.8.2000. Shri Subhash Chandra Dubey was working as officiating Principal in Intermediate College, Gorai, Post Gorai, Varanasi. Serious complaints of misappropriation of funds and irregularity as controller of examination were received. In preliminary inquiry, the allegations were found to be correct. An inquiry committee of three persons was constituted and he was suspended on 29.6.2000 and the papers

were forwarded to District Inspector of Schools for grant of approval as provided by Section 16G (7) of the U. P. Intermediate Education Act, 1921 (in brief Act). The papers were received on 30.6.2000. But the District Inspector of Schools did not take action for sixty days, the statutory period provided by Section 16G (7). He did not make any inquiry from the petitioner. The papers remained pending for two months. No order was passed by the District Inspector of Schools. Sixty days from the date of suspension was completed on 28.8.2000. The District Inspector of Schools on 29.8.2000 passed the order that suspension order has automatically come to an end and he has directed the management to reinstate the respondent No. 2 as Principal of the institution and on 31.8.2000 attested his signatures.

3. The learned counsel for the petitioner has vehemently urged that the District Inspector of Schools without passing any order of approval or disapproval u/s 16G (7) could not direct the management to reinstate the respondent No. 2. He relied on the Full Bench decision of this Court in Chandra Bhushan Mishra v. District Inspector of Schools and others 1995 (1) UPLBEC 460. On the other hand, Shri Vijay Kumar Singh holding brief of Shri G. K. Singh appearing for respondent No. 2 has urged that after the expiry of sixty days, the suspension order automatically came to an end and the order passed by District Inspector of Schools was justified. Shri K. K. Chand the learned standing counsel supported the impugned order.

4. Section 16G (8) of the Act empowers the District Inspector of Schools to revoke suspension if the management is found to be delaying inquiry. Section 16G (7) provides for automatic cessation of suspension order if no approval or disapproval is granted within sixty days. The two provisions read together manifest the legislative anxiety of protecting a teacher against arbitrary action of the management. But it does not empower the District Inspector of Schools to abuse it so as to frustrate the action of the management where it proposes to proceed in accordance with law. Facts of this case demonstrate that the District Inspector of Schools has failed to discharge his duty with responsibility. It calls for an inquiry by the higher authorities. When the management sent the suspension order u/s 16G (6) of the Act to the District Inspector of Schools for grant of approval, he could not sit tight over the matter till the expiry of sixty days statutory period. The inaction of the District Inspector of Schools would not render the suspension order ineffective. The Full Bench in Chandra Bhushan Mishra (supra) has held that it would continue to exist though inoperative. It would become effective after the District Inspector of Schools grants approval. The suspension would not come to an end and the District Inspector of Schools was required to apply his mind and pass reasoned order. Statutory provision of Section 16G (7) of the Act expressly provides that order under this sub-section has to be passed in writing by the District Inspector of Schools. It is implicit that while passing an order in writing, he has to apply his mind and give reasons for approving or disapproving the suspension order. He is under a legal duty and obligation to pass a reasoned order. It is not a mere formality. Since no order has

been passed by District Inspector of Schools u/s 16G (7), the impugned orders passed by him cannot be maintained.

5. In the result this writ petition succeeds and is allowed. The orders dated 29.8.2000 and 31.8.2000 passed by District Inspector of Schools, Varanasi, Annexures-6 and 7 respectively to the writ petition are quashed. The District Inspector of Schools is directed to take a decision u/s 16G (7) of the U. P. Intermediate Education Act, 1921, in accordance with law by a speaking order within a period of two months from the date a certified copy of this order is produced before him.

6. Parties shall bear their own costs.