

(2008) 03 AHC CK 0226
In the Allahabad High Court

Committee of Management Janta Adarsh Higher Secondary School, Virendra Nath Singh, Manager, Committee of Management Janta Adarsh Higher Secondary School and Siksha Prasarani Sabha APPELLANT

Vs

Director of Education, Deputy Director of Education, District Inspector of Schools and State of U.P. RESPONDENT

Date of Decision : 18-03-2008

Acts Referred:

Citation : (2008) 5 AWC 5214

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned Counsel for the petitioner, learned Standing Counsel and perused the record.

2. Shiksha Prasarani Sabha, Mobarakpur Gangauli, District Ghazipur, respondent No. 3 is a registered society under Societies Registration, Act. The copies of the bye-laws of the society are annexed as annexure No. 1 to the writ petition. The Society initially established a Junior High School Janta Adarsh Higher Secondary School, District Ghazipur. It was subsequently raised in 1960 to High School and Intermediate College as Janta Inter College, Mubarakpur Gangauli in the district of Ghazipur. The provision of UP. Intermediate Education Act, 1921. therefore apply to the petitioner's institution.

3. The Scheme of Administration provides for constitution of the Committee of Management, procedure for election of the members and the office bearers of the Committee of Management as well as qualification and disqualification etc. of the members apart from the powers and function of the office bearers.

4. The college come under the control of Authorised Controller prior to 7.12.1982. It is alleged that new Committee of Management took charge of the

college with effect from 7.12.1982, by which the petitioner No. 2 Virendra Nath Singh was elected as manager.

5. It appears from record that U.P. Act No. 1 of 1981 and U.P. Intermediate Act was amended and Section 16-CCC was incorporated. According to the Section if Scheme of Administration is inconsistent with the provisions of the Act as amended, the Director of Education was required to give notice to the Committee of Management within six months from the date of commencement of the aforesaid sections, to the institution suggesting the alternative or modification in the Scheme of Administration to bring it in conformity with the model scheme of administration and the provisions of the Act. The institution was therefore required to submit a fresh Scheme of Administration in accordance with the model Scheme of Administration brought into force by amended Section 13-CCC.

6. It further appears that Deputy Director of Education vide his letter 5.8.1981 required the Committee of Management to amend its existing Scheme of Administration in conformity with the new Scheme of Administration in pursuance of Section 16-ccc of the Act alongwith the letter changes sought to be introduced in the Scheme of Administration were also enclosed.

7. Since the Authorised Controller was incharge of the institution at the relevant time, the letter dated 5.8.1981 was received by him. Another letter dated 8.2.1984 was issued by the Deputy Director of Education to the college, which was received by it on 20.2.1984 inter-alia that letter dated 5.1.1981 had been issued earlier requiring the college to annexed it scheme of administration but no action has been taken in pursuance thereof. The college was further directed to amend it old Scheme of Administration. According to the proposed amendment in the Scheme of Administration which was also annexed alongwith letter his letter dated 8.2.1984 for compliance by the college.

8. The petitioner has come up in this petition challenging the aforesaid amendments, which have been sought by the authorities to bring the Scheme of Administration in consonance with the provision of UP. Intermediate Act 1981. Following reliefs have been prayed for in the writ petition.

(a) An order, direction or writ in the nature of certiorari calling for the record of the case and quash the orders of the Deputy Director of Education directing for the amendment of the Scheme of Administration of the College (Annexure No. 3 and 4 to the writ petition) and declare U.P. Act. No. 1 of 1981 as ultravires.

(b) An order, direction or writ in the nature of mandamus commanding the respondents not to implement the aforesaid orders.

(c) Any order, direction or writ or suitable nature as this Hon''ble Court may deem fit and proper in the circumstances of the case.

(d) An order awarding the costs.

At the time of admission the following ad interim was passed on 31.8.84:-

Issue notice.

Meanwhile respondents are restrained from compelling the petitioners to comply with the requirements of U.P. Act No. 1 of 1981 and the amended Scheme of Administration according to the IIIrd schedule u/s 16-CCC of the amended Act.

Meanwhile the operation of the order dated 8th January, 1984 (Annexure No. 4 to the writ petition) shall remain stayed provided the scheme has not been already implemented.

Sd/- Hon. A.N. Dixshita, J. Hon. K.C. Dhuliya, J.

9. It appears from the perusal of the writ petition particularly annexure No. 4 wherein it has been provided that in case amended Scheme of Administration is not submitted by the Institution by 20.2.1984, the moderl Scheme of Administration shall be deemed to have been implemented.

10. The relevant extract portion of anexure No. 4 in this regard is as under:

baVjehfM;V f'k{k vkf/kfu;e 1980 dh ?r`rh; vuqlwph? dh /kkjk 16 x ds vUrZxr fu/kkZfjr fuEukafr fcUnqvks dk iz"kklu ;kstuk esa lekos/k gksuk furkUr vko;"d gS%

1- izcU/k lfefr ds leqfpr vkSj izHkkoh djus dh O;oLFkk gksuk pkfg, A

2- fu;e dkfyd fuokZpuks }kjk izcU/k lfefr dk xBu djus dh izfdz;k dh O;oLFkk gksuh pkfg, A

3- izcU/k lfefr ds InL;ks vkSj inkf/kdkjh;ks dh vgZrkvks vkSj vUgZrkvks vkSj mudh inkof/k dh O;oLFkk gksuh pkfg, A

izfrCU/k ;g gS fd fdlh izdk"ku ;kstuk esa ,slk dksbZ micU/k ugh gksrk tks fdlh O;fDr tkfr iaFk /keZ ;k ifjokj fo"ks"k ds i{k esa ,dkf/kdkj mRiUu djrk gks A

4- cSBd cqykus vkSj ,slh cSBdksa esa dk;Z lapkyu dh izfdz;k dh O;oLFkk gksuh pkfg, A

5- iz"kklu ;kstuk esa ;g O;oLFkk gksxh fd lHkh fofu"; izca/k lfefr }kjk fd;s tk; vkSj izR;k;kstu dh "kfDr ;fn dksbZ gks lfefr vkSj Li"V :i ls ifjHkkf"kr gksxh A

7- laLFkk ds laifRr ds vuqj{k.k vkSj mldh lqj{k vkSj mldh fuf/k dks mi;ksx djus dh Hkh vkSj ys[kk dh fu;fer tkap vkSj ys[kk ijh{k dh Hkh O;oLFkk gksuh pkfg, A

bl dk;kZy; ds mi;qZDRk lanfHkZr i= }kjk vkidks iz"kklu ;kstuk dk ,d ekMy Hkstk x;k Fkk vkSj vkils vuqjks/k fd;k x;k Fkk fd rnuqlkj vki vius fo|ky; dh iz"kklu ;kstuk esa la"kks/ku izLrkfor djs fdUrq vkus mldk ikyu ugh fd;k A

la"kksf/kr vf/kfu;e dh /kkjk 16 x ds mDr lkr fcUnqvks ds v/khu i= izkfIr ds rqjUr ckn vki viuh izcU/k lfefr dk fu"pr ,oa la"kks/ku bl dk;kZy; esa izLrkfor djs vkSj bl dk;kZy; esa 20 Qojh 1984 rd izkIr gks tk; A ;fn ,slk djus esa vki foQy gksrs gS rks fu/kkZfjr frfFk ds ckn iz"kklu ;kstuk la"kksf/kr eku fy;k tk;sxk vkSj vki ,oa vkidh izca/k lfefr mlds fy, iw.kZ mRrjnk;h gksxh A

Hkonh; g0 ?egkuUn feJ? mi f"k{kk funks"kd iape eaMy okjk.klh A

11. Admittedly the Authorised Controller, who was incharge of the Institution in 1981 has not taken any steps for implementation of the aforesaid Scheme and the petitioner has also not come with any claim made in the writ petition that the Scheme of Administration has not become effective in the institution as per letter dated 8.2.84 (annexure no 4 to the writ petition). The Interim order dated 31.8.1984 therefore has to be read in context of the order quoted above, which provides that Scheme of Administration if not submitted on 20th February, 1984 would be deemed to have been amended as per provision of Law, hence it has become effective on 31.8.1984 when the conditional interim order as quoted above was granted.

12. Even otherwise if law provides things to be done in certain manner it has to be done in that manner. The institution is liable to complying with the provisions of law and any amendment made in U.P. Intermediate Education Act 1921. In the circumstances U.P. Intermediate Education Act had therefore to be applied as the amendment sought has been brought with the intention of introducing uniformity in election of the Committee of Management in accordance with aforesaid amendments in the scheme of administration.

13. Admittedly the Committee of Management has come into power on 7.12.1982, yet they did not comply with the provision of law i.e. Amended Act No. 1 of 1981 introducing Section 16-CCC in the Act. The Committee of Management has filed this petition in the year 1984 itself and was granted conditional order in this petition. As stated earlier the order u/s 16-CCC having coming into force, not only the petition suffered from laches but the petitioner also has not legal right to challenge the aforesaid amendments in the scheme of administration particularly in view of the fact that counsel for the petitioner could not make out any case for interference by this Court as to why uniformity be not brought in the scheme of administration of the colleges in the State of U.P. i.e. no reason could be given for excluding only the petitioner institution from the provisions of the Act. Since the provisions had already taken effect before grant of the conditional ad interim order, the writ petition was itself infructuous at the time of filing.

14. Learned Counsel for the petitioner has stated that he does not want to press prayer No. (a) in so far as declaration of U.P. Act, 1981 is sought to be declared ultravires. Hence for all the aforesaid reasons I do not find force in the present writ petition and is accordingly, dismissed.