
(2012) 09 AHC CK 0013

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 47856 of 2012

Committee of Management, Janta Higher Secondary School
Bhadi Manjhariya and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 5A

Citation : (2013) 1 ADJ 300 : (2013) 1 ALJ 615 : (2013) 2 AWC 1375

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : Uma Nath Pandey and Anand Kumar Tiwari, for the Appellant; S.K. Pandey, C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri. Uma Nath Pandey, learned counsel for the petitioner, and Sri. A.K. Tiwari for one Girja Shanker Tripathi, who claims himself to be the Manager of the Committee of Management. Sri. Tiwari has been heard in terms of Chapter XXII Rule 5A of the Allahabad High Court Rules, 1952, even though Sri. Girja Shanker Tripathi is not a formal party in the writ petition. Sri. S.K. Pandey has filed a Caveat on behalf of one Mr. Pateshwari Prasad Pandey claiming himself to be the Member of the Committee of Management. He also supports the stand taken by Sri. Tiwari appearing for Girja Shanker Tripathi.

2. The petitioner has come up assailing the order of single operation of accounts passed by the District Inspector of Schools u/s 5 of the U.P. Act No. 24 of 1971. The impugned order dated 3.9.2012 is assailed on the ground that it has been passed in violation of principles of natural justice on the asking of the President of the Committee of Management which approach is absolutely untenable in law inasmuch as there is no default in payment of salary. Learned counsel for the petitioner submits that merely because a dispute relating to the Committee of Management is pending before the Joint Director of Education, the same cannot

be a ground to invoke the provisions of U.P. Act No. 24 of 1971 unless default is established.

3. Sri. Tiwari contends that the petitioner is not co-operating in the decision making process which is pending in relation to the dispute of the Committee before the Joint Director of Education and, therefore, in order to avoid any inconvenience in payment of salary, the impugned order has been passed.

4. Learned Standing Counsel submits that in the event of such a dispute, the District Inspector of Schools was justified in proceeding to pass an order in order to ensure that the payment of salary to the staff and employees is not hampered.

5. Having heard learned counsel for the parties, this is not a case where the Court should await any filing of further Affidavits as the impugned order on the face of it is in teeth of the provisions of U.P. Act No. 24 of 1971, which mandatorily requires the issuance of a notice prior to passing of an order of single operation. Admittedly, no notice was issued to the petitioner-Committee of Management. Apart from this, the mere pendency of a dispute cannot be the reason for passing of an order of single operation inasmuch as there is nothing in the order to indicate that the payment of salary was ever obstructed. In such a situation, the passing of the order is absolutely unjustified. The writ petition is allowed. The impugned order dated 3.9.2012 is quashed. The District Inspector of Schools shall take action only after an appropriate decision is taken by the Joint Director of Education in the dispute of the Management.