

(2000) 11 AHC CK 0076
In the Allahabad High Court
Case No : C.M.W.P. No. 31843 of 1998

Committee of Management, Janta Inter College, Allahabad
and another

APPELLANT

Vs

District Inspector of Schools, Allahabad and others

RESPONDENT

Date of Decision : 30-11-2000

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 164(7), 16G(7)

Citation : (2001) 1 AWC 228

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

Bench : Single Bench

Advocate : A. K. Tewari, for the Appellant; S. C., S. D. Kautalyia, Vimlesh Srivastava, A. B. Singh and S. C., for the Respondent

Final Decision : Allowed

Judgement

V. M. Sahai, J.—Sri P. N. Singh the respondent No. 2 was officiating Principal of Janta Inter College, Mau Alma, Allahabad. On the basis of an enquiry report dated 11.9.1998, he was suspended on 12.9.1998 by petitioners. The Committee of Management on 18.9.1998 forwarded papers to the District Inspector of Schools (in brief D.I.O.S.) for grant of approval to the suspension order as provided u/s 16G (7) of the U. P. Intermediate Education Act, 1921 (in brief Act). By order dated 26.9.1998, the D.I.O.S. disapproved the suspension order. The petitioners have challenged the order dated 26.9.1998 by means of this writ petition.

2. Sri R. K. Ojha the learned counsel for the petitioner has urged that the D.I.O.S. did not give any reason for disapproving the suspension order nor any provision of Act was mentioned in the impugned order on the basis of which the suspension order was disapproved. He placed reliance on a Full Bench decision of this Court in Chandra Bhushan Mishra v. District Inspector of Schools, Deoria and others 1995 (1) UPLBEC 460. He further pointed out that on 7.10.1998 this Court has stayed the order dated 26.9.1998 passed by D.I.O.S. And the

petitioner was permitted to complete the enquiry against respondent No. 2. On the other hand, Sri A. B. Singh, the learned counsel for respondent No. 2 has urged that after expiry of sixty days, the suspension order would automatically come to an end. He placed reliance on decisions of this Court in Committee of Management, Vasudev Mishra Higher Secondary School, Kanpur Nagar and others v. Deputy Director of Education, Kanpur Region, Kanpur and others and Committee of Management, Jan Sahyogi Intermediate College, Modhi, Etawah v. District Inspector of Schools, Etawah and another 1986 UPLBEC 144. He also relied on the decision of the Apex Court in Rajendra Prasad v. Kayastha Pathshala and another AIR 1987 SC 1644. The learned counsel has further urged that enquiry has been completed and the management has passed a resolution for terminating the service of the respondent No. 2. The resolution has been sent by the petitioners through the D.I.O.S. to the Commission/Board as provided by U. P. Secondary Education Services Commission and Selection Boards Apt. 1982, for grant of approval. And the matter is pending before the Commission/ Board. He urged that the suspension order would be deemed to have come to an end.

3. u/s 16G (7) of Act, the D.I.O.S. is under a statutory duty to approve or disapprove the suspension order in writing. This power has been conferred on him so that the management may not suspend the Head of the institution or a teacher arbitrarily, in highhanded manner. The only reason given by the D.I.O.S. for disapproving the suspension order is that from the examination of records, he came to the conclusion that the management has suspended the respondent No. 2 in violation of the provisions of Act. From the impugned order, it is clear that the D.I.O.S. did not apply its mind to the facts of the case nor any provision of Act was considered. 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 D.I.O.S. 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 that can be upheld in law. It is not a formality. Mere writing that suspension order was contrary to the provision of the Act was not sufficient. The impugned order cannot be upheld.

4. I have held that order passed by the D.I.O.S. is illegal, therefore, it is not necessary for me to consider the other arguments raised by the learned counsel for the parties.

5. In the result, this writ petition succeeds and is allowed. The order dated 26.9.1998 passed by respondent No. 1. Annexure-6 to the writ petition, is quashed. The District Inspector of Schools, Allahabad, shall pass a fresh order in accordance with law within a period of two months from today. The petitioners and respondent No. 2 are directed to serve a certified copy of this order on respondent No. 1 within a period of one week from today.

6. Office shall issue certified copy of this order to learned counsel for the parties on payment of usual charges within three days.

7. Parties shall bear their own costs.