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(2004) 07 AHC CK 0136

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 28127 of 2004

Committee of Management, Kisan Junior High School and Others — APPELLANT

Vs

Zila Basic Shiksha Adhikari and Others — RESPONDENT

Date of Decision : 27-07-2004

Acts Referred:

Citation : (2004) 4 AWC 3235 : (2004) 3 UPLBEC 2890

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : R.S. Misra and Arun Kumar, for the Appellant; D. Dabure, C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Arun Tandon, J.—The alleged Committee of Management of Kisan Junior High School, Karmauta (Manjharia), district Kushinagar through its Manager Srimati Chandrawati Devi has filed the present writ petition against the order dated 30.6.2004 passed by the Zila Basic Shiksha Adhikari, Kushinagar recognizing the election set up by respondent No. 4. On behalf of the petitioner it is contended that the dispute with regard to the election of the Committee of the Management was referred under the orders of this Court dated 19.4.2004 passed in Writ Petition Nos. 1147 of 2000 and 41344 of 2000 for adjudication before the Zila Basic Shiksha Adhikari, Kushinagar. It is not disputed that on 29.6.2004 the Zila Basic Shiksha Adhikari issued notice to the parties concerned to the petitioner as well as to respondent No. 4 which was dispatched from his office on 30.6.2004 wherein a week''s time was granted to file reply to the notice along with documentary evidence proposed to be relied upon. On the date the said letter has been dispatched i.e. 30.6.2004, the impugned order has been passed. According to the petitioner there has been manifest non-compliance of the principles of natural justice inasmuch as the time granted in the letter dated 29.6.2004 had not expired and the Zila Basic Shiksha Adhikari, Kushinagar

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preponcd hearing without notice to the petitioner and passed the impugned order dated 30.6.2004.

2. On behalf of respondent No. 4 it is contended, that the petitioner had appeared before the Zila Basic Shiksha Adhikari and had also filed his reply on 30.6.2004 and in view of the aforesaid facts the Zila Basic Shiksha Adhikari proceeded to pass the impugned''order, therefore, there is no illegality in the order passed by the Zila Basic Shiksha Adhikari.

3. For the records it is not in dispute that a week''s time was granted to the petitioner as well as to respondent No. 4 to file reply as well as documents in support thereof. It is not borne out from the record that on receipt of the said notice any reply was filed by the respondent No. 4. Even if a reply was filed by the respondent No. 4 it should have been communicated to the petitioner and the B.S.A. should have permitted exchange of documents between the parties before passing the impugned order. Even otherwise the B.S.A. should have waited for a week to sec as to whether any other reply or documents are to be filed by the petitioner in respect to his notice dated 29.6.2004 or not, he could not have foreclosed the issue before expiry of the time granted in the notice.

4. Be that as it may, this Court is satisfied that the Zila Basic Shiksha Adhikari has not afforded full and fair opportunity of hearing to the parties before passing the impugned order.

5. In view of the above the writ petition is allowed. The impugned order dated 30.6.2004 is set aside. The matter is remanded to the Zila Basic Shiksha Adhikari to decide the dispute afresh within one month from the date a certified copy of this order is produced before him.

6. It is needless to point out that the Zila Basic Shiksha Adhikari, while deciding the case, shall permit the parties to exchange the written replies and the documents filed by the parties.

7. Till the afresh decision by the Zila Basic Shiksha Adhikari, Kushinagar, as aforesaid is taken status quo as of date shall be maintained by the parties with regard to the Management of the Institution.

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