

(1999) 07 AHC CK 0062
In the Allahabad High Court
Case No : Special Appeal No. 336 of 1999

Committee of Management, Maharajganj Inter College and another APPELLANT

Vs

District Inspector of Schools and another RESPONDENT

Date of Decision : 26-07-1999

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16(7), 169(5), 16G(5)
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 39

Citation : (1999) 4 AWC 2783 : (1999) AWC 2783 : (1999) 3 UPLBEC 1765

Hon'ble Judges : N.K. Mitra, C.J.; S.R. Singh, J

Bench : Division Bench

Advocate : S.C. Dwivedi, for the Appellant; R.N. Singh, for the Respondent

Judgement

N.K. Mitra, C.J. and S.R. Singh, J.—Heard Shri S. C. Dwivedi for the appellant and Shri R. N. Singh, Senior Advocate for the respondents. We have also perused the judgment under challenge as well as the order dated 7.8.1998 which was the subject-matter of challenge in the writ petition and whereby the District Inspector of Schools declined to accord approval of suspension of the respondent.

2. It appears that respondent Radhey Shyam Mishra was placed under suspension pursuant to the resolution passed by the Committee of Management at its meeting held on 2.8.1998 and papers were sent to the District Inspector of Schools for approval. The respondent Radhey Shyam Mishra appears to have made a representation to the District Inspector of Schools on 4.8.1998 stating therein that he had been appointed as Principal on 6.7.1998 and was, therefore, not liable to be suspended as a Lecturer and further that he had no notice or agenda of the meeting of the Committee of Management held on 2.8.1998. The District Inspector of Schools without examining the papers submitted to him along with the resolution dated 2.8.1998 declined to approve of the suspension relying upon the letter addressed by Radhey Shyam Mishra.

3. Having heard learned counsel for the parties, we are of the view that the order

passed by the District Inspector of Schools cannot be sustained in law. A Division Bench of this Court in Committee of Management S. M. R. K. Inter College v. District Inspector of Schools, Ballia and another. 1988 UPLBEC 226 has clearly held that order approving or disapproving resolution of Committee of Management to suspend. Principal or teacher must contain reasons and further that absence of reasons would vitiate the order. Admittedly, the District Inspector of Schools did not address himself to relevant papers forwarded along with the letter seeking approval of the suspension and declined to accord approval on consideration of the representation made by the respondent-teacher. Section 16G (5) of the U. P. Intermediate Education Act. 1921, provides that no head of institution or teacher shall be suspended by the Management, unless in the opinion of the management--(a) the charges against him are serious enough to merit his dismissal or removal or reduction in rank ; or (b) his continuance in office is likely to hamper or prejudice the conduct of the disciplinary proceedings against him ; or (c) any criminal case for an offence involving criminal turpitude against him is under investigation, inquiry or trial. Sub-section (6) requires that where any head of the institution or teacher is suspended by the Committee of Management, it shall be reported to the Inspector within a period stipulated therein and it further provides that the report shall contain such particulars as may be prescribed and be accompanied by all relevant documents. Regulation 39 of Chapter III of the Act provides the particulars, which the report regarding suspension of the head of institution or of the teacher to be submitted to the Inspector is to contain and also provides the documents, which are to accompany the report. Sub-section (7) of Section 16 clearly provides that no order of suspension shall, unless approved in writing by the Inspector, remain in force for more than 60 days. Section 16G empowers the District Inspector of Schools to revoke an order of suspension after affording opportunity to the management in case he is satisfied that the disciplinary proceedings against the head of the institution or the teacher are being delayed for no fault of the concerned teacher. These provisions clearly demonstrate that approval or disapproval of suspension of a teacher including the Principal is not an empty formality. The Inspector is required to address himself to the grounds on which the order of suspension is founded as also the documents, if any, prima facie supporting the charges levelled against the Head of the Institution or the teacher, as the case may be. In case the charges of the nature referred to in sub-section (5), of Section 16G are prima facie supported by evidence, then in that event the Inspector cannot withhold approval. On the other hand, in case the charges are of trivial nature and are not covered by the charges mentioned in sub-section (5) of Section 16G and/or there are no prima facie documents or material in support of the charges, then the Inspector may disapprove of the suspension of the Principal or the teacher, as the case may be. In the instant case, the District Inspector of Schools appears to have failed to discharge his statutory duty and given no reasons in support of the order. In the circumstances, therefore, the order passed by the District Inspector of Schools was liable to be quashed and the teamed single Judge erred in law in dismissing the writ petition. In fact, the question was not

examined by the learned single Judge in the above perspective and instead the learned single Judge dismissed the writ petition holding that while considering the approval or disapproval of suspension order, no opportunity of hearing was required to be given by the District Inspector of Schools. It is true that a Division Bench of this Court has held in the case of Managing Committee, Dayanand Inter College v. District Inspector of Schools and others 1980 UPLBEC 168 that at the stage of approval or disapproval of the suspension order, the Inspector is not required to afford any opportunity of hearing to the management and that he is only to consider the relevant material referred to in Registration No. 39 of Chapter III of the Regulations. The said decision, in our opinion, is of no avail. In the instant case, however, as pointed out above, the District Inspector of Schools did not address himself to the charges and the relevant documents and disapproved the suspension order on the basis of the representation made by the teacher concerned. If the suspension is to be disapproved on consideration of any defect pointed out by the concerned teacher by means of a representation, opportunity has to be afforded to the Management before disapproving of the suspension on any such defect in the proceedings.

4. Accordingly, the appeal succeeds and is allowed. Judgment of the learned single Judge is set aside. The impugned order passed by the District Inspector of Schools is quashed. The matter is remitted back to the District Inspector of Schools to take fresh decision in accordance with law expeditiously within a period of one month. We would like to observe that disciplinary proceedings shall be concluded and taken to a logical end as early as possible within a period of three months.