
(2000) 01 AHC CK 0172

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 380 of 2000

Committee of Management, Saheed Inter College and Another	APPELLANT
Vs	
Joint Director of Education and Others	RESPONDENT

Date of Decision : 11-01-2000

Acts Referred:

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

Citation : (2000) 1 UPLBEC 691

Hon'ble Judges : Yatindra Singh, J

Bench : Single Bench

Advocate : R.G. Padia and Prakash Padia, for the Appellant; A.P. Sahi and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

Yatindra Singh, J.—There is a college known as Saheed Inter College, Madhuban, district Mau (the college). An election to the committee of management was held on 9-1-1994 in which Sri Hari Mohan Mall (the petitioner) was elected as Manager. His signatures were also attested by the District Inspector of Schools, Mau (the DIOS) on 31-1-1994. This order of the DIOS was challenged before this Court, but the writ petition has been dismissed on 14-5-1996. Special Appeals against the same are pending; in which no interim orders have been passed. The term of the committee of management was expiring in the year 1997. According to the petitioner fresh elections were held on 12-1-1997; in which he was again elected as the Manager. His signatures were attested on 17-1-1997. This is disputed by Sri Shiva Nand Mall (the contesting respondent). According to Sri Shiva Nand Mall elections were held on 26-1-1997 in which he was elected as the Manager, However, his representation before the DIOS to recognize him as the Manager was rejected on 28-10-1997. The contesting respondent filed a suit (OS No. 62/98) challenging the elections of the petitioner as the Manager and for declaration that he is Manager of the committee of management. In this suit an application for temporary injunction was also filed. This was refused by the trial

Court on 23-12-1998. The contesting respondent filed an appeal, which was allowed. Subsequently, the petitioner filed a writ petition WP No. 2376/99) challenging the order of the appellate Court granting interim injunction in favour of the contesting respondent. This writ petition was allowed on 18-8-1999 with following findings/directions.

- * The impugned order of the appellate Court granting interim injunction was set aside.

- * The suit itself was directed to be decided at an early date within a period of four months.

- * The Court also gave liberty to the parties to reagitate the question of effective control before the Joint Director of Education, Azamgarh Region. Azamgarh (The JDE).

- * JDE by his impugned order dated 23-12-1998 has appointed Authorised Controller and has directed him to hold fresh election. Hence the present writ petition.

2. I have heard Dr. R.G. Padia, Counsel for the petitioner and Sri A.P. Sahi for the contesting respondent and the Standing Counsel for the State officials. The JDE by the impugned order has merely held that:

- * the DIOS could not attest the signatures of the petitioners because there were two rival committees of management.

- * the petitioners committee of management is illegal.

- * and has appointed Authorised Controller.

3. The JDE u/s 16-A (7) of the U.P. Intermediate Education Act, 1921 (the Act) is required to decide the affective control on the date of the dispute in the light of explanation of Section 16-A (7) of the Act. The JDE ought to have decided this case in the light of Section 16-A (7) of the Act. He has not done so. His order is illegal. The order of the JDE dated 13-12-1999 is illegal and is hereby quashed. The parties will appear before the JDE on 24-1-2000. The JDE will decide afresh who was in effective control on the date when the dispute arose between the parties. Needless to add that the decision given by the JDE is subject to the decision passed by the competent Court and it will determine who can hold elections in the year 2000.

With these directions, the writ petition is disposed of.