

(1996) 09 AHC CK 0135
In the Allahabad High Court
Case No : C.M.W.P. No. 23097 of 1996

Committee of Management, Sher Mohd. National Inter
College Machhti and Another

APPELLANT

Vs

District Inspector of Schools and Another

RESPONDENT

Date of Decision : 02-09-1996

Acts Referred:

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

Citation : (1996) 4 UPLBEC 2410

Hon'ble Judges : A.B. Srivastava, J

Bench : Single Bench

Advocate : R.N. Singh and A.P. Sahi, for the Appellant;

Final Decision : Allowed

Judgement

A.B. Srivastava, J.—The controversy in this writ petition is a short one. whether there was in existence a dispute, on account of two rival committees claiming authority to manage the educational institution, called Sher Mohd. National Inter College, Machhti, district Ghazipur, and if so, the act of the D.I.O.S., Ghazipur, Respondent No. 1, in recognising the committee headed by the Respondent No. 2 Mohd. Farooq Khan, and attestation of his signature is without Jurisdiction.

2. Pleadings having been exchanged between the parties, this petition is being finally disposed of at admission stage in accordance with Rules of the Court.

3. The Respondent No. 3 Mohd. Farooq Khan laid a claim before the D.I.O.S., Ghazipur that a Committee of Management, headed by him was elected on 6.7.1996, and the same may be recognised. By impugned order dated 15.7.1996 (Annexure "14") by the Petitioners on the plea that in an election duly held on 7.7.1996, the Committee of Management headed by the Petitioner No. 2 Imtiaz Ahmed, who was also the outgoing manager, was elected and held the papers before the D.I.O.S. for recognition, the recognition granted to the Respondent No. 3 is invalid as the Respondent No. 2 had no locus standi to hold the election.

This Court by an interim writ stayed the operation of the impugned order till further orders or any decision by the Regional Deputy Director of Education u/s 16A(7) of the U.P. Intermediate Education Act.

4. There is no dearth of authority on the point that once there is a dispute raised, regarding existence of rival Committees of Management, it is the Regional D.D.E., who has, u/s 16A (7) of the U.P. Intermediate Education Act, the sole Jurisdiction to decide the same for granting recognition. The law in this regard has been vividly laid down in Committee of Management Shri Gandhi Vidyapith Inter College, Ghatampur and Anr. v. D.I.O.S., Kanpur Dehat and Anr. 1989 (1) UPLBEC 178; Shandar Husain v. Deputy Director of Education II Region Moradabad and Ors. 1995 ACJ 1244 and Committee of Management Mobarakpur Inter College and Anr. v. Regional Deputy Director of Education and Ors. 1995 AWC 1823.

5. It would also be borne out in this case from the perusal of Annexure 11 to the writ petition which is a letter dated 8.7.1996 and Annexure C.A., 17 letter dated 19.7.1996 that a rival claim had been laid before the D.I.O.S. by the Petitioner No. 2 well before 15.7.1996. Thus in these circumstances, the D.D.E., and not he, had the Jurisdiction to decide the question of recognition. Consequently, the impugned order of the D.I.O.S. being without jurisdiction is unsustainable.

6. It is also pertinent to note in this connection that during the pendency of this writ petition the concerned Deputy Director of Education has himself taken notice of the matter, in view of the interim order passed by this Court, as is evident from Annexure "1" to the rejoinder-affidavit, although the formality of a reference by the D.I.O.S. is yet to come. In these above circumstances, therefore, the impugned order of the D.I.O.S. dated 15.7.1996 is quashed and he is directed to make reference of the dispute with respect to the Committee of Management of the institution in question to the concerned Regional Deputy Director of Education, Varanasi, within three days from the date a certified copy of this order is made available to him, whereafter the Regional Deputy Director of Education shall decide the said question expeditiously, preferably, within three weeks. Status quo as on date, shall be maintained subject to any interim order which the Regional D.D.E. may pass in the matter pending final decision by him.

The writ petition succeeds accordingly. There shall be no order as to costs.