

**(2003) 04 AHC CK 0219**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 51959 of 2002

Committee of Management, Shree Tilak Vidyalyaya Inter  
College and Another

**APPELLANT**

**Vs**

District Inspector of Schools and Others

**RESPONDENT**

**Date of Decision :** 04-04-2003

**Acts Referred:**

Uttar Pradesh Intermediate Education Act, 1921 — Section 16G(8)

**Citation :** (2003) 5 AWC 3506 : (2003) 2 UPLBEC 1330

**Hon'ble Judges :** Vineet Saran, J

**Bench :** Single Bench

**Advocate :** Shashi Nandan and Anil Bhushan, for the Appellant; Ashok Khare, R.S. Dwivedi, A.K. Pandey, R.C. Singh and S.C., for the Respondent

**Final Decision :** Allowed

## **Judgement**

Vineet Saran, J

1. Heard Sri Shashi Nandan and Sri Anil Bhushan, learned Counsel appearing for the petitioners as well as learned Standing Counsel for respondent Nos. 1 and 2 and Sri Ashok Khare, learned Senior Counsel assisted by Sri R.C. Dwivedi and Sri A.K. Pandey for respondent No. 3.

2. By means of this writ petition the petitioners have challenged the order dated 22.11.2002 passed by the District Inspector of Schools, Firozabad u/s 16-G (8) of the U.P. Intermediate Education Act, 1921 (hereinafter referred to as the Act) revoking its earlier order approving the suspension of the respondent No. 3 and have also prayed for a direction to the District Inspector of Schools, Firozabad to forward the papers submitted by the Committee of Management relating to the termination of the services of respondent No. 3.

3. Briefly, the facts of this case are that the petitioner Committee of Management had lodged a First Information Report on 5.1.2002 against respondent No. 3 Mahendra Kumar Gupta leveling serious charges against the said respondent No.

3. On 25.1.2002 the petitioner Committee of Management passed a resolution to suspend respondent No. 3 and on the same date the order suspending respondent No. 3 was passed and the same was sent for approval to the District Inspector of Schools as provided under the Act. The District Inspector of Schools accorded approval to the suspension of respondent No. 3 on 29.5.2002. The said order of the District Inspector of Schools was challenged by respondent No. 3 in Writ Petition No. 33937 of 2002, which was dismissed by this Court on 19.8.2002 with an observation that the enquiry against the respondent may be concluded expeditiously preferably within three months from the date on which a certified copy of the order is served upon the Committee of Management. The enquiry as contemplated was concluded and the enquiry report was submitted on 15.11.2002 and on the basis of the said report the Committee of Management passed a resolution on 17.11.2002 deciding to terminate the services of respondent No. 3 Mahendra Kumar Gupta. The proposal of the Committee of Management for terminating the services of respondent No. 3 was sent to the U.P. Secondary Education Service Selection Board, Allahabad through the District Inspector of Schools on 21.11.2002. It has been stated at the bar that the said proposal of the Committee of Management is still pending with the District Inspector of Schools.

4. The impugned order has been passed by the respondent No. 1, the District Inspector of Schools, Firozabad on 22.11.2002 on a representation made by respondent No. 3 on which reply/comments had been sought for by the District Inspector of Schools from the Committee of Management on 28.10.2002, which was submitted by the petitioner Committee of Management on 8.11.2002. A perusal of the impugned order would go to show that merely comments from the petitioner Committee of Management had been called for on the complaint of respondent No. 3 and it was nowhere indicated in the said notice that the provisions of Section 16-G(8) of the Act were sought to be invoked. In reply, however, the Committee of Management had submitted that in response to the show cause notice issued by the Committee of Management, respondent No. 3 had submitted its reply on 10.3.2002. However, the enquiry thereafter had been completed within the time granted by this Court vide its order dated 19.8.2002 passed in Writ Petition No. 33937 of 2002.

5. Learned Counsel for the petitioners has submitted that the impugned order docs not indicate any reasons on the basis of which the said order has been passed. A perusal of the said order would show that the entire reply of the petitioner has been quoted and without recording any reasons the District Inspector of Schools has merely stated that the order was being passed u/s 16-G (8) of the Act recalling the approval of suspension accorded. Learned Counsel for the petitioners has submitted that no finding has been recorded as to whether or not there was any inordinate delay in completing the enquiry and that too on whose part. It has also been submitted that before passing any order u/s 16-G (8) of the Act it was mandatory that the Inspector should be satisfied that the disciplinary proceeding against the Head of Institution or teacher was being

delayed for no fault of Head of the Institution or the teacher, meaning thereby that a finding had to be recorded that there was inordinate delay on the part of the Committee of Management in completing the enquiry.

6. Sri Ashok Khare, learned Senior Counsel appearing for respondent No. 3 has submitted that even though the District Inspector of Schools may not have discussed and recorded its finding regarding inordinate delay on the part of the Committee of Management but a perusal of the enquiry report as quoted in the impugned order itself would go to show that the petitioner Committee of Management did not proceed with the enquiry expeditiously. He has submitted that once the reply to the charge-sheet had been submitted by respondent No. 3 on 10th March, 2002, there was no justification for the Committee of Management to sit tight over the matter and not submit its report within a reasonable time.

7. Be that as it may, considering the fact that once when this Court had granted time to the petitioner on 19.8.2002 in Writ Petition No. 33937 of 2002 to complete the enquiry within three months and the same having been done within the said period it cannot be said that there was any delay much less inordinate delay on the part of the Committee of Management in submitting the enquiry report. Further, this Court has to examine whether the District Inspector of Schools, while passing the order u/s 16-G (8) of the Act, had considered the ingredients of the said provision which clearly says that the District Inspector of Schools should be satisfied that the disciplinary proceedings are being delayed for no fault of Head of the Institution or teacher. In the absence of any such finding, I am of the view that the said impugned order dated 21.11.2002 is liable to be set aside.

8. With regard to the second prayer made in the writ petition, considering the fact that the proposal regarding the subsequent termination of the services of the respondent had been forwarded to the District Inspector of Schools for being sent to the U P. Secondary Education Service Selection Board, Allahabad on 21.11.2002 which has not been forwarded, it would be desirable that the said proposal is forwarded by the District Inspector of Schools within 15 days from the filing of the certified copy of this order before the District Inspector of Schools and decision on the same should also be taken expeditiously.

9. In the result, this writ petition is allowed. The impugned order dated 22.11.2002 passed by the District Inspector of Schools, Firozabad is quashed and respondent No. 1, the District Inspector of Schools, Firozabad is directed to forward the proposal dated 21.11.2002 of the Committee of Management relating to the termination of the services of respondent No. 3 to the U.P. Secondary Education Service Selection Board, Allahabad within 15 days from the filing of the certified copy of this order. However, it is expected that the U.P. Secondary Education Service Selection Board, Allahabad shall take its decision on the proposal forwarded to it expeditiously, preferably within four months of its receipt.

10. There shall be no order as to costs.