
(2004) 10 AHC CK 0012

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16582 of 2003

Committee of Management, Shri Nehru Inter College,
Patherwan and Another

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 25-10-2004

Acts Referred:

Citation : (2005) 6 AWC 5421 : (2005) 2 UPLBEC 1796

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : R.C. Dwivedi, for the Appellant; Ratnesh Kumar Pandey, K.K. Srivastava and S.C., for the Respondent

Final Decision : Partly Allowed

Judgement

Arun Tandon, J.—Heard Sri R.C. Dwivedi on behalf of the petitioner, learned Standing Counsel on behalf of respondent Nos. 1 to 3 and Sri Ratnesh Kumar Pandey on behalf of respondent No. 4.

2. Lok Shiksha Parishad, Patherwa, Kushinagar is Society duly registered under the Societies Registration Act. The said Society has established an Inter College in the name and style of Sri Nehru Inter College, Patherwan, Kushinagar. The institution is recognized under the provisions of the Intermediate Education Act.

3. According to petitioner, the term of the Committee of Management of the institution is 5 years. It is further contended that the elections for constituting the Committee of Management of the institution took place on 10th November, 1995, in which one Sri Sachchidanand Pathak-respondent No. 4 was elected as Manager. However, the said elections were never recognized by the educational authorities. The petitioner has referred to the minutes of the general body meeting dated 1st October, 2000, wherein it was resolved that the term of the Committee of Management has expired and request for appointing an election observer was made. The District Inspector of Schools, has refused to grant such

permission and has postponed the elections which were scheduled to take place on 1st October, 2000. In such circumstances it was resolved that the office bearers of the Committee of Management, which were elected on 19.9.1995 may continue till the holding of the fresh elections. According to the petitioner since majority of the members were not satisfied with the aforesaid resolution, a meeting was separately held on 2nd October, 2000 and fresh elections of the Committee of Management of the institution took place on 2nd October, 2000, in which the petitioner No. 2 claims to have been elected as Manager. It is further submitted that all the papers in respect of the said elections were forwarded to the District Inspector of Schools vide letter dated 3rd October, 2000. However, no action whatsoever have been taken on the aforesaid papers so submitted by the petitioner.

4. It is further submitted that fresh efforts were made by Sri Sachchidanand Pathak to hold elections of the Committee of Management on 15.12.2002. The aforesaid elections were also postponed under order of the District Inspector of Schools dated 13.12.2002, copy whereof enclosed as Annexure-9 to the writ petition. It is submitted that despite all the aforesaid facts, there being no valid elected Committee of Management recognized in the institution since 1995, the educational authorities are illegally treating Sri Sachchidanand Pathak-respondent No. 4 as Manager of the institution. It is, therefore, prayed that the respondents may be directed not to permit/recognize Sri Sachchidanand Pathak as Manager of the institution. Further to recognize the petitioner Committee of Management on the basis of the elections held on 2nd October, 2000.

5. On behalf of the respondent No. 4 a counter affidavit has been filed and in the counter affidavit it has been stated that Sri Sachchidanand Pathak has been continuing as the Manager of the institution since 1973 without interruption. However, the counter affidavit is completely silent about the periodical elections of the Committee of Management, if any, held subsequent to 1973. No order recognizing any elections subsequent to 1973 with Sri Sachchidanand Pathak has been brought on record along with the counter affidavit. It is also, more or less, admitted in counter affidavit that the elections, which were held on 9.9.1995, have not been recognized by any of the educational authorities. It is also further categorically admitted in the counter affidavit that fresh elections which were scheduled for 1st October, 2000 could not take place because of the order passed by the District Inspector of Schools, and similarly the elections which were alleged to have been notified in the year 2002 could also not take place.

6. The respondent contends that the petitioner has not made out any case for recognition of his Committee of Management inasmuch as (a) the Committee in power has not held any elections (b) once the District Inspector of Schools himself has postponed the elections, scheduled for 1st October, 2000, there was no occasion for new elections being held, as alleged by the petitioner, on 2nd October, 2000.

7. It is admitted in paragraph 16 of the counter affidavit that despite necessary

information having been supplied with regards to letter of the District Inspector of Schools, dated 15.11.2002, no fresh orders have been passed by the District Inspector of Schools permitting the respondent No. 4 to hold fresh elections of the Committee of Management. In such circumstances, it is submitted that the respondent No. 4 is rightly being permitted to function as Manager of the institution.

8. From the facts, as has been noticed hereinabove, it is crystal clear that the elections for constituting the Committee of Management of the institution have not taken place since 1995 i.e. for last 9 years. Further the alleged elections of the year 1995 have also not been recognized by any of the educational authorities and therefore, even if any elections had taken place in the year 1995 they are mere paper transaction. In any view of the matter it is admitted position that the educational authorities have not recognized any elections of the Committee of Management subsequent to 1973 and Sri Sachchidanand Pathak has been permitted to continue as Manager for last 31 years on the basis of his recognition as Manager in the year 1973.

9. This Court feels it just and proper that fresh elections of the Committee of Management may be directed to be held by an independent person strictly in accordance with the scheme of administration and the provisions applicable without any further delay.

10. In view of the facts and circumstances of the case, it is directed that the Regional Joint Director of Education shall appoint/depute some officer of the education department for getting fresh elections of the Committee of Management held, strictly in accordance with the scheme of administration/other provisions applicable, within a period of one month from the date a certified copy of this order is filed before him, with a specific direction that the said Election Officer would hold the elections of the Committee of Management strictly in accordance with law within a period of two months from the date of such appointment.

11. It is made clear that no extension of time shall be granted by the Regional Joint Director of Education and if for some reasons the Election Officer is not in a position to conduct the elections in two months, he shall approach this Court for extension of time for holding the elections. The order of this Court must be complied with strictly by the authorities concerned so that litigation may be brought to an end.

12. In view of the aforesaid, writ petition is partly allowed.