
(2004) 09 AHC CK 0275
In the Allahabad High Court
Case No : C.M.W.P. No. 25821 of 2003

Committee of Management, Shri Shiv Mangal Singh
Intermediate College and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 15-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 5 AWC 4444

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Shailendra, for the Appellant; R.N. Ojha and H.K. Singh, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard Sri Shailendra, learned Counsel for the Petitioners, learned standing counsel for the Respondent Nos. 1 to 4 and Sri H. K. Singh, learned Counsel for the Respondent No. 5. Nobody is present on behalf of the Respondent No. 6.

2. Sri Shiv Mangal Singh Intermediate College, Beruarbari, Ballia is an institution duly recognized under the Intermediate Education Act. The said institution is run and managed strictly in accordance with the approved scheme of administration.

3. The Committee of Management of the said institution through its Manager Sri Bachcha Singh has filed this writ petition against the order of the Regional Joint Director of Education, Azamgarh, dated 29th May 2003 (Annexure-23 to the writ petition), whereby he has held that all the three set of elections set up by the respective parties are not in accordance with the approved scheme of administration and has, therefore, disapproved the same. He has further proceeded to appoint a Prabandh Sanchalak in the institution.

4. Under the aforesaid order dated 29th May 2003 he had fixed two months time

for the Prabandh Sanchalak to hold fresh elections for constituting the Committee of Management of the institution in accordance with the scheme of administration.

5. The said order has been challenged by only set of Petitioners headed by Sri Bachcha Singh and, therefore, it is not necessary for this Court to look into the legality or otherwise of the elections set up by Respondent Nos. 5 and 6.

6. The Regional Joint Director of Education, Azamgarh has disapproved the said elections of Bachcha Singh amongst others on the following two grounds, namely: (a) the District Inspector of Schools vide letter dated 1st January 2003 (a copy whereof has been brought on record as Annexure No. C.A.-9 to the counter-affidavit) had informed the Petitioner that the permission for publication of the agenda etc. in the newspapers as required under the approved scheme of administration, cannot be granted, in view of the order of the Joint Director of Education dated 11th November 2002, whereby the controversy with regard to the membership of Sri Vijay Kumar Singh is being looked into by the Regional Joint Director of Education and, as such, so long the decision is not taken by the Regional Joint Director of Education, the permission to hold the elections cannot be granted. Accordingly it was directed that the entire elections proceedings be postponed (b) the entire elections have taken place on the same date, i.e., 12th January 2003, although in view of the scheme of administration, separate dates are required to be fixed for filing nomination papers, withdrawal of the nominations, date of polling, if any required.

7. The aforesaid findings recorded by the Regional Joint Director of Education are based on the appreciation of the relevant provisions of the scheme of administration as amended specifically Clause 2 of the elections procedure, which reads as follows : Prabandh Samiti key teen varsh ka karyakal purn honey sey do mah purva Adhyaksha/ Prabandhak chunao ki tithi ghoshit karengey iski suchana Nirikshak dwara anumodit sthaniye samachar patra meyn tatha sadasyon ko registered notice dwara bhejengey. Yadi sadharan sabha ke sadasyon ki sankhya 200 sey adhik hai to sthaniye samcahar patra meyn prakashan key atirikt sadharan dak sey suchna dena paryapt hoga. Ish goshana meyn chunao ka vistril karyakram goshit kiya jayega arthat jish tithi sey namankan, kab tak parikshan, kab tak naam vapish tatha kish-tithi, sthan avam samaye ko chunao aadi hoga, diya jayega.

8. In view of the aforesaid amended provisions of scheme of administration referred to above, and in view of the order passed by the District Inspector of Schools dated 1st January 2003, a copy whereof has been enclosed as Annexure-CA 9 to the counter-affidavit, it is apparently clear that the District Inspector of Schools had not granted permission to the Petitioner for publication of the agenda in any newspaper. Consequently, there has been manifest violation of the aforesaid provision of the scheme of administration in respect of the elections alleged to have been held by the Petitioner. Similarly from the aforesaid clause of the scheme of administration, it is established beyond doubt that separate dates

are required to be fixed for filing of the nomination papers, withdrawal of the nominations, date of the polling and declaration of the result and admittedly, the Petitioner is alleged to complete the entire elections programme on one date, i.e., 12th January 2003.

9. In view of the aforesaid, the finding recorded by the Regional Joint Director of Education, Azamgarh cannot be said to be perverse and this Court cannot sit in appeal and cannot substitute its finding, even if, it appears to the Court that other view is also possible on the basis of evidence brought on record. Even otherwise, it is apparent from record that the elections are said to have been conducted by one Sri Shyam Nandan Shukla. The entire writ petition is completely silent about the meeting in which Sri Shyam Nandan Shukla is said to have been appointed as Election Officer nor any other document has been brought on record to establish the competence of Shyam Nandan Shukla to act as the Election Officer in the alleged elections of the Committee of Management set up by the Petitioner.

10. In such circumstances no interference is called for under Article 226 of the Constitution of India against the order passed by the Regional Joint Director of Education, Azamgarh.

11. Writ petition is devoid of merits and is, accordingly, dismissed, 12. Because of the interim order dated 4th July 2003 granted by this Court in the writ petition, no fresh elections of the institution could take place, although the Prabandh Sanchalak was permitted to continue in the institution.

13. In such circumstances, it is directed that the Prabandh Sanchalak shall hold fresh elections for constituting the Committee of Management strictly in accordance with the approved scheme of administration preferably within two months from the date a certified copy of this order is produced before him by any of the parties.

14. Present writ petition is, accordingly, dismissed. Interim order granted earlier by this Court stands discharged.