

(1992) 05 AHC CK 0034

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 1097 of 1992

Committee of Management, Smt. Gajarati Devi Singhal Kanya
(Mahila) Inter College and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-05-1992

Acts Referred:

Citation : (1992) 2 AWC 1247

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : R.S. Pandia and P. Pandia, for the Appellant; M.D. Singh, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—The Petitioner No. 1 claims to be the committee of management of Smt. Gajarati Devi Singhal Mahila Inter College, Fatehpur, district Mau and Petitioner No. 2 claims to be its Manager. By the order dated 17-12-90, the District Inspector of Schools, Mau attested the signature of the Petitioner No. 2, Vijai Bahadur Singh as the Manager of the Institution. True copy of the said order dated 17-12-90 is Annexure 5 to the writ petition. It is alleged in para 11 of the petition that suddenly on 3-4-91 an order was passed by the Assistant Registrar, Firms, Societies and Chits, Gorakhpur (Annexure 6 to the writ petition) renewing the registration of the society (Smt Gajarati Devi Singhal Mahila Vidyalay, Fatehpur Mau) on the basis of the election held on 17-3-91 in which Vir Bahadur Singh was elected as President. It may be stated that this order was passed on the basis of the hearing granted by the Assistant Registrar to Petitioner No. 2 as well as Vijay Bahadur Singh as alleged in para 10 of the writ petition. This order dated 3-4-91 was challenged in Writ Petition No. 1529 of 1991 in this Court and this Court by the order dated 5-8-91 stayed the operation of the order dated 3-4-91

2. In para 15 of the writ petition it has been alleged that since there was delay in

filing the aforesaid writ petition and obtaining the stay order, the Regional Inspectress of Girls Schools, Gorakhpur meanwhile passed an order dated 11-7-91 (Annexure 7 to the writ petition) recognising the committee of management of which Respondent No. 5 was elected Manager in the meeting held on 26-3-91. It appears that on the basis of the interim order of this Court dated 5-8-91 which has already been referred to above, the Regional Inspectress of Girls Schools subsequently by her order dated 19-8-91 recalled the order dated 11-7-91. True copy of the order dated 19-8-91 is Annexure 8 to the writ petition. This order dated 19-8-91 was challenged by Braj Nath Singh in this Court by a writ petition which has been referred to in para 17 of the writ petition. This Court by its order dated 16-9-91 stayed the operation of the order dated 19-8-91. Thereupon the District Inspector of Schools by his letter dated 8-10-91 wrote to the Regional Inspectress of Girls Schools (Annexure 9 to the writ petition) in which letter the District Inspector of Schools has mentioned above the order of the High Court dated 16-9-91 and requested the Regional Inspectress of Girls Schools to clarify which management should be recognised. In reply the Regional Inspectress of Girls Schools wrote the letter dated 23-10-91 (Annexure 10 to the writ petition) and directed the District Inspector of Schools to pass an order for single operation of the account. Against the order dated 23-10-91 passed by the Regional Inspectress of Girls Schools, the Petitioners' committee of management filed Writ Petition No. Nil of 1991 in which by the order of this Court dated 31-10-91 the said order of the Regional Inspectress of Girls Schools dated 23-10-91 was stayed. Thereupon the Regional Inspectress of Girls Schools passed an order dated 16-11-91 directing that the salary should be disbursed under the joint signature of the Petitioner No. 2 and the District Inspector of Schools in view of the interim order of this Court dated 31-10-91. True copy of the order dated 16-11-91 is Annexure 11 to the petition. Thereupon the salary was disbursed under the joint signature of the Petitioner No. 2 and the District Inspector of Schools upto November, 1991. Subsequently the Petitioners' committee of management received a letter dated 7-1-92 through the Principal of the Institution mentioning that the earlier orders dated 15-8-91 and 16-11-91 are recalled. True copy of the order dated 7-1-92 is Annexure 13 to the petition. Thereupon it is alleged that behind the back of the Petitioners committee of management, the Regional Inspectress of Girls Schools attested the signature of the Respondent No. 4. True copy of the said attestation is Annexure 14 to the petition. The Petitioners have alleged that no opportunity of hearing was given to them before passing the impugned direction by the Regional Inspectress of Girls Schools and before attesting the signature of the Respondent No. 4. Petitioners have also alleged that the entire accounts of the college are being maintained under the signature of the Petitioner No. 2 and the Petitioner's committee of management has been functioning as the committee of management and the Petitioner No. 2 has been passing the salary bill but the salary bill from December 1991 onwards submitted by the Petitioner No. 2, has not been passed. The Petitioners have also alleged that they are actually in control over the affairs of the institution and the entire property and funds of the

institution are being controlled by them. Accordingly the Petitioners have prayed for a writ of mandamus for quashing the orders dated 7-1-92 and 9-1-92 attesting the signature of the Respondent No. 5 as Manager of the Institution and praying for a mandamus that Respondents shall not interfere with the Petitioner's functioning as the committee of management

3. A counter affidavit has been filed on behalf of Respondent No. 5 In para 4 of the counter affidavit it is alleged that Annexure 2 to the writ petition is a forged document and the correct fact is that the election was conducted on 11-6-89 in which Dr Vir Bahadur Singh was elected as President and the Petitioner No. 2 was elected as Manager but to give colour to the petition the forged election papers have been filed The copy bearing the signature of the Petitioner No. 2 as well as signature of the Election Officer and the District Inspector of Schools, is Annexure CA-1-A. In para 7 of the counter affidavit it has been alleged that Petitioner No. 2 is the accused in a murder case and is disqualified as Manager, hence an order dated 4-3-91 was passed by the President in accordance with para 7 of the Scheme of Administration disqualifying the Petitioner No. 2 "from membership and from the post of Manager and this order become final. These facts were brought to the notice of the Assistant Registrar who hold the election of 17-3-91 electing Respondent No. 5 as valid. It has also been alleged that the Respondent No. 4 is the Manager and managing the affairs of the institution. The copy of the paper regarding salary bill of March, 1992 has been enclosed as Annexure CA-3 to the counter affidavit. In para 13 of the counter affidavit it has been alleged that the Respondent No. 4's signature has been attested as Manager of the institution and he is in effective control of the Institution and the salary is being disbursed under his signature since January, 1992.

4. A rejoinder affidavit has been filed and in para 6 of the rejoinder affidavit it is alleged that Annexure CA-J-A to the counter affidavit is a forged document . In para 9 it is alleged that merely because a person is accused in criminal case without there being a final judgment he cannot be disqualified from the right of the management It has also denied that the order dated 4-3-91 was passed disqualifying the deponent and no opportunity of hearing was given to him. It is also alleged in para 9 of the rejoinder affidavit that the Assistant Registrar had given any opportunity of hearing and the election allegedly held on 17-3-91 was fake and faizi. It has also been alleged in para 16 of the rejoinder affidavit that the attestation of the signature of Respondent No. 5 is wholly erroneous and illegal and it is denied that he is in effective control.

5. I have heard counsels for the parties and perused the record. It may be noticed that this Court in Writ Petition No. 15291 of 1991 had passed an order on 5-8-91 staying the operation of the order of the Assistant Registrar dated 3-4-91. This order of this Court dated 5-8-91 relates to the society and not to the committee of management. On the other hand the order of this Court dated 16-9-91 staying the operation of the order dated 19 8-91 relates to the committee of management. It may be mentioned that an order dated 11-7-91

had been passed by the Regional Inspector of Girls Schools recognising the committee of management of which Respondent No. 5 was Manager. This order dated 11-7-91 was subsequently recalled by the order dated 19-8-91 (Annexure 8 to the petition) but the order dated 19-8-91 was stayed by this Court by this Court's order dated 16-9-91. Admittedly the order of this Court dated 16-9-91 is still subsisting. Consequently the result is that the order dated 11-7-91 recognising the committee of management of which Respondent No. 5 is Manager is still in force. In this connection it is relevant to mention that a society is different from the committee of management. Where as a society is constituted under the Societies Registration Act, the committee of management is constituted under the Scheme of Administration of the Institution under the U.P. Intermediate Education Act. This position has been clarified by me in my judgment in Writ Petition No. 31946 of 1991 Committee of Management v. Dy. Director of Education decided on 22-4-92 in which I have followed the decision of a Division Bench of this Court in Committee of Management v. Regional Deputy Director of Education 1988 ALJ 831.

6. The interim order of this Court dated 5-8-91 pertains only to the society and not to the committee of management Hence it does not help the Petitioner. Counsel for the Petitioners, however, submitted that in view of the order of this Court dated 31-10-91 in Writ Petition No. nil of 1991. the Petitioners' Committee should be recognised as the valid committee. I do not agree with this submission The writ petition in which the order dated 31-10-91 was passed, was directed against the order of single operation of account It has nothing to do with the dispute regarding the committee of management The consequential order of the Regional Inspectress of Girls Schools dated 16-11-91 (Annexure 11 to the petition) hence also cannot help the Petitioner as they are only in pursuance of the order dated 31-10-91 which I have already explained.

7. In view of the above discussion. I am of the view that the impugned orders dated 7-1-92 and 9-1-92 are correct and call for no interference.

8. The writ petition is accordingly dismissed. No. order as to costs.