
(2007) 05 AHC CK 0143
In the Allahabad High Court

Committee of Management, Sri Kachcha Baba Inter College
and Others

APPELLANT

Vs

Regional Committee, Pancham Mandal and Others

RESPONDENT

Date of Decision : 25-05-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 05 AHC CK 0143

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—Heard Sri Awadhesh Kumar Singh, the learned Counsel for the petitioners and Sri P.S. Baghel, the learned Counsel appearing for respondent No. 6 and the learned Standing Counsel appearing for respondent Nos. 1, 2 and 3.

2. Briefly stated, the facts giving rise to the present petition is, that Civil Misc. Writ petition No. 43629 of 1998 and Civil Misc. Writ petition No. 9089 of 1999, filed by the parties, was disposed of, by a common judgment dated 21.11.2002, in which it had come on record that the last election of the committee of management, Kachcha Baba Inter College, Jalhopur, Varanasi was held in the year 1996, and which was the subject matter in the said writ petitions. The Court, while disposing of the writ petition, by an order dated 21.11.2002. directed that since the authorised controller was continuing in the college, he would hold fresh elections after verifying the list of the members. Based on the aforesaid judgment, the rival parties submitted their list of the members before the authorised controller. The authorised controller, after considering the matter, passed an order dated 24.2.2003, rejecting the list supplied by the rival parties and, finalised the list of the members on the basis of the evidence brought on the record. Based on the aforesaid determination, the District Inspector of Schools, by an order dated 16.6.2003, granted permission to hold the election

for the period 2003-2006. Based on the aforesaid direction, the authorised controller conducted the election on 31.12.2003. Before the result of the elections could be announced and, before the authorised controller could give charge to an elected body of the committee of management. Writ Petition No. 28892 of 2003 was filed by the petitioners in which an interim order was passed, namely:

In the meantime, if any elections are held by Prabandh Sanchalak, result of the same shall not be declared, except with leave of this Court.

3. The said interim order continued till the disposal of the writ petition. The Court in its judgment dated 16.5.2006 held that since the result of the elections had not been declared so far, the Court directed the regional committee to consider and decide the objections of the parties and further directed the regional committee to consider the list of members finalised by the authorised controller and thereafter take an appropriate decision with regard to the validity of the elections conducted by the authorised controller.

4. Based on the aforesaid directions of the Court, the regional committee, after considering the objections of the parties issued an order dated 18.4.2007, upholding the finalisation of the list determined by the authorised controller by its order dated 24.2.2003 and, also declared the result of the elections holding that the said election was valid and consequently, recognised the elections of Sri Dhananjay Singh as the Manager of the Committee of Management. The petitioners, being aggrieved by the aforesaid order, has filed the present writ petition.

5. The learned Counsel for the petitioners submitted that the life of the committee of management, as per the Scheme of Administration was three years and one month and thereafter, the committee of management became functus officio. Admittedly, the elections were held on 31.12.2003 which term had expired on 30.12.2006 and consequently, the elections of Sri Dhananjay Singh could not continue beyond 30.12.2006. Consequently, the order of the regional committee recognising the elections of Sri Dhananjay Singh, which was held on 31.12.2003 was redundant and could not be given effect to. The learned Counsel for the petitioners further submitted that the list of the electoral college, as determined by the authorised controller, and affirmed by the regional committee was wholly erroneous and was finalised without any application of mind. The objection raised by the petitioners was not considered and consequently, the said list was liable to be set aside and a fresh direction was required to be issued to the authorised controller Upholding fresh election of the committee of management of the society.

6. On the other hand, Sri P.S. Baghel, the learned Counsel for the respondents submitted that the writ petition was not maintainable. The learned Counsel for the respondents submitted that the writ petition has been filed by a group of members of the General Body of the Society and that the writ petition was not

maintainable at their instance. In support of his submissions the learned Counsel for the respondents has relied upon a decision of this Court in Writ Petition No. 31886 of 2004, Bhagwan Kaushik v. State of U.P. and Ors. decided on 30.1.2006 as well as a judgment of a Division Bench of the Court dated 19.2.2007 passed in Special Appeal No. 194 of 2007, Anjani Kumar Mishra v. State of U.P. and Ors. wherein it had been held that the members of the society had no right to agitate the result of the elections since it had no locus standi to challenge the result of the elections. The learned Counsel for the respondents further submitted that the election which was conducted by the authorised controller on 31.12.2003 had not yet been completed, since, the result had not yet been declared, consequently, the term of the committee had not as yet begun. Therefore, the expiry of three years and one month in the present case on 30.12.2006 did not arise. The learned Counsel further submitted that the starting point of the term of the committee of management would be when the committee of management was given charge and the period of three years would begin from that date.

7. In support of his contention, the learned Counsel for the respondents placed reliance upon a decision of a Division Bench of this Court in Committee of Management, Jangali Baba Intermediate College Garwar, district Ballia and Anr. v. Deputy Director of Education, Vth Region, Varanasi and Ors. (1991) 2 UPLBEC 1183 as well as a decision of a learned Single Judge of this Court in Committee of Management, Lakhori Inter College, Moradabad and Anr. v. District Inspector of Schools, Moradabad and Ors. (2002) 1 UPLBEC 199.

8. Having given my thoughtful consideration in the matter this Court is of the opinion, that the petitioners are not entitled for any relief. The writ petition is not maintainable.

9. In Dr. P.S. Rastogi v. Meerut University, Meerut (1977) 1 UPLBEC 415 it was held that an individual member of the committee of management had no locus standi to file a petition. Similar view was held by a learned Single Judge in the case of Bhagwan Kaushik v. State of U.P. and Ors. [supra]. A division bench in Anjani Kumar Mishra's case, [supra] in Special Appeal also held that the members of a society had no right to agitate the result of the elections, as they had no locus standi to challenge the result of the elections. In the present case, the petitioners are the members of the general body. It is not a rival committee of management as alleged by them in the writ petition, inasmuch as admittedly, the authorised controller was managing the affairs of the administration since the year 1996. The elections were conducted by the authorised controller. Consequently, the petitioners cannot be held to be the rival committee of management. The petitioners are none other than the members of the general body of the society and, in view of the decisions of this Court, they have no locus standi to file the present writ petition. Further in my opinion, the list of electoral college which has been finalised by the authorised controller and affirmed by the regional committee is based on findings of fact which cannot be interfered in a writ jurisdiction.

10. In *Committee of Management, Kisan Shiksha Sadan, Banksahi, Basti and Anr. v. Assistant Registrar, Firms Societies and Chits, Gorakhpur Region, Gorakhpur* (1995) UPLBEC 1242, a Division Bench of this court held

The list of members determined by the authority was not open for a member of the society to challenge in a writ jurisdiction and the proper course open to him was to approach the Civil Court and seek an appropriate relief. In my view also, the appropriate remedy to challenge the determination of the list of the electoral college cannot be adjudicated in a writ jurisdiction under Article 226 of the Constitution of India and the appropriate remedy for the petitioners is to file a civil suit.

11. With regard to the last submission of the learned Counsel for the petitioners, this Court is of the opinion, that the election conducted by the authorised controller on 31.12.2003 had not yet been concluded. In my opinion, the election is concluded upon the declaration of the result. In the present case, the High Court, had issued an interim order staying the declaration of the result. The declaration was subsequently made by the regional committee by the impugned order dated 18.4.2007. Consequently, as per the Scheme of Administration, the term of the committee of management, being three years plus one month, would start from the date of the declaration of the result. Thus, the question of its expiry on 30.12.2006 does not arise, inasmuch as the election was concluded only upon the declaration of the result on 18.4.2007. Consequently, the term of the committee of management would only begin from 18.4.2007 onwards.

12. In *Committee of Management, Lakhori Inter College and Another Vs. District Inspector of Schools, Moradabad and Others*, this Court held:

The principle laid down there is not in dispute. Looking to the Scheme of Administration which is annexed as Annexure-4 to the counter affidavit filed by the respondents it is clear that the period prescribed therein for the Committee of Management is three years and the earlier validly elected Committee of Management automatically comes to an end after one month thereafter. It is significant that the language used therein makes no option. The Scheme of Administration has been framed under the U.P. Intermediate Education Act and the language used therein for the life of committee of Management is mandatory and its ceaser is also automatic. However, the question still remains regarding the starting point for the computation of this period of three years. In none of the decisions relied upon this question has been gone into. The petitioners' argument is it would only start running from the date newly elected Committee of Management takes charge as such.

13. In *Committee of Management, Jangali Baba Intermediate College, Garwar District Ballia and Anr. v. Deputy Director of Education, Vth Region, Varanasi and Ors.* 1991 (2) UPLBEC 1183 a division bench of this Court held:

The purpose of prescribing period of three years is that elected Committee of Management to function. If for some reasons even after election, the newly

elected Committee of Management is not made to take charge from the earlier Committee of Management or from the Prabandh Sanchalak the period of that Committee of Management would not start. However, the day such elected Committee of Management taken over charge and or starts functioning as such, then the period of three years starts running. By looking to the relevant clause of the Scheme of Administration we feel thereafter the period of three years is fixed and in no case extended even if intermittently such Committee of Management is not able to discharge its function on account of in fighting litigations between the parties, or on account of stay order passed by this Court. It is thus necessary for the authority to come to the conclusion, in case of such dispute, of the date from which the elected Committee of Management has taken charge or started to function as such. In the present case the dispute raised by the petitioners is that even after the election on 7th July, 1985 on account of stay order of this Court as aforesaid it could neither take charge nor start functioning, thus the period of three years could not be from the date of election and thus the impugned order holding its period having come to an end is legally not justified.

14. In view of the aforesaid, this Court is of the opinion, that the period of three years has only begun from the date of the declaration of the result on 18.4.2007. Consequently, the term of the new committee of management of respondent No. 6 has not as yet expired as it has only begun on 18.4.2007.

15. In view of the aforesaid, the writ petition fails and is dismissed summarily. In the circumstances of the case, there shall be no order as to cost.