

(1987) 11 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 19538 of 1987

Committee of Management Sri Mahanthu Radha Krishna Inter College APPELLANT

Vs

District Inspector of Schools and Another RESPONDENT

Date of Decision : 16-11-1987

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Intermediate Education Act, 1921 — Section 16G(5), 16G(6), 16G(7)
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 19

Citation : (1988) 1 AWC 623

Hon'ble Judges : V.N. Khare, J; Umesh Chandra, J

Bench : Division Bench

Advocate : K.N. Rai and S.R. Singh, for the Appellant;

Final Decision : Allowed

Judgement

V.N. Khare, J.—By means of this petition under Article 226 of the Constitution the petitioner, which is Committee of Management of an educational institution known as Mahanthu Radha Krishna Inter College, Sakarpura Khorsena, Ballia (hereinafter referred to as the Institution), has challenged the order dated 16-10-1987 passed by the District Inspector of Schools, Ballia refusing to accord approval to the resolution of the petitioner Committee of Management suspending Respondent No. 2 who is Principal of the Institution.

2. Certain complaints were received by the petitioner Committee of Management against the Respondent No. 2. The petitioner Committee of Management, vide its resolution dated 16-8-1987, suspended the Respondent No. 2 pending disciplinary enquiry against him. It is asserted in the writ petition that the relevant papers were sent to the District Inspector of Schools within time. However, the District Inspector of Schools refused to accord his approval to the said resolution of the petitioner Committee of Management. Thereafter, the petitioner Committee of Management, vide its resolution dated 27-9-1987, again

suspended the Respondent No. 2 pending disciplinary enquiry against him. It is alleged in the writ petition that this time, the petitioner Committee of Management sent all the necessary papers to the District Inspector of Schools within time and complied with the provisions of Regulation 19 framed under the U.P. Intermediate Education (Amendment) Act, but the District Inspector of Schools, by the impugned order, has refused to accord approval to the said resolution of the petitioner Committee of Management suspending the Respondent No. 2. It is against this order that the petitioner Committee of Management has come up before this Court.

3. Since counter and rejoinder affidavits have already been exchanged and learned Counsel for the parties are agreed that this writ petition may be decided on merits at the admission stage, we propose to decide it on merits at the admission stage.

4. Learned Counsel for the petitioner urged that the District Inspector of Schools while according or refusing to accord approval to an order of suspension acts quasi-judicially and, therefore, he must give reasons in his order. His argument is that since the District Inspector of Schools has not given reasons in his order, the said order is illegal and arbitrary. Alternatively it was argued that even if the District Inspector of Schools is held to be acting in administrative capacity, he must give reasons while refusing to accord approval to an order of suspension. Learned Counsel for the Respondent No. 2 argued that the District Inspector of Schools while exercising power according or refusing to accord approval to an order of suspension does not act quasi-judicially, and, therefore, no reasons are required to be given by him in his order.

5. In *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, it was held by the Supreme Court that the dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated. For deciding whether a power is an administrative power or quasi-judicial power one has to look to the nature of the power conferred, the person or persons on whom it is conferred, the framework of the law conferring that power, the consequences ensuing from the exercise of that power and the manner in which that power is expected to be exercised. In view of the dictum of the Supreme Court it is necessary to look into the provisions of the Act and the Regulations framed thereunder in this regard. Sub-sections (5), (6) and (7) of Section 16-G of the U.P. Intermediate Education Act, 1921 are quoted below for ready reference:

(5) No Head of Institution or teacher shall be suspended by the Management, unless in the opinion of the Management

(a) the charges against him are serious enough to merit his dismissal, removal or reduction in rank ; or

(b) his continuance in office is likely to hamper or prejudice the conduct of disciplinary proceeding against him ; or

(c) any criminal case for an offence involving moral turpitude against him under investigation, inquiry or trial.

(6) Where any Head of Institution or teacher is suspended by the Committee of Management, it shall be reported to the Inspector within thirty days from the date of the commencement of the Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, in case the order of suspension was passed before such commencement, and within seven days from the date of the order of suspension in any other case, and the report shall contain such particulars as may be prescribed and be accompanied by all relevant documents.

(7) No such order of suspension shall, unless approved in writing by the Inspector, remain in force for more than sixty days from the date of commencement of the Uttar Pradesh Secondary Education Laws (Amendment) Act, 1975, or as the case may be from the date of the such order, and the order of the Inspector shall be final and shall not be questioned in any Court.

6. The aforesaid provisions go to show that power to suspend a Principal or a Teacher u/s 16-G (5) is vested in the Committee of Management but is dependant upon one or more grounds mentioned in Sub-section (5) but suspension cannot last beyond sixty days unless approved by the District Inspector of Schools under the provisions of Sub-section (7) of Section 16-G, Provisions of Sub-section (7) of Section 16-G go to show that the power of approval or disapproval by a District Inspector of Schools is in the nature of a supervisory power, District Inspector of Schools while passing an order has to see as to whether the order passed by the Committee of Management is within the four corners of the Act and the Regulations framed thereunder. An order passed by the District Inspector of Schools according or refusing to accord approval to the suspension order has effect on the rights of certain party or parties. Although there is nothing in the Act requiring a District Inspector of Schools to give reasons but while exercising supervisory power, he may be unable to show that he has acted lawfully unless the order itself explains the same.

7. In *Minister of National Revenue v. Wright's Canadian Ropes Ltd.* 1947 ACC 109 it was held by the Privy Council that a Minister who had failed to give reasons for a special tax assessment had not shown that it was correct and that the tax payer's appeal must be allowed. H.W.R. Wade, in his book on Administrative Law (fifth edition), says at page 487 that the giving of reasons is very essential since the right of appeal on a point of law is very common and, therefore, the same logic might be invoked elsewhere, since there is always a right of recourse to the High Court for error on the face of the record.

8. As discussed earlier, a District Inspector of Schools while exercising power under Sub-section (7) of Section 16-G acts in a supervisory capacity, and his decision may have adverse effect on either party which is before him. Since the party affected adversely by his order invariably comes to Court, he must record brief reasons for according or refusing to accord approval to an order of

suspension passed by a Committee of Management although a detailed judgment is not required. In the present case, the District Inspector of Schools has disapproved the resolution of the Committee of Management without giving any reason whatsoever. In absence of any reason, this Court is unable to find fault with the resolution of the Committee of Management suspending the Respondent No. 2. Therefore, the order of the District Inspector of Schools must be held to be illegal and arbitrary.

9. In view of the above, the writ petition succeeds, and is allowed. The order dated 16-10-1987 is quashed. The District Inspector of Schools, Ballia is directed to pass an order afresh in accordance with law within 30 days of the production of a certified copy of this order before him. Learned Counsel for the Respondent No. 2 states that the Respondent No. 2 has neither been reinstated nor has been paid his salary. We feel, there is no need to issue a separate direction in this regard. The Respondent No. 2 will be entitled to the salary which is due to him under the law. There shall be no order as to cost.