

(2004) 10 AHC CK 0091

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 17203 of 2003

Committee of Management, Sri Rameshwar Prasad Balika
Higher Secondary School and Another

APPELLANT

Vs

Joint Director of Education, Azamgarh Region, Azamgarh/
Recognition Committee under the Chairmanship of Joint
Director of Education, Azamgarh Region and Others

RESPONDENT

Date of Decision : 25-10-2004

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 6A(7)

Citation : (2005) 5 AWC 5102 : (2005) 2 UPLBEC 1220

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : D.S.M. Tripathi and Gajendra Pratap, for the Appellant; Sudhakar Pandey and Piyush Shukla, S.C., for the Respondent

Final Decision : Allowed

Judgement

Arun Tandon, J.—Heard Sri D.S.M. Tripathi, learned Counsel for the petitioners, Sri Sudhakar Pandey, learned Counsel for the respondent No. 5 and Sri Piyush Shukla, learned Standing Counsel for the State-respondents.

2. Sri Rameshwar Prasad Girls Higher Secondary School, Rasra, Ballia is an aided and recognized institution under the provisions of Intermediate Education Act. The said institution is run and managed by a Committee of Management of the society duly elected in accordance with approved scheme of administration.

3. Sri Jai Prakash Singh on the basis of elections said to have taken place on 5.11.2000 in the presence of an observer appointed by the District Inspector of Schools, set up a claim for being recognized as the Manager of the Institution and for the said purpose he approached this Court by means of Civil Misc. Writ Petition No. 24654 of 2001. The writ petition so filed was allowed with a direction upon the District Inspector of Schools, Ballia to decide the representation of the petitioner-Committee of Management dated 15.12.2000, whereby they prayed

for recognition of the election held on 5.11.2000 within time specified. Another Civil Misc. Writ Petition No. 8929 of 2003 was filed by one Sri Narendar Kumar Srivastava (present petitioner) in his capacity as Manager of the institution on the basis of elections alleged to have taken place on 20.1.2002. The aforesaid writ petition so filed by rival claimant Sri Narendara Kumar Srivastava was disposed of with a direction upon the District Inspector of Schools to take appropriate steps and if necessary forward the papers of the election to the competent authority within a period of two months from the date of production of a certified copy of the order. By means of the impugned order dated 29.3.2003 the District Inspector of Schools has recognized the elections of the Committee of Management, which have taken place on 5.11.2000 and has accordingly attested the signatures of the elected Manager Smt. Urmila Devi. It is against the aforesaid order of the District Inspector of Schools dated 29.3.2003, that the present writ petition has been filed.

4. On the aforementioned facts it is submitted that the aforesaid order of the District Inspector of Schools is wholly without jurisdiction. It is contended on behalf of the petitioner that under the Government Order dated 19.12.2000, the proceedings of the elections for constituting the Committee of Managements of recognized High School and Intermediate Colleges are necessarily to be placed before the Regional Level Committee of which the Regional Joint Director of Education is the Chairman. Unless and until the said Regional Level Committee approves the elections, the elected office bearers can not be put in charge of the affairs of the institution.

5. According to the petitioner in view of the said Government Order dated 19.12.2000, the District Inspector of Schools has no authority of law to recognize the elections set up by Smt. Urmila Devi. Even otherwise, it is submitted that there was a dispute of rival elections pleaded by the parties before the District Inspector of Schools. The District Inspector of Schools is duty bound to act in accordance with Section 6-A(7) of the Intermediate Education Act.

6. Despite time being granted by this Court, no counter affidavit has been filed by the State-authorities. So far as the respondent No. 5 is concerned, a counter affidavit has been filed on his behalf by Sri Sudhakar Pandey. From the facts as stated hereinabove, it is apparently clear that the District Inspector of Schools in exercise of power said to be conferred upon him under order of this Court dated 4.3.2003, has passed the order recognizing the elections held on 5.11.2000. For deciding the issue as to whether the District Inspector of Schools had been conferred the jurisdiction to decide the dispute under order of this Court dated 20.1.2002 passed in Civil Misc. Writ Petition No. 24654 of 2001, reference be had to the order of this Court itself, the operative portion reads as follows:

"As a result of the aforesaid discussion the instant writ petition is allowed and the District Inspector of Schools, Ballia respondent No. 1 is hereby mandated to decide the representation of the petitioners dated 15.12.2000 (Annexure "5" to the writ petition) expeditiously within a period of three weeks from the date of

receipt of a certified copy of this order."

7. From the said order, it is apparently clear that the District Inspector of Schools was directed to decide the representation of the petitioner dated 15.12.2000. From the said order it cannot be said that the District Inspector of Schools was conferred a jurisdiction to decide the matter. Under Government Order dated 19.12.2000 power to decide the legality or otherwise of the elections of the Committee of Management of recognized Intermediate College has been vested with Regional Level Committee comprising of the following three persons, namely: (a) Regional Joint Director of Education, (b) Regional Deputy Director of Education and (c) District Inspector of Schools.

8. Even otherwise it is to be noticed that this Court on 4.3.2003 while deciding the Writ Petition No. 8989 of 2003 had required the District Inspector of Schools :o act in accordance with law and if necessary, to forward the relevant papers before the competent authority within two months. Even if it is accepted that the said order of this Court was not communicated to the District Inspector of Schools yet the same is to be considered by this Court while deciding the issue at hand. This Court vide order dated 4.3.2003 required the District Inspector of Schools to decide the representation only and. If the District Inspector, of Schools had no jurisdiction to decide the dispute pertaining to the validity of the elections he was under legal obligation to pass appropriate order on the representation of the petitioner referring the issue of legality of the elections to the competent authority under law. It may be reiterated that the Hon"ble Supreme and this Court has repeatedly held that orders of the Court cannot confer a jurisdiction not vested in an authority. In the opinion of the Court the orders passed by this Court directing the authorities concerned to decide the representation or the claim set up by the parties necessarily implies that the authority concerned is to act in accordance with law and if the authority concerned has no jurisdiction under law to decide the issue raised it must pass an order to that effect supported by reasons on the representation of the party concerned instead of venturing to decide the issue on the basis of assumed jurisdiction.

9. In the facts and circumstances of the case the order passed by the District Inspector of Schools dated 29.3.2003 suffers from want of jurisdiction and is accordingly quashed. The controversy with regard to the rival elections set up by the petitioner and those set up by Sri Jai Prakash Singh shall be referred for adjudication to the Regional Level Committee of which the Regional Joint Director of Education, Azamgarh is the Chairman. The Regional Level Committee shall consider and decide the dispute at the earliest possible, preferably within two months from the date the papers are so placed before it after affording opportunity of hearing to the parties. It is further provided that any of the parties may produce a copy of this order before the Regional Joint Director of Education. If such papers along with representation are filed before the Regional Joint Director of Education, the Regional Joint Director of Education shall summon, the

relevant papers from the office of the District Inspector of Schools and shall also place the same before the Regional Level Committee immediately.

10. In view of the aforesaid observations, the present writ petition is allowed. No order as to costs.