

(1997) 01 AHC CK 0117
In the Allahabad High Court
Case No : C.M.W.P. No. 23986 of 1995

Committee of Management, Sri. Shankarashram Maha
Vidyapith Inter College and Another

APPELLANT

Vs

District Inspector of Schools and Another

RESPONDENT

Date of Decision : 21-01-1997

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16G(5), 16G(6)
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 39(1)

Citation : (1997) 01 AHC CK 0117

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : G.K. Singh and R.N. Singh, for the Appellant; Ashok Khare and S.C.,
for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned order dated 14.8.95 passed by the District Inspector of Schools, Mirzapur, Annexure 6 to the writ petition.

2. I have heard Shri G.K. Singh learned Counsel for the Petitioner and Shri Ashok Khare for Respondent No. 2 and learned standing counsel also.

3. The Respondent No. 2 was functioning as ad hoc Principal of the institution in question. He was placed under suspension by order dated 26.6.95 vide Annexure 1 to the petition and by another order passed on the same date, he was directed to hand over charge of the post of Principal to Hemdutt Tripathi vide Annexure 2 to the petition. The Manager of the institution informed the District Inspector of Schools about this suspension and by letter dated 5.7.95 he submitted the relevant documents with the letter to the District Inspector of Schools u/s 16G(5) of the U.P. Intermediate Education Act. A true copy of the letter dated 5.7.91 is Annexure 3 to the writ petition.

4. Subsequently by order dated 14.8.95, the District Inspector of Schools disapproved the suspension of Respondent No. 2. Aggrieved, this Petitioner has been filed by the management.

5. Counter and rejoinder affidavits have been exchanged and I have heard learned Counsel for the parties.

6. A perusal of the impugned order dated 14.8.95 shows that the District Inspector of Schools has examined all the allegations against the Respondent No. 2 and prima facie found that no material has been submitted by the Petitioner in support of the allegation against Respondent No. 2. The District Inspector of Schools has dealt with each of the charges and has recorded his finding thereon. As regards charge No. 1, he has held that as regards the allegation of submitting a false statement, the same was signed by the Manager also and hence the principal alone cannot be blamed. As regards charge No. 2, he has observed that there is nothing to show that the Principal was guilty of insubordination in accepting certain funds. As regards charge No. 3, he has observed that the cheques have to be signed by the Manager also and moreover it is not such a serious charge. As regards charge Nos. 4 to 7, he has observed that no material has been submitted by the management to justify these charges.

7. Shri Ashok Khare, learned Counsel for Respondent No. 2, invited my attention to Regulation 39(1) of the U.P. Intermediate Education Act, 1921, which states:

39. (I) The report regarding the suspension of the head of institution or of the teacher to be submitted to the Inspector under Sub - section (6) of Section 16G shall contain the following particulars and be accompanied by the following documents:

(a) the name of the person suspended along with particulars of the post (Including grades) held by him since the date of his original appointment till the time of suspension including particulars as to the nature of tenure held at the time of suspension, e.g., temporary, permanent or officiating;

(b) a certified copy of the report on the basis of which such person was last confirmed or allowed to cross efficiency bar, whichever is later;

(c) Details of all the charges on the basis of which such person was suspended;

(d) Certified copies of the complaints, reports and Inquiry report, if any, of the inquiry officer on the basis of which person was suspended.

(e) Certified copy of the resolution of the Committee of Management suspending such person;

(f) Certified copy of the order of suspension issued to such person;

(g) In case person was suspended previously also, details of the charges on which and the period for which he was suspended on previous occasion accompanied by certified copies of the orders on the basis of which he was

reinstated.

A perusal of the above regulation shows that when the management applies u/s 16G(5) for approval of the suspension, then the relevant document must accompany the said application. In the present case, that was not done.

8. On the other hand, Shri G.K. Singh learned Counsel for the Petitioner invited my attention to Annexure 5 to the writ petition which is an order dated 12.7.95 stating that both parties prayed for time to file documents.

9. It appears that the case was heard on 11.7.95 but if; relevant documents were not filed by the management. The management should have filed whatever documents it wanted to rely upon along with its application u/s 16G(5) but did not do so. Even up to 14.8.95 when the impugned order was passed, the management had not filed the documents it wanted to rely upon. Hence, the management cannot complain that it was not given opportunity to file relevant documents on which it wanted to rely upon.

10. The findings of the District Inspector of Schools in the impugned order are findings of fact and I cannot interfere with the same in writ jurisdiction. The writ petition is Therefore, dismissed. However, I direct that the enquiry "against the Respondent No. 2 be completed within three months from today.