
(1995) 01 AHC CK 0090

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 20620 of 1995, Connected with C.M.W.P. No. 26747 of 1995

Committee of Management, Jawahar Lal Krishak Inter College
Deoria and Another

APPELLANT

Vs

Dy. Director of Education, Gorakhpur and Others

RESPONDENT

Date of Decision : 31-01-1995

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16A(7)

Citation : (1995) 01 AHC CK 0090

Hon'ble Judges : R.H. Zaidi, J

Final Decision : Dismissed

Judgement

R. H. Zaidi, J.—Validity of the order passed by the Regional Deputy Director of Education, VII Region, in exercise of his power under Section 16A(7) of the U. P. Intermediate Education Act (hereinafter referred to as the Act), has been challenged by the petitioners in the present petitions, filed under Article 226 of the Constitution of India. The Regional Deputy Director of Education, by means of impugned order dated 13/7/1995 held that both the elections set up by the rival Committees of Management were invalid and refused to approve any one of them. After recording the said findings he directed the authorised controller to continue and to hold the election of the office bearers and members of Committee of Management of the educational institution known as Pt. Jawahar Lal Krishak Inter College, Mahuabari, Lar Road, District Deoria (hereinafter referred to as the College).

2. The brief fact of the case giving rise to the aforesaid petitions are that, Shri Ram Nagina Singh, who has been impleaded as respondent No. 3 in the first petition and petitioner No. 2 in the second petition, claimed that election of office bearers and members of Committee of Management of the College was held on 27/10/1991 by him, in which he was elected as the manager of the College. Signatures of Shri Ram Nagina Singh were also attested by the District Inspector of Schools, on the basis of said election. The validity of the order of the District

Inspector of Schools attesting the signatures of Shri Ram Nagina Singh was challenged by the petitioners in this Court in Civil Misc. Writ Petition No. 900 of 1992. The said writ petition is still pending disposal. In the meanwhile, the term of the Committee of Management, as prescribed under the Scheme of Administration of the College, came to an end. Shri Ram Nagina Singh, therefore, again notified the programme of the election of office bearers and members of the Committee of Management. The petitioners filed original suit No. 1758 of 1994 for permanent injunction restraining the defendants from holding the election. The Civil Court, vide its order dated 19/11/1994 directed the defendants to permit the plaintiff, defendant second set, to participate in the said election, if they were the members of the general body of the College. The District Inspector of Schools thereafter, directed for postponement of aforesaid election, which was scheduled to be held on 20/11/1994. Respondent No. 3, however, claimed that the election of office bearers and members of the Committee of Management was held by him on 26/11/1994 in accordance with the provisions of Scheme of Administration. On the other hand, the petitioners have claimed that the election was held by them on 20/11/1994. Papers relating to aforesaid elections were submitted by the rival claimants before the District Inspector of Schools soliciting his approval of the said elections. The District Inspector of Schools, in view of the fact that there was dispute between two rival Committees of Management, referred the same to the Regional Deputy Director of Education, in accordance with the provisions of Section 16A(7) of the Act on 29/12/1994. The Deputy Director of Education on receipt of papers from the office of the District Inspector of Schools made interim arrangement for the Management of the affairs of the College and appointed the authorised controller by his order dated 21/1/1995. Shri Ram Nagina Singh challenged the validity of the order dated 21/1/1995 in this Court by filing writ petition No. 5067 of 1995. This Court, however, was pleased to dismiss the said writ petition and to direct the District Inspector of Schools to decide the dispute in accordance with law. Parties thereafter, appear to have filed their representations before the Deputy Director of Education. The Deputy Director of Education after affording an opportunity of hearing both the parties was pleased to hold that the elections of Committee of Management set up by the parties were invalid. Having recorded the said finding he directed the authorised controller to continue and to hold the election of the office bearers and members of the Committee of Management with the help of 80 members of general body. The operative portion of the order dated 13/7/1995 is quoted below :

3. I have heard learned counsel for the parties and perused the record of the case.

4. Learned counsel for the petitioner in writ petition No. 20620 of 1995 submitted that the Deputy Director of Education has exceeded his jurisdiction in deciding the validity of the election and has also erred in law in holding that only 80 members, as claimed by Sri Ram Nagina Singh, were valid members of the general body. According to his case, there were as many as 117 members of the

general body who had the right to participate in the election. It was contended that the Dy. Director of Education had, in any view of the matter, no jurisdiction to enter into the question and decide the validity of the membership, he had to simply record the findings on the question of effective control.

5. On the other hand Sri T. P. Singh, learned counsel for Sri Ram Nagina Singh has vehemently urged that the Dy. Director of Education having upheld the validity of 80 members had no jurisdiction to refuse to uphold the claim of Sri Ram Nagina Singh merely on the ground that the election was held in the absence of official observer.

6. I have considered the rival contentions made by the learned counsel for the parties and have also carefully gone through the record.

7. It is wellsettled in law that the Dy. Director of Education while dealing with the case under Section 16A(7) of the Act look into the validity of the election if the question of validity crops up him incidently. After examining several decisions of this Court, it was held as under in the Committee of Management of M. G. Inter College v. Dy. Director of Education reported in 1992 (2) UPLBEC 1042 :

"In my opinion the law laid down in various decisions of this Court is quite clear. The Dy. Director of Education can examine the validity of the election by the rival groups under Section 16A(7) of the Act, if the question regarding validity of the election arises incidently."

8. On the other hand, in some of the decision this Court has taken the view that the Deputy Director of Education has got no jurisdiction to look into the validity or otherwise of the elections. Learned Single Judge in writ petition No. 35267 of 1992 Committee of Management, Pt. Jawahar Lal Nehru Inter College, Bamgaon, Gorakhpur v. Deputy Director of Education Gorakhpur decided on 6111992 referred the matter to the Full Bench for decision. The Full Bench, however, has not yet been constituted the conflicting view on the scope of power of Deputy Director of Education under Section 16A(7) of the Act.

9. Be that as it may, the trend of authority at present is that the Deputy Director of Education while deciding the dispute under Section 16A(7) of the Act can look into the validity or otherwise of the election if the said question arises before him incidently. The question of validity of the election is dependent upon several factors including the validity and genuineness of the members inasmuch as the election held with the help of invalid and fake members cannot be said to be valid election. Therefore in any case when the question arises as to whether the members who participated in the election were or were not the members of the general body, the Deputy Director of Education is under an obligation to decide the said question before recording any finding on the question of validity of the election. The validity of election is to be determined in accordance with the provisions of Scheme of Administration. The decision by the Deputy Director of Education would, however, be subject to the decision of a court of competent jurisdiction and will remain ineffective till the matter is finally decided by the

Court.

10. In the present case, the Deputy Director of Education did not commit any mistake in deciding the validity of the election as well as the validity of the membership. The findings recorded by the Deputy Director of Education on the aforesaid question does not call for interference by this Court under Article 226 of the Constitution of India.

11. In view of the aforesaid discussions no case for interference under Article 226 of the Constitution has been made out. Both petitions lack merit, they are accordingly dismissed. It is however, observed that the authorised controller shall expedite the election and will hold the same in accordance with the provisions of the Scheme of Administration preferably within a period of one month from the date a certified copy of this order is communicated to him.

Petitions dismissed.