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**(2010) 11 UK CK 0068**

**In the Uttarakhand High Court**

**Case No : Writ Petition No. 580 of 2010 (M/S)**

Gokul Singh Panchpal

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

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**Date of Decision : 22-11-2010**

**Acts Referred:**

**Citation : (2010) 11 UK CK 0068**

**Hon'ble Judges : Brahma Singh Verma, J**

**Bench : Single Bench**

**Final Decision : Allowed**

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## **Judgement**

B.S. Verma, J.—Heard Mr. Rajendra Dobhal, Senior Advocate, assisted by Mr. Paresh Tripathi, learned Counsel for the Petitioner and Mr. P.C. Bight learned Brief Holder, on behalf of Respondents 1 to 3.

2. Learned Counsel have submitted that pleadings have been exchanged by the parties and the writ petition may be disposed of finally today itself.

3. By means of this petition the Petitioner has sought the following relief-

(i) to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 15-03-2010 passed by Respondent No. 3, contained as Annexure No. 1 to the petition, after summonin the original record from the Respondents.

(ii) to issue a writ, order or direction in the nature of mandamus commanding the District Education Officer to accord approval to the election of the Committee of Management held on 26-02-2010, as per the report jointly submitted by the Supervisor, Returning Officer and the Authorized Controller.

(iii) to issue, an ad-interim mandamus to the aforesaid effect.

(IV) to issue any such other writ, order or direction which this Hon"ble Court may deem fit and proper in the nature and circumstances of the case.

(v) to award the cost of the petition

4. According to the Petitioner, the election of Committee of Management of Inter College Karkinagar, District Pithoragarh was held on 26-02-2010 and the Petitioner was elected the President of the Committee of Management, but the District Education Officer instead of granting approval to the same, passed impugned order refusing approval of the election, which is wholly illegal and arbitrary, as no member of general body of the institution has raised any objection before the Respondent No. 3, District Education Officer, Pithoragarh.

5. It is further contended that the rejection of approval of the Committee of Management is de hors the provision of Clause (6) and (8) of the Scheme of Administration. He further urged that it is well settled that the scheme of administration is the law to conduct the election and to manage the affairs of the institution.

6. In counter affidavit, it is alleged that Clause 6(1) of the scheme of administration provides that necessarily 12 members of the committee of management will be elected by the general body, whereas in the election held on 26.02.2010 only 11 candidates participated for requisite posts of 12 members of the committee of management. Therefore, the election being in derogation to the provision of the scheme of administration, cannot be sustained and the Respondent No. 3 have rightly refused to accord approval to the said election.

7. In reply thereto, in rejoinder affidavit the Petitioner has denied the averments made in the counter affidavit and clarified that the only requirement of Clause 6 of scheme of administration is that total number of nominated members as well as ex-officio members in committee of management, would be 12 to 18. The Principal and two senior Teachers of the College would be ex-officio members of the committee of management. Undisputedly, there are 14 members at present in the committee of management, as three members have to be nominated by the Additional Director of Education on the recommendation of committee of management.

8. The only question to be seen in the present writ petition is that -

(i) whether the approval can be refused on this ground alone that out of 12 members, 11 members have been elected in the general body of committee of management?

(ii) whether the District Education Officer can scrutinize the election process or not.

9. I have perused the Clause 6 and 8 of the scheme of administration. Part-2 of Clause 8 of the scheme of administration, provides that if there arise any complication in the formation of committee of management, due to less than 12 members of general body, then on the recommendation of general body, Additional Director of Education can nominate upto four members, but it could be done only after the committee of management is constituted and approved by

the District Education Officer. Therefore, the District Education Officer has not justification in refusing the approval of election of committee of management.

10. So far as the second part of the impugned order relating to scrutinise the election process by District Education Officer is concerned, learned Counsel appearing on behalf of the petitioner has submitted that the District Education Officer has no authority to decide the matter regarding the rejection of nomination paper and to scrutinize the election process. However, this part of impugned order has not been challenged by the members of committee of management in the writ petition, therefore, the writ petition is liable to be allowed.

11. The writ petition is allowed. The impugned order dated 15-03-2010 (Annexure No. 1 to the writ petition) is set aside. The District Education Officer, Pithoragarh is directed to give approval to the newly elected committee of management, within a period of one month from the date of production of certified copy of this order. After the approval of committee of management by District Education Officer, the general body shall recommend the name of one member to the Additional Director of Education, for completing the quorum of members of general body of committee of management and charge be handed over to the newly elected committee after its approval.