

(2005) 02 AHC CK 0221
In the Allahabad High Court
Case No : C.M.W.P. No. 52180 of 2004

Jagdamba Mani Tripathi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-02-2005

Acts Referred:

Constitution of India, 1950 — Article 226
Societies Registration Act, 1860 — Section 25(1)
Constitution of India, 1950 — Article 226
Societies Registration Act, 1860 — Section 25(1)
Constitution of India, 1950 — Article 226
Societies Registration Act, 1860 — Section 25(1)

Citation : (2005) 2 AWC 1391 : (2005) 2 ESC 999 : (2005) 2 UPLBEC 1955

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : A.P. Tewari and S.S. Tripathi, for the Appellant; Rakesh Bahadur and Piyush Shukla and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Heard Sri Rakesh Bahadur, Advocate in support of Recall Application No. 11400 of 2004 filed on behalf of Sri Mukul Kumar Pandey, respondent No. 6 to the writ petition, Sri A.P. Tewari, learned Counsel for the petitioner in opposition to the said recall application and learned Standing Counsel for the respondent Nos. 1 to 3.

2. Sri Jagdamba Mani Tripathi claiming himself to be the manager of the Committee of Management of Lal Bahadur Shashtri Uchchattar Madhyamik Vidyalaya, Rakhukhor, District Gorakhpur filed present writ petition with the following prayers :

(1) To issue a writ, order or direction in the nature of mandamus commanding the respondents 3 to 5 not to hold Election of the Committee of Management of Sri Lal Bahadur Shashtri Uchchattar Madhyamik Vidyalaya, Rakhukhor,

Gorakhpur so long the dispute pertaining to valid members are not resolved by this Hon"ble Court in Civil Misc. Writ Petition No. 6820 of 2002 filed by respondent No. 6.

(2) To issue a writ, order or direction in the nature of mandamus commanding the respondents 3 to 5 to hold Election of the Committee of Management only after obtaining the list of valid members of the General Body from the Registrar Societies, Gorakhpur.

(3) To issue a writ, order or direction in the nature of mandamus commanding the respondent No. 3 to consider and decide representations dated 1.12.2004 and 2.12.2004 by passing a reasoned and speaking order and so long the representations of the petitioners are not decided by the District Inspector of Schools, Gorakhpur then no election of the Committee of Management of the aforesaid school be held by the respondents 3 to 5.

(4) To issue any such other and further suitable writ/order in favour of the petitioner for which this Hon"ble Court may deem just and proper and for which the petitioner may be entitled under law.

(5) To award the petitioner with the costs of this writ petition.

3. From the contents of the writ petition as well as the prayer so made by the petitioner, it is apparently clear that the only contention raised on behalf of the petitioner was that the dispute with regard to the validity of the members of the general body of the society was pending adjudication before this Court in Civil Misc. Writ Petition No. 6820 of 2002, which is still pending and therefore, unless and until the said writ petition is finally decided, no valid elections for constituting the Committee of Management of the institution can take place. The learned Counsel for the petitioner confined his contention at the time the present writ petition was taken up as a fresh matter before this Court only to the aforesaid aspect. This Court in the facts of the case without calling for counter affidavit disposed of the present writ petition by means of the judgment and order dated 8th December, 2004, which is quoted herein below :

"Heard Sri A.P. Tewari, learned Counsel for the petitioner and Sri Piyush Shukla, learned Standing Counsel for the respondent Nos. 1 to 3.

Lal Bahadur Shashtri Uchchattar Madhyamik Vidyalaya, Rakhukhor, District Gorakhpur is an aided and recognised institution under the provisions of Intermediate Education Act. The said institution is run and managed in accordance with the approved scheme of administration.

Sri Jagdamba Mani Tripathi, the petitioner, who claims himself to be the member of the general body, which constitutes the Committee of Management of the institution, has filed this petition for a writ of mandamus directing the respondent-authorities, not to permit the holding of fresh elections for constituting the new Committee of Management of the institution.

It is submitted on behalf of the petitioner that there is a Prabandh Sanchalak, who is working in the institution and under orders of the Educational Authorities, he proceeds to hold fresh elections of the Committee of Management. A dispute with regard to the validity of the members of the general body was raised and at present is subject matter of consideration before this Court in Civil Misc. Writ Petition No. 6820 of 2002 wherein an interim order has been granted.

According to the petitioner so long as the said writ petition is not finally decided and the issue of membership is not finally resolved by this Court, the question for holding fresh election of the Committee of Management does not arise.

The contention so raised by the petitioner and is not justified inasmuch as admittedly in Writ Petition No. 6820 of 2002 an interim order has been granted by this Court, which is still admittedly in operation. The interim order of this Court has to be complied with by the authorities. The order of this Court has not restrained the holding of fresh elections in any manner. It is, therefore, provided that if the petitioner is aggrieved in any manner with the electoral college finalised for holding fresh elections, it will be open to him to file his objections within one week from the date the fresh elections are so held before the Regional Joint Director of Education, VII Region, Gorakhpur. The Regional Joint Director of Education, VII Region, Gorakhpur shall transmit the aforesaid objections along with the relevant papers of elections to the Regional Level Committee constituted under the Government Order dated 19th December, 2004. The Regional Level Committee shall consider the objections filed by the petitioner while considering the legality or otherwise of the elections, which are scheduled to take place, in accordance with law by means of a reasoned speaking order. The Regional Level Committee shall afford opportunity of hearing to the parties concerned. The aforesaid exercise may be completed by the Regional Level Committee within two months from the date the papers are so received.

It is needless to point out that the elected office bearers can be handed over charge of the institution only after elections are approved by the Regional Level Committee.

With the aforesaid observations, the present writ petition is disposed of finally.

8.12.2004

Sushil/-

4. The present application has been filed by Sri Mukul Kumar Pandey in his capacity as Manager of the Committee of Management for recall of the aforesaid order mainly on the ground that the petitioner has deliberately suppressed material facts from this Court for the purposes of obtaining the aforesaid order. It is further contended that in garb of the order passed by this Court the petitioner, Jagdamba Mani Tripathi want to reopen a controversy again with regard to the dispute of membership of the general body which constitutes the Committee of Management of the institution, although, (as would be noticed hereunder), the

said dispute has been settled after hearing the parties concerned. The petitioner, Jagdamba Mani Tripathi has not been fair to this Court, he has deliberately suppressed various orders passed in writ petitions filed by the parties including special appeal. It is therefore, submitted that this Court may not come to the rescue of the such petitioner and the order passed in the present writ petition dated 8th December, 2004 be recalled and the present writ petition be dismissed with exceptional costs.

5. Sri A.P. Tewari, learned Counsel for the petitioner has admitted that the facts as pointed out by the applicant, Sri Mukul Kumar Pandey in his recall application have not been mentioned in the present writ petition, however, he furnishes the explanation that the said facts are not relevant to the maintainability of the present writ petition. In view of the contention so raised by the parties it would be necessary first to refer to the facts, which according to the applicant, Mukul Kumar Pandey have been concealed.

Facts concealed;

6. Sri Mukut Bihari Pandey was admittedly the manager of the Committee of Management of the institution and also the manager of the society, which has established the said institution. He was removed from office along with one Sri Jagdamba Mani Tripathi and Sri Hari Dutt Dwivedi under resolution dated 11th July, 1999. Sri Mukul Kumar Pandey was elected/nominated as Manager of the institution in place of Sri Mukut Bihari Pandey. Relevant papers for attestation of signatures of Sri Mukul Kumar Pandey were transmitted to the office of the District Inspector of Schools, Gorakhpur for necessary action. The District Inspector of Schools passed an order dated 29th February, 2000 whereby he held that fresh election of the Committee of Management may be held on 12th March, 2000 and further recorded a finding that Sri Mukul Kumar Pandey was valid member of the general body. Accordingly fresh elections took place on 12th March, 2000 for constituting the Committee of Management of the institution.

7. The elections so held were referred for adjudication to the Prescribed Authority u/s 25 (1) of the Societies Registration Act, 1860, by the Deputy Registrar vide letter, dated 3rd March, 2000, however, the elections held on 12th March, 2000 were recognised by the District Inspector of Schools and the signatures of Sri Mukul Kumar Pandey were accordingly attested as manager of Committee of Management of the institution run by the society vide order dated 3rd August, 2000. There was a change in the office of the District Inspector of Schools as a result whereof new incumbent to the office of District Inspector of Schools passed an order dated 28th September, 2000 staying the operation of the order of earlier District Inspector of Schools dated 3rd August, 2000 on the ground that the dispute was already pending before the Joint Director 01 Education. Against the aforesaid order of the District Inspector of Schools dated 28th September, 2000, Mukul Kumar Pandey filed Civil Misc. Writ Petition No. 3131 of 2001 before this Court, which was disposed of vide judgment and order dated 25th January, 2001 with a direction upon the Regional Joint Director of Education to consider

the representation of Mukul Kumar Pandey.

8. Sri Mukut Bihari Tiwari, who was earlier manager and who was contesting the dispute with Sri Mukul Kumar Pandey filed a compromise application before the Sub-Divisional Magistrate (Prescribed Authority) on 21st July, 2001 and he filed another compromise application before the Regional Joint Director of Education on 23rd July, 2001. The Regional Joint Director of Education in view of the said compromise recognised Sri Mukul Kumar Pandey as the manager of the institution vide order dated 25th August, 2001. The District Inspector of Schools as a consequent to the aforesaid order of the Regional Joint Director of Education attested the signatures of Sri Mukul Kumar Pandey vide order dated 11th September, 2001.

9. The Sub-Divisional Magistrate (Prescribed Authority), Campereganj, Gorakhpur, however, passed an order dated 29th September, 2001 holding that the term of the elected Committee of Management has expired and therefore, required the District Inspector of Schools to direct single operation of the accounts in the institution. The District Inspector of Schools by means of the order dated 3rd November, 2001 informed the Principal of the institution that the Regional Joint Director of Education has withdrawn his earlier approval order dated 25th August, 2001. Feeling aggrieved by the aforesaid orders dated 29th September, 2001 and 3rd November, 2001, Sri Mukul Kumar Pandey filed a Civil Misc. Writ Petition No. 6820 of 2002 before this Court. By means of the order dated 20th February, 2002, this Court admitted the writ petition and stayed the operation of the orders dated 29th September, 2001 and 3rd November, 2001. Feeling aggrieved by the aforesaid order of the learned Single Judge of this Court, the petitioner, Jagdamba Mani Tripathi and one Hari Dutt Dwivedi preferred Special Appeal 238 of 2002. The Special Appeal so filed by Sri Jagdamba Mani Tripathi along with one Sri Hari Dutt Dwivedi was dismissed by the Division Bench of this Court by means of the judgment and order dated 8th March, 2002 (meaning thereby the interim order passed in Writ Petition No. 6820 of 2002 stood confirmed between the parties).

10. Sri Jagdamba Mani Tripathi along with Sri Hari Dutt Dwivedi after concealing all the aforesaid relevant facts filed Civil Misc. Writ Petition No. 12295 of 2002 and succeeded in obtaining an interim order whereby the District Inspector of Schools was directed to continue with single operation of accounts of the institution and to show cause as to why the order passed by the Sub-Divisional Magistrate, Campereganj, Gorakhpur dated 29th September, 2001 had not been complied with (when as a matter of fact the Hon'ble High Court has already stayed the operation of the order dated 29th September, 2001 and 3rd November, 2001 vide order dated 20th February, 2002 passed in Civil Misc. Writ Petition No. 6820 of 2002, which was since affirmed by the judgment and order of the Division Bench of this Court passed in Special Appeal 238 of 2002).

11. As a consequence to the interim order dated 21st March, 2002 (passed in Civil Misc. Writ Petition No. 12295 of 2002) the District Inspector of Schools

again directed single operation of accounts in the institution vide order dated 15th May, 2002. He also issued another order dated 26th August, 2002, whereby it was directed that the fresh election of the Committee of Management may be held. Feeling aggrieved by the aforesaid two orders of the District Inspector of Schools dated 16th May, 2002 and 26th August, 2002, Sri Mukul Kumar Pandey filed Civil Misc. Writ Petition No. 37739 of 2002. The Hon'ble High Court by means of the order dated 6th September, 2002 stayed the operations of the orders passed by the District Inspector of Schools dated 16th May, 2002 and 26th August, 2002 referred to above. It is worthwhile to reproduce the order of the Hon'ble High Court granting interim order in favour of Mukul Kumar Pandey speaks volumes about the conduct of Sri Jagdamba Mani Tripathi. The said interim order passed by the Hon'ble High Court in Civil Misc. Writ Petition No. 37739 of 2002 reads as follows :

"Learned Counsel for the petitioner is permitted to implead Hari Dutt Dwivedi and Jagdamba Mani Tripathi as respondents 3 and 4. Newly added respondents are represented by Sri A.P. Tewari and Sri S.S. Tripathi, learned Advocates. So far newly impleaded private respondents are concerned, learned Counsel for the petitioner submits that right which is available to the petitioner after getting the impleadment of the aforesaid private respondents, in Writ Petition No. 6820 of 2002 may be permitted to be reserved, which is allowed as such.

Respondents 1 and 2 are represented by learned Chief Standing Counsel. Sri S.S. Tripathi, Advocate represents private respondents.

All the respondents may file counter affidavit by the next date.

It has been submitted by the learned Counsel for the petitioners that by order dated 29th September, 2001, passed by the Prescribed Authority a direction for fresh election was given and by subsequent order passed by the District Inspector of Schools dated 3rd November, 2001, District Inspector of Schools has directed for single operation. Learned Counsel submits that against these two orders present petitioners filed writ petition before this Court which is writ petition No. 6820 of 2002 in which on 20th February, 2002, this Court stayed operation of the aforesaid two orders till further orders of this Court. The order as was passed on 20.2.2002 has been brought on record as Annexure-3 to the writ petition. Learned Counsel points out that against the order of the learned Single Judge dated 20.2.2002 private respondents of this petition straightway filed special appeal No. 238 of 2002, in which special appeal bench instead of interfering in the stay order granted by the learned Single Judge directed appellant to file impleadment application and also for vacation of the interim order of learned Single Judge and the special appeal was finally disposed of by giving aforesaid direction. It has been pointed out that pursuant to the direction of the special appeal bench private respondents of this petition has filed required application in Writ Petition No. 6820 of 2002 to which counter affidavit has also been filed on behalf of the petitioner and the matter is still pending. It is submitted that instead of getting themselves impleaded and to get interim order

of the learned Single Judge vacated or modified, the present private respondents have chosen to file another writ petition i.e. Writ Petition No. 12295 of 2002 in which learned counsel submits that petitioners have not been impleaded as party and a direction was obtained for ensuring compliance of the order dated 29.9.2001, which is already subject matter of Writ Petition No. 6820 of 2002 or for showing cause. It is in pursuance of the aforesaid order of this Court dated 21.3.2002, passed in Writ Petition No. 12295 of 2002, District Inspector of Schools has now passed the impugned order directing for single operation and also for holding fresh elections. Learned Counsel submits that the aforesaid exercise on the part of the education authority and also on the part of the private respondents, on the facts of the present case cannot be said to be justified.

Sri Tripathi, learned Advocate who represents private respondents submits before this Court that as the interim order, as was granted by this Court in Writ Petition No. 6820 of 2002 was operating and it was not vacated, on the facts of the present case private respondents were fully justified in filing fresh writ petition, in which innocuous order was passed by this Court. It has been further submitted that as election process has now been started this Court should not interfere in this petition and the remedy for the petitioner is to approach this Court or any other forum after conclusion of the election.

In view of the aforesaid submission as has come from both sides, it appears that filing of the fresh writ petition by the private respondents of this petition i.e. Writ Petition No. 12295 of 2002 was wholly improper and in fact it was abuse of the process of this Court Even learned Counsel who has filed aforesaid writ petition was not expected to file that writ petition in view of the fact that it was well in his knowledge that learned Single Judge in Writ Petition No. 6820 of 2002 has already stayed operation of the order dated 29th September, 2001, against which matter was taken up to the Special Appeal Court, who declined to interfere in the matter by giving only liberty to approach learned Single Judge. Neither any of the party nor any counsel can be given any liberty to file fresh petition for the reason that the interim order granted in one petition either has not been vacated or matter cannot be taken up due to paucity of time or for any other reason. The proper course in this situation appears to be make request before the learned Single Judge for taking up the matter in which interim order is constituting or in the event of failure, to approach Hon"ble Chief Justice for taking up the matter. But on the facts as placed before this Court, it appears that by filing second petition, private respondents as well the counsel has exceeded in his right.

At the same time, so far as District Inspector of Schools is concerned, who has passed the impugned order was also not supposed to pass the aforesaid order as the order dated 29.9.2001 was already stayed by this Court which prima facie appears to be well in his knowledge and this Court by its order dated 21.3.2002 has only directed for compliance of the order dated 29.9.2001 or to show cause. It was for the D.I.O.S. to have filed a response before this Court pointing out the difficulty in complying with the order dated 29.9.2001 and seeking necessary

modification or clarification in this respect. In view of this, the exercise by the D.I.O.S. also prima facie appears to be motivated.

Be that as it may, all the aforesaid observations are just on prima facie consideration of the facts and circumstances, which will abide by the final order and the decision which may be taken by this Court after exchange of pleadings.

In view of the aforesaid, it is hereby directed that operation of the orders dated 16th May, 2002 and 26th August, 2002 passed by the respondents, as contained in Annexures 1 and 2 to the writ petition shall remain stayed and they will not be given effect in any manner. The D.I.O.S. who has passed the impugned orders is directed to file his personal affidavit explaining that under what circumstances the impugned orders were passed. The Chief Standing Counsel is directed to ensure filing of the required counter affidavit by the District Inspector of Schools concerned by the next date.

List this matter on 23rd October, 2002 along with Writ Petition Nos. 6820 of 2002 and 12295 of 2002.

Certified copy of this order shall be supplied to the learned Counsel for the parties on payment of usual charges, if possible, today."

12. Despite aforesaid order of this Court and despite the letter of the Regional Joint Director of Education 28th November, 2002, requiring the District Inspector of Schools to take appropriate action in pursuance of the directions issued by this Court referred to above, the District Inspector of Schools passed an order dated 4th December, 2002 staying his own order, dated 15th May, 2002 and 26th August, 2002, which had already been stayed by this Court referred to above and deliberately did not intimate the aforesaid orders to the respective Banks where three accounts of the institution were maintained as a result whereof the order remained a mere paper of transaction.

13. On 9th April, 2003 the District Inspector of Schools again sent a letter to Mukul Kumar Pandey with reference to his earlier order dated 26th August, 2002 postponing the election which was directed by him to be held. On 3rd January, 2004 the District Inspector of Schools passed another order stating therein that the elections of the Committee of Management shall not be held till the decision of the dispute of membership as was pending before this Court in Writ Petition No. 6820 of 2002. On 20th January, 2004. The District-Inspector of Schools was recommended to the Regional Joint Director of Education to appoint a Prabandh Sanchalak in the institution and as a result whereof the Regional Joint Director of Education by means of the order dated 28th January, 2004 appointed Associate District Inspector of Schools, namely Ram Dhari Ram as the Prabandh Sanchalak in the institution with a direction to finalise the list of members of the general body after verifying the deposit of membership fee and original records of the institution, so that the valid Committee of Management of the institution is constituted within one month.

14. From the record, it is apparent that neither Mukul Kumar Pandey, nor Jagdamba Mani Tripathi challenged the aforesaid order of the Regional Joint Director of Education. As a matter of fact the Prabandh Sanchalak appointed thereunder took charge of the institution thereafter. Despite the Prabandh Sanchalak having been appointed for the purposes of constituting the valid Committee of Management after finalising the electoral college, he did not proceed any further for holding the election Sri Mukul Kumar Pandey, therefore, filed Civil Misc. Writ Petition No. 33503 of 2003 before this Court. The Hon'ble High Court on 19th August, 2004 passed an order requiring the District Inspector of Schools to consider and pass appropriate order on the application filed by Sri Mukul Kumar Pandey dated 31st July, 2004 whereby request was made for holding fresh election of the Committee of Management in accordance with the order of the Regional Joint Director of Education dated 28th January, 2004 referred to above.

15. In compliance of the order of this Court dated 19th August, 2004 the District Inspector of Schools passed an order, dated 14th October, 2004, after referring to the previous litigation between the parties including the writ petition and the special appeal filed before this Court, whereby the Prabandh Sanchalak namely, Associate District Inspector of Schools, Gorakhpur was asked to finalise the list of valid members of the general body as per the records and to hold elections for constituting the valid Committee of Management within one month. The said order dated 14th October, 2004 was admittedly passed after affording opportunity of hearing to the present petitioner, namely, Sri Jagdamba Mani Tripathi as well as Sri Mukul Kumar Pandey, The said order of the District Inspector of Schools dated 14th October, 2004 has not been challenged by any of the parties and has become final between the parties.

16. In pursuance of the aforesaid order of the District Inspector of Schools, which has been passed in compliance of the order of this Court, dated 19th August, 2004 passed in Civil Misc. Writ Petition No. 33503 of 2004, the Prabandh Sanchalak, Associate District Inspector of Schools, finalised the list of members entitled to participate in the elections vide order dated 30th November, 2004. In the list so finalised, name of Sri Jagdamba Mani Tripathi, the present petitioner has not been mentioned. The said order of the Prabandh Sanchalak has also not been challenged by Jagdamba Mani Tripathi till date. After finalising of the list of members entitled to participate in the elections the Prabandh Sanchalak has held fresh election on 12th December, 2004 from the electoral college so determined. The Prabandh Sanchalak has also issued certificate in that regard, a copy whereof has been enclosed as Annexure 14 to the writ petition.

Now the Court has to consider whether the facts, which have been concealed, are material or not?

17. From the records, which have been noticed hereinabove, it is apparently clear that the elections, have taken place on 12th December, 2004 by the Prabandh Sanchalak, who was appointed under the order of the Regional Joint

Director of Education on 20th January, 2004 for the purposes of constituting the valid Committee of Management of the institution. Under the said order it has specifically been provided that the Prabandh Sanchalak shall finalise the list of members of the general body after looking into the original records and shall hold fresh elections within one month. The Prabandh Sanchalak was not holding fresh elections of the Committee of Management of the institution, therefore Writ Petition No. 33503 of 2004 has been filed by Sri Mukul Kumar Pandey in which this Court interfered and insisted upon the District Inspector of Schools to pass appropriate order on the application of Sri Mukul Kumar Pandey for getting the fresh elections of the Committee of Management held. The District Inspector of Schools after hearing Sri Jagdamba Mani Tripathi and Sri Mukul Kumar Pandey by means of the order dated 14th October, 2004 after referring to the various disputes including Writ Petition No. 6820 of 2002 and Special Appeal No. 238 of 2002, which were initiated between the parties before this Court passed a detailed reasoned order holding that the fresh elections are required to be held after finalising the electoral college within one month. The said order dated 14th October, 2004 had admittedly been passed after hearing Sri Jagdamba Mani Tripathi. Sri Jagdamba Mani Tripathi has not chosen to challenge the said order of District Inspector of Schools nor he has challenged the order of the Regional Joint Director of Education dated 28th January, 2004 before this Court in the present writ petition. Further the District Inspector of Schools by means of the order dated 30th November, 2004 finalised the list of members, which constituted the electoral college for constituting the elections of the Committee of Management. Admittedly, the name of present petitioner, Sri Jagdamba Mani Tripathi has not been mentioned in the said order. The said order of the Prabandh Sanchalak dated 30th November, 2004 has also not been challenged by Sri Jagdamba Mani Tripathi in the present writ petition nor any mention of the said order has been made in the present writ petition. The elections having been held from amongst members of the electoral college on 12th December, 2004. Thus as of date Sri Jagdamba Mani Tripathi has not been held to be even a primary member of the general body. He has deliberately suppressed the facts with regard to the order passed by the Regional Joint Director of Education dated 28th January, 2004 and the order of the District Inspector of Schools, dated 14th October, 2004 as also order of the Prabandh Sanchalak finalising the list of electoral college. All the aforesaid orders were well within his knowledge as is apparent from the facts recorded hereinabove, prior to the filing of the present writ petition. All these facts have not been disclosed by the petitioner deliberately before this Court. Normally if the said facts had been disclosed this Court would have required the petitioner to establish his entitlement to participate in the elections and may be asked the petitioner to establish his right by way of Civil Suit. In such circumstances it cannot be said that the said facts, which have been concealed by the petitioner, Sri Jagdamba Mani Tripathi are not relevant for the purposes of adjudicating upon the present writ petition. The petitioner, Jagdamba Mani Tripathi has deliberately suppressed all the aforesaid facts and tried to create a forum for reopening the settled dispute and for said purpose he

obtained an order, dated 8th December, 2004 in his favour. In such circumstances the petitioner is guilty of suppression of material facts and is not entitled to invoke Article 226 of the Constitution of India.

18. The order, dated 8th December, 2004 passed by this Court is recalled and the writ petition is dismissed on the aforesaid grounds.

19. This Court had earlier deprecated the conduct of the petitioner, while passing an order dated 6th September, 2002, Civil Misc. Writ Petition No. 37739 of 2002, after recording a specific finding that Jagdamba Mani Tripathi has suppressed material facts from this Court while filing the aforesaid writ petition only for the purposes of obtaining an ex parte interim order. Despite the aforesaid order of this Court, the petitioner did not improve and dared to file the present writ petition, suppressing the material facts. He is, as such, a person, who is in a habit of misleading this Court by concealing the material facts time and again. In the opinion of the Court, person like Sri Jagdamba Mani Tripathi should not be left unpunished as he has interfered with the administration of justice with impugned.

20. In such circumstances, a cost of Rs. 10,000/- is imposed upon the present petitioner, Sri Jagdamba Mani Tripathi to be deposited with the Legal Services Authority of the Allahabad High Court within one month from today. In case of default District Magistrate, Gorakhpur shall ensure the recovery of the said amount as arrears of land revenue and submit a report in that regard within a further period of three weeks before the Registrar General of this Court. Further, having regard to the deliberate attempt of the petitioner to interfere in the administration of justice, this Court is of prima facie opinion that criminal contempt proceedings should also be initiated against Sri Jagdamba Mani Tripathi in view of the judgments of the Hon'ble Supreme Court in *Dhananjay Sharma Vs. State of Haryana and Others*, ; *Afzal and Anr. v. State of U.P. and Ors.*, JT 1996 (1) SC 328 and *All India State Bank Officers Federation and Ors. v. Union of India and Ors.*, JT 1996 (8) SC 550 wherein it has been held that filing of false affidavits and concealment of material facts, leads to interfere in the administration of justice and such is criminal contempt of Court. Accordingly, the Registrar General of this Court is directed to place the records of the present writ petition before the Bench hearing criminal contempt petition on 14th March, 2005, for appropriate proceedings in accordance with law.