
(1997) 03 SHI CK 0033

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1591 of 1996

Kailash Chand Kalia and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 11-03-1997

Acts Referred:

Citation : (1997) 2 ShimLC 448

Hon'ble Judges : M. Srinivasan, C.J.;L.S. Panta, J

Bench : Division Bench

Advocate : Ashwani Kumar Sharma, for the Appellant; Indar Singh, General for the Respondents No. 1 to 3 and B.K. Sood, for the Respondents No. 4 to 7, for the Respondent

Final Decision : Dismissed

Judgement

M. Srinivasan, C.J.—In this writ petition the order passed by Deputy Commssioner, Una on 24-1-1996 appointing certain non-official members in the place of writ Petitioners as members of the Managing Committee for Chintpurni Temple pursuant to a direct on given by this Court in Civil Revision No. 79 of 1988 and Civil Revision No. 218/1988 in supersession of the earlier order dated 20-5-1995 and the order passed by the Divisional Commissioner, Kangra Division on appeal No. 3/96 M confirming the order of the Deputy Commissioner, are challenged. In Civil Revisions No. 79/1988 and 218/1988 this Court passed an order on 27-12-1994 confirming the directions given in the interim order passed earlier. The relevant part of the directions are to the effect that the Commissioner (D.C. Una), shall constitute a Managing Committee consisting of 7 official members which would be nominated by the Commissioner from Revenue, Administration, P.W.D. (B and R), P.W.D. (I and PH), Development, Police and Health department respectively. In addition thereto, the Commissioner shall nominate 4 non-official members from the Panchayat where the temple was situated. In case the Panchayat members were not available four non-official members to be nominated from the area where the temple was situated. Other

parts of the directions are not relevant for the present petition.

2. The interim order was passed on 12-8-1988. The final order was passed on 27-12-1994. It was only on 20-5-1995 the D.C. Una who was the Commissioner of the Temple passed an order constituting a Managing Committee. The present Petitioners were appointed as non-official members. By order dated 24-1-1996 the D.C. Una removed the present Petitioners from the Managing Committee and in their place appointed four non-official members who were members of the Gram Panchayat as Pradhan Up-Pradhan and members. Aggrieved by the said order the present Petitioners filed the appeal before the Divisional Commissioner. The appellate authority found that the initial order appointing the Petitioners as non-official members was not in consonance with the directions issued by this Court and it was not a valid order. The appellate authority also held that by passing the revised order, the Commissioner, has not committed any irregularity and on the contrary he had set right his mistake. Consequently, he dismissed the appeal.

3. Even on the face of it the order dated 20-5-1995 appointing the Petitioners as non-official members is unsustainable inasmuch as they were not members of the Panchayat and it was not as if Panchayat members were not available on that date. It is not in dispute that even on 20-5-1995 the concerned Panchayat had several members from out of whom non-official members could have been appointed. In the circumstances the order dated 24-1-1996 is correct as it is only in rectification of the earlier wrong order passed on 20-5-1995. The view expressed by the appellate authority is correct and we do not find any justification whatever to interfere with the said order.

4. The contention urged by the learned Counsel for the Petitioners that an opportunity should have been given to the Petitioners before the second order was passed as per the provisions of the Act is not acceptable. There is no question of any allegation of misconduct against the Petitioners and they were not removed from the committee for any act of theirs. The second order is only a rectification of the earlier order and in such circumstances there is no necessity to give an opportunity to the Petitioners herein.

5. It cannot be said that the Petitioners got any right conferred or vested in them by virtue of the wrong order passed by the Deputy Commissioner as they were not entitled to be members of the Managing Committee in their own. Hence there is merit in the writ petition and it is dismissed. There will be no order as to costs.