
(2010) 07 AHC CK 0366
In the Allahabad High Court

Karamveer Singh and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-07-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) CriLJ 4740

Hon'ble Judges : Dilip Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dilip Gupta, J.—The Committee of Management of Sarvodaya Inter College, Vaina, Tehsil Khair, District Aligarh and Karamveer Singh claiming to be its Manager have filed this petition for quashing the order dated 29th March, 2010 passed by the District Inspector of Schools, Aligarh by which the claim of the petitioner-Committee of Management for approving the elections of the Committee of Management of the Institution held on 7th December, 2008 with Manoj Kumar as the President and Karamveer Singh as the Manager has been rejected and the election of the Committee of Management of the Institution held on 12th October, 2008 with Karamveer Singh as the President and Sant Pal Singh as the Manager have been approved.

2. It is stated in the writ petition that that Shiksha Prasarini Samiti, Vaina, Tehsil Khair, which is a Society registered under the provisions of the Societies Registration Act, 1860 (hereinafter referred to as the "Act"), runs an Intermediate College by the name of Sarvodaya Inter College (hereinafter referred to as the "College"). The College has its Scheme of Administration. In the election of the Committee of Management of the Institution held on 5th December, 2004, Sant Pal Singh was elected as the President and Karmaveer Singh was elected as the Manager. This election was approved by the Regional Level Committee on 9th February, 2005 and the District Inspector of Schools also attested the signatures of Karamveer Singh as the Manager by the order dated

16/17th February, 2005. Thereafter, the election of the Committee of Management of the Institution was held on 12th October, 2008 in which Karamveer Singh was elected as the President and Sant Pal Singh was elected as the Manager. The District Inspector of Schools did not approve this election by the order dated 5th November, 2008 and a further direction was issued for holding of the elections under the supervision of Balbeer Singh as the Election Officer and Ranveer Singh as the Observer.

3. Pursuant to the aforesaid directions issued by the District Inspector of Schools, the Election Officer published the election notification in daily newspaper "Dainik Jagran". Election of the Committee of Management of the Institution was held on 7th December, 2008 in which Karamveer Singh was elected as the Manager. The papers were sent by the Election Officer to the District Inspector of Schools. The District Inspector of Schools by the order dated 30th March, 2009, on the basis of the communication dated 30th March, 2009 sent by Sant Pal Singh that a compromise had taken place between the parties and it was agreed that the elections dated 12th October, 2008 with Karamveer Singh as the President and Sant Pal Singh as the Manager should be approved, passed an order dated 30th March, 2009 approving the elections of the Committee of Management held on 12th October, 2008 with Karamveer Singh as the President and Sant Pal Singh as the Manager and also attested the signatures of Sant Pal Singh as the Manager.

4. This order dated 31st March, 2009 was challenged by one Manoj Kumar, claiming himself to be a life member of the Society, in Writ Petition No. 31128 of 2009 and the Committee of Management of the Institution with Karamveer Singh as the Manager was arrayed as respondent No. 4. A further prayer was made to hold election of the Committee of Management of the Institution. This petition was disposed of by the judgment and order dated 24th June, 2009 with the following observations:

Grievance of the petitioner is that no real election of Committee of Management of Sarvodaya Inter College, Tehsil Khair, Aligarh took place, however, two sets of persons set U.P. two fictitious elections and thereafter on the basis of compromise between them fictitious election of one of the sets was approved by D.I.O.S. through order dated 31.3.2009, copy of which is Annexure-2 to the writ petition. Even though in writ petition it has not been stated that petitioner also intended to contest election, however such assertion was orally been made by the learned Counsel for the petitioner.

The petitioner is directed to immediately file a detailed application before the D.I.O.S., Aligarh seeking recall of his order dated 31.3.2009 and consequential orders if any. The matter shall be decided very expeditiously by D.I.O.S., Aligarh after issuing notice to Santpal, Govind Singh and Karm Veer. Representation is stated to have already been filed on 12.6.2009 copy of which is Annexure No. 3 to the writ petition.

Let the copy of the said representation be filed again alongwith certified copy of this order and supplementary representation if considered necessary before the D.I.O.S. D.I.O.S. must make all efforts to decide the matter within two months from the date of receipt of a certified copy of this order alongwith copy of the representation.

Writ petition is accordingly disposed of.

5. Thereafter, another Writ Petition No. 64147 of 2009 was filed by the Committee of Management of the Institution with Karamveer Singh as the Manager and Manoj Kumar for a direction upon the District Inspector of Schools to recognise the election of the Committee of Management of the Institution held on 7th December, 2008 with Manoj Kumar as the President and Karamveer Singh as the Secretary/Manager. This petition was dismissed by the judgment and order dated 26th November, 2009. The said order with the array of the parties is quoted below:

Writ Petition No. 64147 of 2009

1. Committee of Management, Sarvodaya Inter College, Vaina, Tehsil Khair, District Aligarh, through its Manager Karamvir Singh son of Amar Pal Singh.
2. Karamvir Singh son of Amar Pal Singh, Resident of Village Vaina, Tehsil Khair, District Aligarh, Manager, Committee of Management, Sarvodaya Inter College, Vaina, Tehsil Khair, District Aligarh.
3. Manoj Kumar son of Sri Muneem Singh, Resident of Village and Post Vaina, Tehsil Khair, District Aligarh.

...Petitioners.

v.

1. District Inspector of Schools, Aligarh.
2. Shiksha Prasarini Samiti, Vaina, Tehsil Khair, District Aligarh, through its alleged President Sri Govind Pal Singh son of Lal Singh and alleged Secretary Sri Sant Pal Singh son of Sri Saudan Singh.
3. Deputy Registrar, Chits, Funds and Societies, Aligarh Division, Agra.

...Respondents.

Ran Vijai Singh, J.

The petitioner No. 3 has approached this Court through writ petition No. 31128/09 for redressal of his grievance which he represented through the representation dated 12.6.09 to D.I.O.S. and in the said writ petition, the following order was passed:

The petitioner is directed to immediately file a detailed application before the D.I.O.S., Aligarh seeking recall of his order dated 31.3.2009 and consequential

orders if any. The matter shall be decided very expeditiously by D.I.O.S., Aligarh after issuing notice to Santpal, Govind Singh and Karm Veer. Representation is stated to have already been filed on 12.6.2009 copy of which is Annexure No. 3 to the writ petition.

The present writ petition has been filed with the following prayers:

- i. to issue a writ, order or direction in the nature of mandamus, commanding the respondent District Inspector of Schools Aligarh to recognize election of committee of management of Sarvodya Inter College, Vaina, Tehsil Khair, District Aligarh and attest signatures of petitioner No. 2 as Manager thereof.
- ii. to issue ad interim mandamus, commanding the respondent District Inspector of Schools Aligarh to recognize election of committee of management of Sarvodaya Inter College, Vaina, Tehsil Khair, District Aligarh and attest signatures of petitioner No. 2 as Manager thereof.

In substance, the relief sought in this writ petition is identical to the relief sought in writ petition No. 31128/09.

I have heard Sri B.B. Paul learned senior Counsel assisted by Sri A.P. Paul learned Counsel for the petitioner and learned standing Counsel as well as Sri Abhinash Kumar Sharma intervener.

Sri B.B. Paul learned Counsel for the petitioner submits that only prayer in this writ petition is to fix sometime for disposal of representation made by the petitioner before the D.I.O.S. as while deciding the writ petition No. 31128/09, no time limit was fixed by this Court directing the District Inspector of Schools to decide the representation/application.

After hearing learned Counsel for the parties I am of the view that relief sought by the petitioner amounts to modification of the order passed by Hon. Mr. Justice S.U. Khan in the said writ petition and that cannot be gone into this writ petition. Otherwise also on the same set of fact, no second writ petition is maintainable.

The writ petition lacks merit and it is hereby dismissed.

However, the petitioner is at liberty to file an appropriate application seeking modification of order dated 24.6.09 passed by His Lordship Hon. Mr. Justice S.U. Khan in writ petition No. 31128/09.

6. There is nothing on the record to indicate that any application was filed by the aforesaid petitioners in Writ Petition No. 31128 of 2009 for modification of the order dated 24th June, 2009.

7. However, pursuant to the aforesaid judgment and order dated 24th June, 2009 passed in Writ Petition No. 31128 of 2009, the District Inspector of Schools issued notice to Sant Pal Singh as well as Karamveer Singh fixing 18th November, 2009 and ultimately by the order dated 30th January, 2010 passed an order that elections of the Committee of Management of the Institution should be

held within three months by Balbeer Singh as the Election Officer and Ranveer Singh as the Observer from the list of 130 members of the General Body. He further directed that till the elections are held, the present position shall continue.

8. This order dated 30th January, 2010 passed by the District Inspector of Schools was challenged both by Karamveer Singh and Sant Pal Singh in Writ Petition No. 6212 of 2010 and Writ Petition No. 6962 of 2010 respectively. These two petitions were allowed to the extent indicated in the judgment and order dated 9th February, 2010 with the following observations:

Writ Petition No. 6962 of 2010 has been filed by the Committee of Management, Sarvodaya Inter College, Vaina, District Aligarh and Sant Pal Singh claiming himself to be its Manager for setting aside the order dated 30th January, 2010 passed by the District Inspector of Schools, Aligarh.

Writ Petition No. 6212 of 2010 has been filed by the Committee of Management, Sarvodaya Inter College, Vaina, District Aligarh and Karam Veer Singh claiming himself to be its Manager for quashing the order dated 30th January, 2010 passed by the District Inspector of Schools, Aligarh to the extent it permits the Committee of Management with Sant Pal Singh as the Manager to continue to function till the fresh elections are held.

....

Inasmuch as the copy of the representation submitted by the Committee of Management with Manoj Kumar as Manager was not supplied to the Committee of Management with Sant Pal Singh as the Manager, the submission of Sri R.N. Singh, learned Senior Counsel for the petitioners that opportunity had not been given to file a reply, deserves to be accepted.

The order dated 30th January, 2010 passed by the District Inspector of Schools is, accordingly, set aside. The District Inspector of Schools may now pass a fresh order after supplying the documents to the parties. Such exercise may be undertaken by the District Inspector of Schools expeditiously, preferably within a period of six weeks.

The relief prayed in Writ Petition No. 6212 of 2010 for quashing the order dated 30th January, 2010, therefore, stands allowed.

The writ petitions are, accordingly, allowed to the extent indicated above.

9. Pursuant to the aforesaid judgment and order dated 9th February, 2010 passed by this Court, the District Inspector of Schools passed the order dated 29th March, 2010 approving the elections of the Committee of Management of the Institution held on 12th October, 2008 with Karamveer Singh as the President and Sant Pal Singh as the Manager. The elections held on 7th December, 2008 with Karamveer Singh as the Manager and Manoj Kumar as the President were not approved.

10. It is this order dated 29th March, 2010 of the District Inspector of Schools

that has been impugned in the present petition.

11. In the said order dated 29th March, 2010, the District Inspector of Schools has made the following observations:

1. Pursuant to the judgment and order dated 9th February, 2010 passed by the Court, a two member Committee consisting of the Principal, Naurangi Lal Government Inter College and the Principal of Kirandevi Government Inter College was constituted to look into the matter. The said Committee submitted its report on 27th March, 2010.

2. On the basis of the report submitted by the aforesaid two member Committee and the submissions made by the parties and the documents available on record, it transpires that Karamveer Singh was elected as the President of the Committee of Management of the Institution in the election held on 12th October, 2008 and after approval was granted to the said elections by the District Inspector of Schools on 30th March, 2009, Karamveer Singh presided over the meetings of the Committee of Management of the Institution as is clear from the documents available on records and the contention of Karamveer Singh and Sant Pal Singh that signatures of Karamveer Singh had been fraudulently obtained on blank registers, cannot be accepted since Karamveer Singh was an experienced person who had been elected as the Manager in the earlier election.

3. By the order dated 31st March, 2009 passed by the District Inspector of Schools, the Committee of Management of the Institution with Karamveer Singh as the President was approved on the basis of the elections held on 12th October, 2008 and no complaint whatsoever was raised by Karamveer Singh for a long period of seven months about the said elections and, therefore, it is not proper for Karamveer Singh to raise any objection now that he was not elected as the President of the Committee of Management of the Institution in the election held on 12th October, 2008.

4. When Karamveer Singh took part in the election of the Committee of Management of the Institution held on 12th October, 2008 and he was elected as the President, then there was no occasion for Karamveer Singh and his supporters to hold any election on 7th December, 2008 as a result of which the said elections were stayed by the District Inspector of Schools by the order dated 5th November, 2008.

5. Some members of the General Body have submitted affidavits that elections were not held on 7th December, 2008 while some members of the General Body have submitted affidavits that elections were not held on 12th October, 2008. It appears that such affidavits have been filed under pressure and, therefore, cannot be accepted.

6. In view of the aforesaid, after the elections of the Committee of Management of the Institution were held on 12th October, 2008, there was no good reason to fraudulently hold elections on 7th December, 2008 and it is also not possible to

approve this election said to have been held on 7th December, 2008.

7. The representation is, accordingly, decided that the election of the Committee of Management of the Institution held on 12th October, 2008 with Karamveer Singh as the President and Sant Pal Singh as the Manager, which had earlier been approved, is valid.

12. Sri Ashok Khare, learned Senior Counsel assisted by Sri Vinod Sinha submitted that the District Inspector of Schools could not have constituted a Committee of two Principals" of the Government Inter College for investigating and finding out the facts, as essential functions required to be performed by the District Inspector of Schools could not have been delegated and in support of his submission he has placed reliance upon the judgment of this Court in Committee of Management, Atarra Post Graduate College, Atarra, Banda v. Vice-Chancellor, Bundelkhand University, Jhansi and Anr. 1988 UPLBEC 821. He further submitted that reliance has been placed by the District Inspector of Schools on the report submitted by the said Committee but a copy of the said report was not made available to the petitioners and no opportunity was given to the petitioners to file objections against the said report. He has, therefore, submitted that the impugned order dated 29th March, 2010 deserves to be set aside.

13. Sri P.N. Saxena, learned Senior Counsel appearing for respondent No. 5-Committee of Management of the Institution with Sant Pal Singh as the Manager has, however, supported the order passed by the District Inspector of Schools. It is his submission that in the elections of the Committee of Management of the Institution held on 12th October, 2008, Karamveer Singh was elected as the President and Sant Pal Singh was elected as the Manager and though the District Inspector of Schools by the order dated 5th November, 2008 had disapproved the said election and a direction was given for holding fresh election, but when Sant Pal Singh represented before the District Inspector of Schools, a direction was issued by the District Inspector of Schools on 5th December, 2008 to the Election Officer and the Supervisor not to hold the election and ultimately by the order dated 31st March, 2009, the District Inspector of Schools approved the elections of the Committee of Management of the Institution held on 12th October, 2008. Ever since then the meetings of the Committee of Management of the Institution have been held which have been presided over by petitioner No. 1-Karamveer Singh as the President. However, Manoj Kumar in the alleged capacity as life member of the General Body of the Society filed Writ Petition No. 31128 of 2009 with the allegation that the elections held on 12th October, 2008 had been disapproved by the District Inspector of Schools by the order dated 5th November, 2008 and a direction had been issued to hold fresh election but no elections had been held and Karamveer Singh and Sant Pal Singh had colluded and had got the Committee of Management elected on 12th October, 2008 approved. It is the contention of learned Senior Counsel for the respondent that instead of filing any representation pursuant to the directions issued by this Court in the order dated 24th June, 2009 passed in Writ Petition No. 31128 of

2009, Manoj Kumar manipulated Karamveer Singh and with his collusion filed another Writ Petition No. 64147 of 2009 setting U.P. a contrary case that election of the Committee of Management of the Institution had infact been held on 7th December, 2008 in which Karamveer Singh was elected as the Manager and Manoj Kumar was elected as the President and a direction was sought that the District Inspector of Schools should approve this election. It is also the contention of learned Senior Counsel for the respondent that the impugned order dated 29th March, 2010 was passed by the District Inspector of Schools on the basis of the material available on record and the findings do not suffer from any perversity which may call for interference under Article 226 of the Constitution.

14. I have carefully considered the submissions advanced by the learned Counsel for the parties.

15. It is not in dispute that prior to the holding of the elections in 2008, earlier elections of the Committee of Management of the Institution were held on 5th December, 2004 in which Karamveer Singh was elected as the Manager and Sant Pal Singh was elected as the President.

16. The case of the respondents is that subsequent elections of the Committee of Management of the Institution were validly held on 12th October, 2008 in which Karamveer Singh was elected as the President and Sant Pal Singh was elected as the Manager but the District Inspector of Schools disapproved this election by the order dated 5th November, 2008 on the ground that they were held without any Observer having been appointed and it is for this reason that a direction was issued by the District Inspector of Schools for holding elections of the Committee of Management of the Institution with Balbeer Singh as the Election Officer and Ranveer Singh as Observer. It needs to be mentioned that in the order dated 5th November, 2008, the District Inspector of Schools noticed that Karamveer Singh who was elected as the Manager in the elections of the Committee of Management of the Institution held in 2004 had submitted a letter dated 18th September, 2008 informing the District Inspector of Schools that Balbeer Singh had been nominated as the Election Officer and sought permission to hold the elections after nominating an Observer. No objection whatsoever was filed by Karamveer Singh that he had not been elected as the President of the Committee of Management of the Institution or that the election had not been held on 12th October, 2008. On the other hand, Karamveer Singh presided over the meetings of the Committee of Management of the Institution as President.

17. It is also the case of the respondents that feeling aggrieved by the aforesaid directions issued by the District Inspector of Schools, Sant Pal Singh submitted a representation to the District Inspector of Schools pointing out that the Committee of Management of the Institution had duly nominated Devi Singh as the Election Officer and though a request was made to the District Inspector of Schools for appointing an Observer but since no Observer was appointed by the District Inspector of Schools, the elections, as per the schedule, were held on 8th October, 2008. It is also the case of the respondents that the District Inspector of

Schools was satisfied with the representation filed by Sant Pal Singh and so he passed an order on 5th December, 2008 not only requiring Karamveer Singh to submit a reply as to why he had filed a false complaint, but also issued direction to the Election Officer and the Supervisor appointed by him not to hold elections till a reply was submitted by Karamveer Singh, but despite the aforesaid specific directions of the District Inspector of Schools, elections were held on 7th December, 2008 in which it is stated that Karamveer Singh was elected as the Manager and Manoj Kumar was elected as the President.

18. The District Inspector of Schools in the order dated 31st March, 2009 has noticed that Sant Pal Singh had submitted a letter dated 30th March, 2009 pointing out that no dispute existed with regard to the constitution of the Committee of Management of the Institution since a compromise had taken place between the parties and the elections held on 12th October, 2008 may be approved. It is on the basis of the said communication that the District Inspector of Schools by the order dated 31st March, 2009 approved the elections held on 12th October, 2008 but Karamveer Singh as the President and Sant Pal Singh as the Manager.

19. What is surprising is that one Manoj Kumar claiming himself to be a life member of the Society which runs the Institution filed Writ Petition No. 31128 of 2009 on 21st June, 2009 and on the basis of the averments made in Paragraphs 18 and 19 of the writ petition, sought a direction that the order dated 31st March, 2009 passed by the District Inspector of Schools should be set aside and a direction should be issued to hold elections of the Committee of Management of the Institution in accordance with law. Paragraphs 18 and 19 of the writ petition are quoted below:

18. That in response to said letter Sri Devi Singh, election officer submitted his reply dated 25.10.2008 that election had been held on 12.10.2008. However, same was not approved by the District Inspector of Schools, Aligarh and accordingly was cancelled and Sri Ranveer Singh was appointed as observer to denovo hold election of the committee of management of the college.

19. That while the election was to take place, the theory of compromise was hurled in between Karamveer Singh and Sant Pal Singh and a request was made to District Inspector of Schools, Aligarh to approve election dated 12.10.2008 and without holding of fresh election by a duly appointed Election Officer and observer, the respondent District Inspector of Schools, Aligarh has abruptly passed impugned order dated 31.3.2009 on the basis of alleged compromise between the groups represented by Karamveer Singh and Sant Pal Singh....

20. However, during the course of hearing of the petition, learned Counsel appearing for Manoj Kumar stated that two sets of persons had set U.P. two fictitious claim and on the basis of the compromise between them, fictitious election of one set was approved by the District Inspector of Schools by the order dated 31st March, 2009.

21. What is to be noticed is that Manoj Kumar had claimed in the said Writ Petition No. 31128 of 2009 that despite the directions issued by the District Inspector of Schools on 5th November, 2008 fresh elections of the Committee of Management of the Institution had not been held but a statement was made by his Counsel that another set of election had been held, which he claimed to be fictitious, but in the present petition what is stated is that in the election held on 7th December, 2008 Manoj Kumar was elected as the President and Karamveer Singh was elected as the Manager. This claim of the present petitioner is, therefore, clearly contrary to what was stated by Manoj Kumar in Writ Petition No. 31128 of 2009 filed in June, 2009 that after 12th October, 2008 no fresh election had not been held.

22. It transpires that subsequently Manoj Kumar joined Karamveer Singh and both of them filed Writ Petition No. 64147 of 2009 in November, 2009. In this petition a statement was made in paragraph 6 that in the elections held on 7th December, 2008 Manoj Kumar was elected as the President and Karamveer Singh was elected as the Manager and in paragraph 7 it was stated that no election was held on 12th October, 2008. This petition was dismissed by this Court but liberty was granted to the petitioners to file an application seeking modification of the order dated 24th June, 2009 but no such application was filed presumably for the reason that in the earlier Writ Petition No. 31128 of 2009 Manoj Kumar had made a statement that no election had been held despite the directions issued by the District Inspector of Schools on 5th November, 2008.

23. Thus, though Karamveer Singh was elected as the President in the elections held on 12th October, 2008 which elections were approved by the District Inspector of Schools on 31st March, 2009 and he had continued to preside the meetings of the Committee of Management of the Institution, but in November 2009 he turned around and started claiming that he had been elected as the Manager in the election held on 7th December, 2008 and election had not been held on 12th October, 2008. In this election Manoj Kumar claims to have been elected as President though, as stated above, he had denied in Writ Petition No. 31128 of 2009 that such election had been held. Karamveer Singh had joined Manoj Kumar in Writ Petition No. 64147 of 2009. In such circumstances, it is not possible to approve the election of the Committee of Management of the Institution held on 7th December, 2008 and the District Inspector of Schools committed no infirmity in rejecting this election.

24. It is, however, the contention of the learned Senior Counsel for the petitioners that the District Inspector of Schools could not have constituted the two member Committee for investigating and finding out the facts since essential functions could not have been delegated.

25. In the present case, the District Inspector of Schools required the two member Committee to submit a report and it is on the basis of the said report and the documents available on record and the submissions made by the learned Counsel for the parties that the order was passed by the District Inspector of

Schools. The two member Committee had not been asked to decide the matter. The decision rendered in Committee of Management, Atarra Post Graduate College (supra) is, therefore, not applicable to the facts of the present case.

26. The second contention of the learned Senior Counsel for the petitioners that copy of the report was not made available to the petitioners and opportunity was not granted to file any reply cannot also be accepted. The matter has been examined on merits and it has been found as a fact that the claim of the petitioners for granting approval to the elections held on 7th December, 2008 cannot be accepted. It is, therefore, not a fit case where this Court should interfere with the impugned order only on the ground that opportunity had not been granted to the petitioners to file reply to the report submitted by the two member Committee before the District Inspector of Schools.

27. Thus, for all the reasons stated above, the writ petition deserves to be dismissed and is, accordingly, dismissed.