

(2010) 10 AHC CK 0028
In the Allahabad High Court
Case No : Special Appeal No. 1770 of 2010

Kisan Inter College and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 29-10-2010

Acts Referred:

Citation : (2010) 10 AHC CK 0028

Hon'ble Judges : Ferdino Inacio Rebello, C.J;Amreshwar Pratap Sahi, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard Sri R.C. Dwivedi, learned Counsel for the appellants, Sri Mahendra Singh, learned Counsel for respondent Nos. 4 and 5 and learned Standing Counsel for respondent Nos. 1, 2 and 3.

2. This appeal arises out of a judgment dated 24th September, 2010 passed by the learned Single Judge in a writ petition questioning the legality of the orders of the District Inspector of Schools in relation to the recognition of the Committee of Management in favour of the appellant No. 1 herein on 21st August, 2010. The Learned Single Judge while disposing of the writ petition has quashed the order with a direction to the District Inspector of Schools to examine the rival claims of the parties afresh.

3. The respondents claim that they had been elected on 4th of April, 2010 and their signatures were attested by the District Inspector of Schools on 17th April, 2010. In the absence of the implementation of the said elections, they filed a writ petition being Civil Misc. Writ Petition No. 49675 of 2010, in which an order was passed on 23rd of August, 2010 as quoted in the impugned judgment itself.

4. The District Inspector of Schools appears to have passed an order on 21st August, 2010 attesting the signature of the appellants without mentioning his earlier order by which petitioner"s -respondents signature had been attested on 17.04.2010. The learned Single Judge has therefore remitted the matter back to

the District Inspector of Schools on the ground that the said order did not indicate any reference to the earlier order dated 17.04.2010.

5. During the course of hearing, we have been apprised of the contents of the writ petition No. 49675 of 2010 filed by the respondents and from a perusal thereof, we find that elections claimed by the respondents are on the basis of some decision having been taken in a meeting stated to have been held by the alleged President of the Committee of Management.

6. The question as to whether the elections could have been held by the respondents requires consideration. In our opinion, if the Authorized Controller was working then the elections could have been held by the Controller and the District Inspector of Schools ought not to have recognized the elections on 17th of April, 2010.

7. Having considered the aforesaid facts and having heard learned Counsel for the parties, in our opinion, the learned Single Judge fell into an error by relegating the parties to the District Inspector of Schools inasmuch as such disputes are to be decided by the Regional Level Committee in terms of the Govt. Order dated 19.12.2000.

8. Accordingly, the order dated 24.09.2010 is hereby set aside. It shall be open to the respondent - petitioner to approach the Regional Level Committee with a certified copy of this order before the respondent No. 2. The respondent No. 2 on receipt of the application alongwith a copy of this order, shall proceed in accordance with law to decide the dispute after putting the concerned parties to notice within a period of three months.

9. Appeal stands allowed.

10. Learned Counsel agree that writ petition No. 49675 of 2010 be also disposed of.

11. Accordingly writ petition No. 49675 of 2010 stands disposed of. Let a copy of this order be placed on the file of the said writ petition.