

(2004) 08 AHC CK 0019
In the Allahabad High Court
Case No : C.M.W.P. No. 30617 of 2004

Krishna Chand Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-08-2004

Acts Referred:

Uttar Pradesh High School and Intermediate Colleges (Payment of Salary to Teachers and Other Staff) Act, 1971 — Section 5

Citation : (2004) 5 AWC 4959

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : T.B. Pandey, for the Appellant; C.S.C., for the Respondent

Final Decision : Disposed Of

Judgement

Arun Tandon, J.—Heard Sri. T.B. Pandey, learned Counsel for the Petitioner and learned standing Counsel for the Respondent.

2. Petitioner, Krishna Chand Yadav has approached this Court for a writ of mandamus being issued against the District Inspector of Schools, Jaunpur, for withdrawing the order of single operation of account dated 21.1.2004, in view of the subsequent development.

3. It is alleged that the elections of the Committee of Management took place on 10th May, 2002. In the said elections one Sri. Ram Naresh Yadav was elected as the Manager. The aforesaid elections were duly recognized. As a matter of fact signatures of Sri. Ram Naresh were also attested for the purposes of operating the Bank Account, etc. Because of the illness of Sri. Ram Naresh Yadav he was not in a position to perform his duties as Manager. A resolution was passed by the Committee of Management of the institution on 7th December, 2003, for appointing the Petitioner as in-charge of the post of Manager. Before any action could be taken by the District Inspector of Schools, Jaunpur, on the aforesaid decision of the Committee of Management an order dated 21st January, 2004,

was passed whereby it was directed that the account of the institution shall be operated singly, a copy of the said order has been annexed as Annexure-5 to the writ petition.

4. From the aforesaid order of the District Inspector of Schools, Jaunpur it is apparent that the order directing the single operation of the account is based on one ground namely, the illness of Sri. Ram Naresh Yadav and his inability to perform his duties as Manager.

5. It is submitted that Sri. Ram Naresh Yadav, has since expired on 26th May, 2004. Thereafter another meeting of the Committee of Management has taken place on 12th June, 2004, in which the Petitioner was elected as the Manager in place of Sri. Ram Naresh Yadav for the remaining term. It is contended on behalf of the Petitioner that all the relevant documents with regard to the elections of the Petitioner as Manager in place of Sri. Ram Naresh Yadav subsequent to his death for the remaining term have been submitted before the District Inspector of Schools, Jaunpur. However, either he has recognised the elections of the Petitioner as Manager or he has decided that the election of the Petitioner was invalid.

6. Under proviso 2 to Section 5 of the Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries Act of Teachers and Other Employees) Act, 1971 (hereinafter referred to as the "Act") a power has been conferred upon the District Inspector of Schools to revoke an order of single operation of account at any time. In view of the aforesaid statutory provisions it is contended on behalf of the Petitioner that since the conditions mentioned for directing the single operation of account namely, non-availability of the Manager to perform his duties, have become non-existent, in view of the subsequent developments, namely the death of Sri. Ram Naresh Yadav and appointment of the Petitioner as Manager for the remaining term. The order of single operation of account is liable to be revoked by the District Inspector of Schools in exercise of power under proviso to Section 5 of the Act. As the District Inspector of Schools has failed to exercise the said discretion conferred upon him under the statutory provisions, the present writ petition.

7. Without entering into the merits or controversy raised by the Petitioner in the present writ petition, there is a power to revoke the order of single operation of account at any time under proviso 2 to Section 5 of the Act and further since an application in that regard has already been filed by the Petitioner in seeking revocation of the order of single operation. It is directed that the District Inspector of Schools, Jaunpur, may consider and decide the aforesaid application of the Petitioner at the earliest possible, preferably within one month from the date a certified copy of this order is produced before him. The District Inspector of Schools shall afford opportunity of hearing to the parties concerned and shall also pass a reasoned speaking order.

8. In view of the aforesaid directions, the present writ petition is disposed of

finally.