
(2009) 05 AHC CK 0656
In the Allahabad High Court

Mansoor Ahmad (Advocate)	Vs	APPELLANT
State of U.P.and Others		RESPONDENT

Date of Decision : 28-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0656

Hon'ble Judges : S.P.Mehrotra, J

Final Decision : Allowed

Judgement

S.P. Mehrotra, J.

Connect with Civil Misc. Writ Petition No. 4459 of 2009.

It is submitted by Sri M.A. Haseen, learned counsel for the petitioner that the Order for Single Operation in the institution in question was passed by the District Minority Welfare Officer, District J.P. Nagar (respondent no. 2) on 26.11.2008 (Annexure 6 to the Writ Petition).

It was, inter alia, stated in the said Order that on account of managerial dispute having arisen in respect of the institution in question, the payment of salary to the teachers/employees was not being regularly made.

However, subsequently by the Order dated 28.2.2009 (Annexure 8 to the Writ Petition), the respondent no. 2 has revoked the said Order dated 26.11.2008 for Single Operation in respect of the institution in question.

It is submitted that the managerial dispute has been referred by the Assistant Registrar, Firms, Societies and Chits, Moradabad to the Prescribed Authority under Section 25(1) of the Societies Registration Act by the Communication dated 25.10.2008 (Annexure 3 to the Writ Petition), and the said reference is still pending. Therefore, the managerial dispute is still existing, and there was no occasion for the respondent no. 2 to pass the impugned Order dated 28.2.2009.

It is further submitted that against the Order dated 26.11.2008, the respondent

no. 4 filed a Writ Petition being Civil Misc. Writ Petition No. 63293 of 2008 wherein no Interim Order was granted. Subsequently, the said Writ Petition was dismissed in default on 7.4.2009.

In reply, Sri J.J Munir, learned counsel for the respondent no. 4 submits that by the Order dated 15.11.2008 (Annexure5 to the Writ Petition), the respondent no. 2 recognized the respondent no. 4 as the Manager in respect of the institution in question in compliance with the Order dated 10.11.2008 passed by the National Commission for Minority Educational Institutions (Annexure4 to the Writ Petition).

Against the said Order dated 15.11.2008, the petitioner has filed a Writ Petition before this Court being Civil Misc. Writ Petition No. 4459 of 2009 wherein no interim order has been granted to the petitioner.

It is submitted that the impugned Order dated 28.2.2009 is only a consequential order in view of the Order dated 15.11.2008.

It is pointed out by Sri Munir that even though Civil Misc. Writ Petition No. 63293 of 2008 was dismissed in default on 7.4.2009 but a Restoration Application has been filed, and the same is still pending.

In view of the submissions made by the learned counsel for the parties, I am of the opinion that the matter requires consideration.

Learned Standing Counsel appearing for the respondent nos. 1 and 2, and Sri J.J. Munir learned counsel for the respondent no. 4 pray for and are granted three weeks" time for filing counter affidavit. Rejoinder affidavit may be filed by the next date fixed in the matter.

Let notice be issued to the respondent no. 3 by Registered Speed Post/A.D. fixing 9th July, 2009.

Heard on the question of grant of interim relief.

From a perusal of the Order dated 28.2.2009 (Annexure8 to the Writ Petition), it is evident that the respondent no. 4 has been recognized by the respondent no. 2 as the Manager in respect of the institution in question.

In the circumstances, it is provided that till the next date of listing, the respondent no. 4 will continue to function as the Manager in respect of the institution in question but no major expenditure will be incurred by the respondent no. 4 without prior approval of the respondent no. 2, and no property of the institution in question will be transferred by the respondent no. 4.

List this case on 9th July 2009.

The case is released from assignment. It will not be treated as tiedup or parheard with me, and will be listed before the appropriate Bench.