

(2012) 07 AHC CK 0188

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 33788 of 2012

Munna Lal Singh and Others

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Citation : (2012) 07 AHC CK 0188

Hon'ble Judges : Amreshwar Pratap Sahi, J

Final Decision : Allowed

Judgement

Amreshwar Pratap Sahi,J.

1. Heard Sri Aashutosh Mani Tripathi learned counsel for the petitioner and Sri S.K.Pal along with Sri R.S.Umrao learned counsel for the respondent no.5 and learned standing counsel for the respondent no.1 to 4.

2. The petitioners claiming themselves to be the members of the general body and one of them claiming to be elected member of the committee of management, have filed this writ petition questioning the correctness of the order dated 12.4.2012 passed by the Joint Director of Education, Mirzapur accepting the objections so raised in relation to the elections of the committee of management of Janta Inter College recognized under the U.P.Intermediate Education Act, 1921.

3. The Joint Director of Education has recorded the following findings:

4. A perusal of the said findings recorded, indicates that the objections raised with regard to the elections and one of them was that one Dinesh Kumar Tripathi being a teacher of a recognized institution could not claim himself to be elected as a member of the committee of management.

5. Sri Tripathi learned counsel for the petitioner has relied on Regulation 5 of Chapter III of the Regulations framed under the U.P.Intermediate Education Act, 1921 to contend that this finding is wholly perverse and based on a misreading

of the aforesaid provision inasmuch as it only disqualifies a teacher from being elected as office bearer and not a member of the committee of management.

6. Sri S.K.Pal learned standing counsel submits that a member also forms part of the executive body namely the Committee of Management.

7. In the opinion of the Court the contention raised is correct inasmuch as a disqualification has to be construed strictly and not liberally. The words used under statue are that a teacher of any recognized institution cannot act as an office bearer of a committee of management.

8. Accordingly Dinesh Kumar Tripathi did not suffer from any such disqualification as recorded in the impugned order as he was a member and not an office bearer. Apart from this the other reasonings also do not appear to be correct as the relevant material does not appear to have been taken in to account. Therefore the impugned order dated 12.4.2012 is unsustainable.

9. Sri U.S.Umrao learned standing counsel for the respondent and the Learned counsel both do not propose to file any counter affidavit and state that the matter be remanded back to the Regional Level Committee for decision afresh.

10. Accordingly the impugned order dated 12.4.2012 is quashed. The Regional Level Committee shall now proceed to decide the matter afresh within a period of 3 months from the date of production of a certified copy of this order before him without giving unnecessary adjournment to either of the parties.

11. The writ petition is allowed. No order as to costs.