
(2012) 07 AHC CK 0290
In the Allahabad High Court
Case No : C.M.W.P. No. 32327 of 2012

Narendra Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-07-2012

Acts Referred:

Citation : (2013) 1 AWC 841

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : Ashok Khare and Siddharth Khare, for the Appellant; M.N. Singh, M.D. Singh "Shekhar", Sandeep Chaudhary and C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri. Ashok Khare learned senior counsel for the petitioners who claims themselves to be the members of the General Body and Sri. M.D. Singh "Shekhar", learned senior counsel assisted by Sri. Sandeep Chaudhary for the respondent No. 6 and the learned standing counsel for the rest of the respondents.

Learned counsel for the respondents agree that the matter be disposed of finally as no further affidavits are required to be filed in view of the documents that are already on record and in view of the nature of the order that is proposed to be passed.

Sri. Ashok Khare submits that the impugned order is unsustainable, inasmuch as, it proceeds to reiterate the electoral college as had been decided earlier by the District Inspector of Schools by relying upon a report dated 9th February, 2012 Submitted by the Enquiry Officer. He contends that the impugned order is primarily in violation of principles of natural justice, inasmuch as, the petitioner No. 1 was the complainant and at least he should have been given an opportunity to contest the Enquiry Officer's report which has been made the basis of the passing of the impugned order. He contends that they having no

knowledge of what was contained in the report, the same could not have been relied upon by the District Inspector of Schools for the purpose of passing the impugned order or holding any elections.

2. Sri. M.D. Singh "Shekhar" submits that the petitioner No. 1 is not even a member of the General Body and the other petitioners also do not form part of the electoral College and they have no locus to contest the matter. He contends that the impugned order categorically records this fact after reproducing the Enquiry Officer's report and there being nothing to the contrary, the contention raised on behalf of the petitioners with regard to violation of principles of natural justice cannot be sustained.

3. Having heard learned counsel for the parties, this petition deserves to be allowed on a short ground of violation of principles of natural justice, inasmuch as, admittedly at least the petitioner No. 1 was the complainant whose complaint was sought to be disposed of by the impugned order dated 21.5.2012. From a perusal of the impugned order it does not appear that the petitioner No. 1 was given any opportunity to contest the conclusions drawn by the Enquiry Officer in the report dated 9th February, 2012 which has been made the basis of the impugned order. The impugned order, therefore, proceeds on material about which the petitioner No. 1 had no knowledge. Accordingly, the order dated 21.5.2012 and the consequential elections held on the basis of the said electoral college cannot be sustained. The writ petition is allowed. The order dated 21.5.2012 is quashed. The matter is remitted back to the District Inspector of Schools to remit the matter to the Prabandh Sanchalak for deciding the electoral college first in terms of the objections that have been raised by the petitioner No. 1 and after giving an opportunity to the rival parties and after the electoral college is decided, the elections shall be held afresh within a period of three months thereafter. The Prabandh Sanchalak shall continue to manage the institution till fresh elections are held and recognized.

The writ petition accordingly allowed.