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**(2002) 05 AHC CK 0105**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 36187 of 2001**

Om Prakash Singh

APPELLANT

Vs

District Inspector of Schools, Azamgarh and Another

RESPONDENT

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**Date of Decision :** 23-05-2002

**Acts Referred:**

Uttar Pradesh Intermediate Education Act, 1921 — Section 16G

**Citation :** (2002) 3 AWC 2203(1) : (2002) 2 UPLBEC 1918

**Hon'ble Judges :** S.K. Singh, J

**Bench :** Single Bench

**Advocate :** D.R.S. Chauhan and R.G. Padia, for the Appellant; V.K. Singh and S.N. Singh, S.C., for the Respondent

**Final Decision :** Dismissed

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## Judgement

S.K. Singh, J.—By means of this writ petition, the petitioner has prayed for quashing the enquiry report dated 29.10.2002 and the order dated 31.10.2001 (Annexures-9 and 11 to the writ petition). By the order dated 31.10.2001, the District Inspector of Schools has approved the resolution and the suspension of the petitioner who has been working as officiating Principal.

2. The petitioner happens to be the senior most Lecturer in the college known as S. B. Inter College, Lahua Kalan, Azamgarh (hereinafter referred to as the College). By the order of respondent No. 1. seniority dispute was decided and the Committee of Management was directed to give charge of ad hoc Principal to the petitioner, upon which the petitioner was appointed as such. It has been stated that the committee being prejudiced by the decision of respondent No. 1 started harassing the petitioner in various manner. The respondent No. 2 wrote a letter to the petitioner directing him to entrust all the financial liability to Pramod Kumar Singh, and Assistant Clerk Kanchit Singh. It is stated that in pursuance of the direction of the Committee of Management, the petitioner after collecting amount of fee, etc., handed over the same to Pramod Kumar Singh, but it appears that the said Pramod Kumar Singh did not deposit the same in the

concerned account, in respect to which the petitioner gave information to respondent No. 2 by various letters. It has been stated that on frivolous charges, the respondent No. 2 resolved for petitioner's suspension, which has now been approved by the District Inspector of Schools, by the order impugned in this petition. Learned counsel for the petitioner submits that the order of respondent No. 1 is clearly arbitrary and is also in violation of principle of natural justice. It has been pointed out that the order does not indicate that the respondent No. 1 has applied his mind to the charges in the light of the petitioner's reply. No finding has been recorded dealing with the charges and as the order is non-speaking one, it is liable to be quashed on this ground alone. It has been further submitted that the order has been passed on account of Interference by the Joint Director of Education which is clear from the impugned order itself and further that on 29.10.2001. the petitioner was given notice to give reply in respect to the audit report to which the petitioner has submitted reply on 30.10.2001 and on very next day, i.e., 31.10.2001, the impugned order has been passed. The order does not state that why the petitioner's reply has not been found to be satisfactory and, therefore, on account of non-application of mind, without giving any reason for discarding petitioners explanation and their being interference by the Joint Director of Education, the order is bad in law. In support of the aforesaid contention, learned counsel for the petitioner has placed reliance on the decision given in the case of *Committed of Management v. D.I.O.S., Ballia and Ors.* 1998 UPLBEC 226 and *Committee of Management v. D.I.O.S. and Ors.* 1999 (3) ESC 1811. On the strength of the aforesaid decisions, it has been submitted that the District Inspector of Schools was required to record brief reasons for according/refusing while giving approval, although a detail judgment was not required.

3. In response to the aforesaid submissions as has been made on behalf of the petitioner, learned counsel, who appears for the respondents, submits that there has been serious charges of financial irregularities on the part of the petitioner which was duly corroborated by the audit report also and therefore, on the facts of the present case, the District Inspector of Schools has taken a correct decision in the matter. It has been further argued that in the event, the petitioner's contention is accepted and detail finding comes in the order of the District Inspector of Schools, that has to prejudice the petitioner's case itself in the enquiry proceedings. It has been pointed out that the District Inspector of Schools has referred to various charges against the petitioner, the audit report and also the reply as has been submitted by the petitioner and, therefore, he was fully conscious with all the facts and situation and it is then, order of approval to the suspension of the petitioner has been passed.

4. In view of the aforesaid submissions, as has come from both sides, the pleadings and the materials as has come on record, have been examined.

5. There appears to be no dispute about the fact that the petitioner being principal has been collecting money in various heads, i.e., tuition fee, education

fee, sports and cultural fee, etc. but that has not been deposited. The explanation as has been furnished by the petitioner in his reply and as has been stated before this Court that, he after collecting the amount in various heads, has been giving the same to one Pramod Kumar Singh on account of the direction issued by the management, has been specifically denied in the counter-affidavit. It has been clearly stated that no letter was written asking the petitioner to collect fee and had over the same to Pramod Kumar Singh for being deposited. At this stage, there is no corroboration of this version as stated by the petitioner and of course, it will be the subject-matter of a detail enquiry and no finding either way at this stage can be recorded. The various kind of financial irregularities as has been alleged on behalf of the management while taking decision to place the petitioner under suspension has been confirmed by the audit authorities of the office of the District Inspector of Schools to which the petitioner was also apprised by giving letter/notice dated 29.10.2001. The reply of the petitioner is contained in Annexure-10 to the writ petition in which, the main stress appears to be that although, money was realised but the same was being handed over to Pramod Kumar Singh, Lecturer as directed by the management. At this stage, recording of any finding, may prejudice the case of either of the parties and, therefore, suffice it to say that in view of the admitted facts that the money which was required to be deposited having been realised by the petitioner, not being in deposit, if on the facts so mentioned in the impugned order. District Inspector of Schools, has taken a view to approve the decision of the committee, no exception can be taken to it. It is only when the District Inspector of Schools is dis-approving the decision of the committee, he will have to record detail reason for not accepting the same but when the matter comes before him for approval of an action, in support of which, there are voluminous evidence and if the District Inspector of Schools has referred to those charges, materials and even to the explanation given by the petitioner, it cannot be said that he was not conscious of all the facts and there is non-application of mind. At this stage, only subjective satisfaction was required as recording a finding about approval of the charge and guilt of the petitioner has to prejudice his own case. The decision as has been referred by learned counsel for the petitioner as given in the case of Committee of Management v. District Inspector of Schools, Ballia (supra), also lays down that if the order of the District Inspector of Schools is without giving any reason whatsoever, and that too in the matter of dis-approval of the resolution, then it can be termed as faulty. The relevant extract of the aforesaid judgment of the Apex Court is quoted as under :

"As discussed earlier, a District Inspector of Schools while exercising power under Sub-section (7) of Section 16G acts in a supervisory capacity and his decision may have adverse effect on either party which is before him. Since the party affected adversely by his order invariably comes to Court, he must record brief reasons for according or refusing to accord approval to an order of suspension passed by a Committee of Management although a detailed judgment is not required. In the present case, the District Inspector of Schools has dis-approved

the resolution of the Committee of Management without giving any reason whatsoever. In absence of any reason, this Court is unable to find fault with the resolution of the Committee of Management suspending the respondent No. 2. Therefore, the order of the District Inspector of Schools must be held to be illegal and arbitrary."

6. In the given set of fact, a reading of the order of the District Inspector of Schools, cannot be said to be a non-speaking or a non-reasoned order. The District Inspector of Schools has referred to the charges against the petitioner on which he has been placed under suspension, prima facie confirmation of the charges by audit authorities of the office of the District Inspector of Schools and then for his own satisfaction, he has given opportunity to the petitioner to submit his reply in the light of the audit report and it is thereafter, after examining the same, he found that he has to go at this stage with the management and, therefore, he accorded approval to the resolution of the petitioner's suspension. On all these facts, a look to the impugned order restricts this Court from accepting the contention of the petitioner that the order of the District Inspector of Schools is arbitrary, non-speaking and is without application of mind. The submission of the petitioner that the action of the respondent is mala fide, is not to be examined at this stage as there appears to be charges of financial irregularities and in the light of the audit report by the office of the District Inspector of Schools, the District Inspector of Schools was satisfied with the action of the management and, therefore, various other aspects as argued by learned counsel for the petitioner being subject-matter of full fledged enquiry, it requires no adjudication at this stage.

7. In view of the aforesaid discussions, on the facts and materials as has been brought on record, this appears to be not a fit case for interference by this Court and, therefore, the writ petition fails and is dismissed, without any order as to costs.