

(1999) 11 AHC CK 0028

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 19040 of 1998

Prem Singh Pawar and Another

APPELLANT

Vs

Uttar Pradesh Prathmik Shikshak Sangh and Others

RESPONDENT

Date of Decision : 16-11-1999

Acts Referred:

Constitution of India, 1950 — Article 12, 226

Citation : (2000) 2 UPLBEC 1168

Hon'ble Judges : Sushil Harkauli, J

Bench : Single Bench

Advocate : L.P. Naithani, for the Appellant;

Final Decision : Dismissed

Judgement

Sushil Harkauli, J.—There is a body known as "U.P. Pradeshik Prathmik Shikshak Sangh" which is an Association of teachers of U.P. It has not been created under any statute or statutory rules. The said body is hereinafter referred to as the Association. It has district level units. By an order dated 22-5-1998 the General Secretary of the Association has dissolved the Managing Committee of the Dehradun district unit and had directed fresh election under the supervision of an ad hoc committee. That order is under challenge by the Managing Committee of the Dehradun district unit and its alleged President. The said unit is hereinafter referred to as the Union.

2. A preliminary objection was raised on behalf of the respondents about the maintainability of this writ petition against the non-statutory Association.

3. In support of the preliminary objection the learned Counsel for the respondent No. 3 has relied upon the following decisions :

1. Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, ;

2. Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, ,

3. : AIR 1981 SC 212 Som Prakash Rekhi v. Union of India;

4. Chander Mohan Khanna Vs. The National Council of Educational Research and Training and other[OVERRULED],

4. In answer to the preliminary objection Sri L.P. Nathani, Senior Advocate appearing for the petitioner has relied upon U.P. Basic Shiksha Samiti (Manner of Choosing and Nomination of Members) Rules, 1992, more particularly Rule 4 thereof which provided for constitution of Nagar Basic Shiksha Samiti. According to the learned Counsel for the petitioner the Union is the Committee constituted under Rule 4 aforesaid. The said argument is factually incorrect. The Committee to be constituted under Rule 4 is a different Committee and has nothing to do with the Union. The Union is a purely private body which is not governed by any Statute or the statutory rule. This is clear from a reading of the Constitution of the Association, a copy of which has been filed with the counter affidavit as Annexure CA 1.

5. Learned Counsel for the petitioner has also argued that the Association is registered under the Societies Registration Act therefore the writ can be issued against it. The fact was disputed by the learned Counsel appearing for the respondents. There appears to be no pleading about the registration of the society in the writ petition. There is no mention of any such registration in the copy of the Constitution (Annexure CA 1) or on the letter-head on which the impugned order has been passed. In the circumstances I am not inclined to accept the oral assertion of the learned Counsel appearing for the petitioner that the Association is registered. Even otherwise mere registration of the society would not make the writ petition maintainable.

6. The next argument of the learned Counsel for the petitioner is that the Union is recognised by the Government and, therefore, the writ petition is maintainable. No details of the recognition have been mentioned as to for which purposes the recognition has been granted. So the effect for the recognition cannot be judged. Further recognition by itself will not make the writ petition maintainable against the non-statutory voluntary Union.

7. Learned Counsel for the petitioner has thereafter argued relying upon the constitution of the Association (Annexure CA 1) and has urged on that basis that the Association is discharging public functions and therefore, writ petition is maintainable. I have examined the constitution and I do not find from the same that any function performed by the Association can be said to be such a public functions so as to make the writ petition maintainable.

8. Learned Counsel for the petitioner has relied upon following decisions in support of his claim that the writ petition is maintainable :

(1) (1995) 1 UPLBEC 265;

(2) (1996) 2 UPLBEC 134;

(3) (1992) 1 UPLBEC 464;

(4) M/s. Prakash Cotton Mills Pvt. Ltd. Vs. Commissioner of Income Tax (Central), Bombay, (Para 82);

(5) 1996 (3) ESC 35 All..

9. In view of the facts stated above I am unable to agree with the contention of the petitioner.

10. The preliminary objection of respondent No. 3 is upheld. The writ petition is dismissed as not maintainable.