

(2003) 11 AHC CK 0058
In the Allahabad High Court
Case No : Special Appeal No. 1178 of 2003

Rajendra Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-11-2003

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16A

Citation : (2004) 1 AWC 559 : (2004) 96 RD 202 : (2004) 1 UPLBEC 995

Hon'ble Judges : Umeshwar Pandey, J;M. Katju, J

Bench : Division Bench

Advocate : A.P. Sahi and G.K. Singh, for the Appellant; Daya Shankar and S.C., for the Respondent

Judgement

M. Katju and Umeshwar Pandey, JJ.—Heard learned counsel for the parties.

2. This Special Appeal has been filed against the interim order passed by the learned single Judge dated 23.10.2003.

3. The dispute is regarding entitlement to form the Committee of Management of Sri Mohan Singh Madhyamik Vidya Mandir, Girhiyar, Etah. The Committee, of which Rajendra Singh is the Manager, claims to have been elected on 24.6.1997. Clause 7 of the Scheme of Administration of the institution, which has been approved u/s 16A of the U.P. Intermediate Education Act, states :

“In the absence of any provision in the Scheme of Administration, the Committee of Management shall be elected for a period of four years from the date of election. The Committee of Management, of which appellant Rajendra Singh was the Manager claims to have been elected on 24.6.1997 and hence, its term expired on 24.6.2001. We fail to

understand how such Committee of Management can continue after 24.6.2001.

5. Learned counsel for the appellant submitted that it was continued by the interim order dated 23.5.2001, passed in Writ Petition No. 19439 of 2001 (Annexure-6 to this appeal).

6. We are of the opinion that the Committee of Management of which Rajendra Singh is the manager, cannot hold the election and he cannot continue as Manager of the Committee of Management of the Institution, as his term of four years, under Clause 7 of the Scheme of Administration has expired.

7. It has been held by a series of Division Bench decisions of this Court that after the term of the Committee of Management has expired, the said committee cannot hold the election of the Committee of Management, and it can only be held by "the Prabandh Sanchalak" who is appointed by the Dy. Director of Education vide *Ram Kripal v. Committee of Management* 1993 (1) AWC 518 : 1993 (1) UPLBEC 344 ; *Committee of Management Janta Inter College, Azamgarh and others Vs. Regional Deputy Director of Education (Secondary) and others, and Committee of Management, Brig. Hoshiyar Singh Memorial Uchchar Madhyamik Vidyalaya, Shamli District Muzaffarnagar and Anr. v. Dy. Director of Education, I Region, Meerut and Ors.* 1995 (1) UPLBEC 149 etc.

8. Learned counsel for the appellant, however, submits that Clause 7 of the Scheme of Administration permits the Regional Dy. Director of Education to extend the term of the Committee of Management.

9. In our opinion, Clause 7 permits such extension only for a very limited purpose and in very exceptional and rare circumstances, and that too for a short period, otherwise, it can be argued that Clause 7 permits the extension of the term of the Committee even by 100 years. In our opinion, the term of Committee of Management can be extended only for a few months and for rare and exceptional reasons e.g., that the election could not be held within time for some compelling reasons. In the present case, the life of the Committee of Management was upto June, 1997. However, it has existed for more than six years, whereas under the Scheme of Administration its term was only four years. We see no Justification in extending the term of the Committee of Management of which Rajendra Singh claim to be the Manager.

10. In view of the facts and circumstances of the case, we direct that the Joint Director of Education, Agra, will forthwith depute some officer subordinate to him, who will function in place of the Committee of Management until regular election, and the regular election of the Committee of Management shall be held by the Joint Director of Education or by any officer nominated by him for this purpose, within three months from today positively. The parties will co-operate in this election and no unnecessary technical objections should be made during the election. However, it will be open to the Joint Director of Education to finalise the list of voters and decide the schedule of the elections.

11. Petition is disposed off accordingly.

12. With the "consent of the parties, this Judgment will also govern Writ Petition No. 47843 of 2003 and Writ Petition No. 19439 of 2001.