
(2014) 01 AHC CK 0012
In the Allahabad High Court
Case No : C.M.W.P. No. 65532 of 2011

Ram Veer Singh	Vs	APPELLANT
State of U.P.		RESPONDENT

Date of Decision : 15-01-2014

Acts Referred:

Citation : (2014) 2 AWC 1738

Hon'ble Judges : Pradeep Kumar Singh Baghel, J

Bench : Single Bench

Advocate : Radha Kant Ojha and Abhitab Kumar Tiwari, Advocate for the Appellant; N.L. Pandey and Anil Kumar, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Pradeep Kumar Singh Baghel, J.—This writ petition has been preferred by 5 life members of a society, namely, Shiksha Prasara Samiti, Kapsarh, Sardhana District Meerut, for quashing of the order dated 31st October, 2011 passed by the District Inspector of Schools, Meerut, the respondent No. 3, whereby he has recognised the election of office-bearers of the respondent No. 4, Committee of Management of Janta Adarsh Inter College, Kapsarh. Meerut.

2. Shorn off unnecessary details, the brief facts are that Shiksha Prasara Samiti, Kapsarh, Sardhana District, Meerut (for short, the "Society") is a society registered under the Societies Registration Act, 1860, as applicable in Uttar Pradesh. It has established an Intermediate College, namely, Janta Adarsh Inter College, Kapsarh, Meerut (for short, the "Institution"), which is a recognised institution and is governed by the provisions of the Uttar Pradesh Intermediate Education Act, 1921 and the Regulations framed thereunder.

3. The Institution has its approved Scheme of Administration, which regulates its affairs in respect of constitution and election of the Committee of Management, various categories of Members, duties and responsibilities of the office-bearers, election process, etc. The Society, which has established the Institution, has its

bye-laws, which governs the affairs of the Society. It is stated that the General Body of the Society and the Institution is the same and one. From the records, it transpires that a dispute arose in respect of membership of the Society which resulted in filing of two writ petitions, being Civil Misc. Writ Petition Nos. 27970 of 2003, Malwa Singh v. Deputy Registrar, Firms, Societies and Chits, Meerut and others and 37082 of 2003, Committee of Management, Janta Adarsh Inter College and another v. State of U.P. and others, before this Court. Writ Petition No. 27970 of 2003 was decided by this Court vide order dated 17th December, 2004, whereby Regional Level Committee was directed to record specific findings as to three points regarding the election held on 11th July, 2003. The second writ petition, i.e., Writ Petition No. 37082 of 2003 came to be decided by this Court vide judgment dated 15th April, 2005, whereby a direction was issued for fresh adjudication by the Deputy Registrar, Firms, Societies and Chits for finalisation of the voters' list with reference to the approved Scheme of Administration. Against the aforesaid two orders dated 17th December, 2004 and 15th April, 2005 passed in the above-mentioned two writ petitions, two special appeals, being Special Appeal No. 577 of 2005, Shiv Kumar v. Mr. Malwa Singh and others and Special Appeal No. 201 of 2005, Committee of Management and another v. State of U.P. and others, respectively, were filed. Both the special appeals were disposed of by a common judgment and order dated 5th August, 2005 and further a direction was also given that the Deputy Registrar shall give due weight to the admission stated to be made by Sri Malwa Singh in regard to the eligibility of 38 members in Shiv Kumar's group and it was left open to the Deputy Registrar to proceed on the basis of the admission and give it due value.

4. In compliance with the order passed in special appeals, the Assistant Registrar, Firms, Societies and Chits, Meerut by an order dated 18th February, 2008 accepted the list of 42 validly enrolled members. A copy of the said order dated 18th February, 2008 is on the record as Annexure-4 to the writ petition. This order was challenged by some of the members including Sri Malwa Singh by means of Civil Misc. Writ Petition No. 24421 of 2008, Malwa Singh and others v. Assistant Registrar, Firms, Society and Chits, Meerut and, others, which was dismissed by this Court vide order dated 15th May, 2008 leaving it open to the parties to file a civil suit. A copy of the order of this Court dated 15th May, 2008 is on the record as Annexure-16 to the counter-affidavit filed by the respondent No. 4. In pursuance of the order of the Assistant Registrar dated 18th February, 2008, fresh election was held on 21st September, 2008, wherein one Sri Shiv Kumar was elected as Manager and Sri Bhupendra Singh was elected as President. As the term of the Committee of Management is 3 years, therefore, before expiring the term viz. 20th September, 2011, the Committee of Management proposed to hold the fresh election on 21st August, 2011.

5. The grievance of the petitioners is that the respondent No. 4 conducted the said election in 2011, in which he permitted to participate 101 more members in addition to 42 members, who were found by the Assistant Registrar as valid members. Against the inclusion of 101 new members, who were stated to be

enrolled sometimes in 2004, the petitioners submitted their objections before the District Inspector of Schools on 6th August, 2011 and 11th August, 2011. They have stated to have filed a similar objection before the Election Officer also on 12th August, 2011. Said objections are on record as Annexures-5 and 6 to the writ petition.

6. It is averred by the petitioners that their objection was rejected by the Election Officer and the election was held on 21st August, 2011, wherein 142 members including 101 new members were allowed to participate. The District Inspector of Schools, ignoring the objections filed before him, recognised the election of the respondent No. 4 by the impugned order dated 31st October, 2011.

7. A counter-affidavit has been filed by the respondent No. 4. The stand taken in the counter-affidavit is that 101 members were enrolled in 2004-05, therefore, their participation in the election of 2011 is legal and justified.

8. I have heard Sri R.K. Ojha, learned senior advocate, assisted by Sri Abhitab Kumar Tiwari, learned Counsel for the petitioners, learned Standing Counsel for the educational authorities, i.e., respondent Nos. 1 to 3, and Sri N.L. Pandey, learned Counsel for the respondent No. 4.

9. Sri R.K. Ojha, learned senior advocate, submits that in compliance with the order of this Court dated 5th August, 2005 passed in the special appeals, the Assistant Registrar had determined the electoral college of the Society, i.e., General Body of the Society as well as the institution. Said decision was made in the year 2008 and if 101 members were enrolled in 2004-05, their case shall be deemed to have been rejected by the Assistant Registrar as the fact with regard to their enrollment was not brought to the notice of the Assistant Registrar. He further submits that since aforesaid 101 members were not legally enrolled, this fact was not brought before the Assistant Registrar. Lastly, he urged that the last undisputed election of 2008 was held on the basis of electoral college determined by the Assistant Registrar vide its order dated 18th February, 2008, therefore, in the next election, which was held in the year 2011, there was no justification to permit 101 new members, who were alleged to be enrolled in the year 2004-05. Hence, on account of participation of 101 new members, the election stood vitiated, therefore, a direction may be issued to hold the fresh election on the basis of electoral college determined by the Assistant Registrar, which comprises of only 42 members.

10. Sri N.L. Pandey, learned counsel for the respondent No. 4, submits that 101 members were enrolled in the year 2004-05 and they have right to participate in the election as they were enrolled strictly in terms of the procedure provided in the bye-laws of the Society. He has drawn the attention of the Court to paragraph-47 of the counter-affidavit to show that the petitioner No. 3 Sri Sugan Pal was the proposer of Sri Jai Pal Singh Rana, who contested the election for the office of Treasurer. A copy of the said document has been brought on record as

Annexure-24 to the counter-affidavit.

11. Learned standing counsel has tried to justify the reasons assigned by the District Inspector of Schools in the impugned order. However, he has fairly submitted that in such cases of disputed question, only the Regional Level Committee has the authority to deal with the matter.

12. I have considered the respective submissions advanced by the learned counsel for the parties and perused the record.

13. The Institution has been established by the Society. It is a common ground that the General Body of the Society and the Institution is the same. While deciding the special appeals, this Court has taken note of the said fact and has directed that till the electoral college is determined by the Assistant Registrar, the proceedings before the Regional Level Committee shall be in abeyance to wait the decision of the Assistant Registrar. In compliance with the said direction, the electoral college was determined by the Assistant Registrar vide its order dated 18th February, 2008. Said order was passed after affording-opportunity to all the concerned parties. From a perusal of the order of Assistant Registrar it is evident that the issue with regard to enrollment of 101 members was not raised before him by either of the parties. Therefore, the Assistant Registrar confined his findings with regard to the validity of only 42 members. He rejected the claim of 63 members. The Assistant Registrar in his final analysis has found that there are 42 valid members of the General Body. This decision was challenged before this Court in Civil Misc. Writ Petition No. 24421 of 2008, which was dismissed on the ground of disputed question of fact and it was left open to the aggrieved party to file a civil suit. There is nothing on record to indicate that in pursuance of the order of this Court any civil suit was preferred by any aggrieved party, therefore, the order of the Assistant Registrar attained finality.

14. Regard being had to the fact that the fresh election of 2008 was held by the electoral college comprising 42 members, for the reasons best known to the parties, the cause of 101 members was not espoused before the Assistant Registrar either by them or by the members concerned, therefore, validity of 101 members was not scrutinised by the Assistant Registrar in its order dated 18th February, 2008.

15. After the term of office-bearers of the Committee of Management, who were elected in 2008, came to expire, the Committee of Management decided to permit 101 new members, stated to be enrolled in 2004, and despite the objections raised in this regard, the election was held.

16. After the election was over, the papers were sent to the office of the District Inspector of Schools, where the petitioners and others had also raised same dispute by filing their objections but the District Inspector of Schools proceeded to decide the dispute with regard to enrollment of 101 members himself without referring the matter to the Regional Level Committee.

17. Relevant it would be to mention that the State Government has issued a Government Order dated 19th December, 2000, which has been modified on 20th October, 2008 (Annexure-14 to the writ petition), which provides that if the District Inspector of Schools has any difficulty, the matter shall be referred to the Regional Level Committee. From a perusal of the Government Order dated 20th October, 2008 it brings out that the District Inspector of Schools can attest the signature within a week of the election of the Committee of Management where there is no dispute in respect of the election or the electoral college, but if there is any dispute, then the District Inspector of Schools should refer the matter to the Regional Level Committee. The District Inspector of Schools, in my view, has no jurisdiction to decide the electoral college or the validity of the election, if any objection is filed before him raising a bona fide dispute. In the present case, the electoral college was determined by the Assistant Registrar in compliance with the order of this Court dated 5th August, 2005 passed in the special appeals, as referred above. Therefore, there was a bona fide dispute with regard to validity of participation of 101 members, who were admittedly enrolled in the year 2004-05, i.e., before the order was passed by the Assistant Registrar. It was also admitted fact that the newly enrolled 101 members were not allowed to participate in the election of 2008. Thus, in view of the aforesaid facts, it was crystal clear that there was a bona fide and genuine dispute raised by the life members which ought to have been decided by the Regional Level Committee and not by the District Inspector of Schools. From a perusal of the impugned order of the District Inspector of Schools it is established that he has travelled beyond his jurisdiction as he has gone into the validity of enrollment of 101 members.

18. After careful consideration of the matter, I am of the view that the matter ought to have been considered by the Regional Level Committee and not by the District Inspector of Schools. Therefore, the order of the District Inspector of Schools dated 31st October, 2011, as is impugned in this writ petition, needs to be set aside and accordingly, it is set aside. The Joint Director of Education, Meerut Region, Meerut is directed to place the matter before the Regional Level Committee in terms of the Government Order dated 19th December, 2000 and 20th October, 2008. The Regional Level Committee shall consider the matter after giving opportunity to the concerned parties and pass appropriate order expeditiously preferably within a period of three months from the date of communication of this order. Till the decision is taken by the Regional Level Committee, the status quo as on today shall be maintained by the parties.

19. Needless to say that the Regional Level Committee shall consider the matter independently in accordance with law. Any observation made in this judgment shall not cause any prejudice to the contentions and interest of either of the parties.

20. Accordingly, the writ petition is disposed of.

21. No order as to costs.