

(1975) 05 AHC CK 0042

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 3569 of 1974

Ramdei Vidya Vardhini Parishad

APPELLANT

Vs

Director of Education (Madhyamic) and Others

RESPONDENT

Date of Decision : 08-05-1975

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Intermediate Education Act, 1921 — Section 16D(2), 16D(3), 16D(4), 16D(5A)

Citation : (1975) AWC 438

Hon'ble Judges : K.N. Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K.N. Singh, J.—Smt. Chanda Rani, Manager of Ramdei Vidya Vardhini Parishad, Muzaffarnagar, has filed the present petition under Article 226 of the Constitution challenging the order of the State Government dated 14th June, 1974, appointing an Authorised Controller u/s 16-D(5-A) of the U.P. Intermediate Education Act for taking over management of the institution including the management of land, buildings, funds and other assets belonging to the institution.

2. Ram Devi Vidya. Vardhini Parishad runs Ram Dei Inter College, Sikka Silavar, of which Smt. Chanda Rani is the Manager. The Director of Education U.P., Allahabad, sent a notice to the Manager which was received by her, on 6th August, 1973, u/s 16-D(2) of the Act, directing the management to remove the defects and deficiencies found in the management of the institution. The management sent a reply to the said notice and asserted that some of the defects were of such a nature which could not be removed within the period of one month as required by the Director. The Manager of the College further requested the Director of Education to supply information and material on the basis of which the charges were framed against the management. On 5th

September, 1973, the Manager of the College sent a detailed reply in response to the notice issued u/s 16-D(2) of the Act. The Director of Education by his letter dated 27th February, 1974, informed the management that its explanation was not found satisfactory and he further directed the management to show cause within ten days why recommendation may not be made to the Government for taking action u/s 16-D(5-A) against the Petitioner. The management by its letter dated 6th March, 1974, submitted a detailed reply and asserted that there was no exceptional or special circumstance to warrant action against the management under that provision. It appears that the Director made recommendation to the Government, thereupon the State Government by its order dated 14th June, 1974, took action u/s 16-D(5-A) of the Act and appointed Laxmi Chand Acharya as authorised controller and vested him with all the powers of the management of the institution to the exclusion of the Petitioner or any such person.

3. Learned Counsel for the Petitioner has urged that the impugned order of the State Government is void as it does not contain any reasons. Section 16-D(5-A) of the Act lays down that if on receipt of a recommendation referred to in Sub-section (4) the State Government is satisfied that the circumstances mentioned in Clauses (a) and (b) of Sub-section (4) exist and is further satisfied that for special and exceptional reasons, which shall be recorded, action under that Sub-section will not be adequately effective and that in the interest of the institution it is necessary that the management of that institution be immediately handed over to an Authorised Controller, the State Government may appoint an Authorised Controller. The State Government is thus empowered to appoint Authorised Controller but such action can be taken only if reasons are recorded in support of its decision. The language of Sub-section (5-A) leaves no manner of doubt that special and exceptional reasons must be made out and those reasons must be recorded in writing before any action is taken under that sub-section. This view finds support from a Division Bench judgment of our Court in *U.P. State v. Committee of Management, Adarsh Kanya Uchchar Madhyamik Vidyalaya Sp. A. No. 139 of 1974 D/-9-5-1974*. Similar view was taken by C.S.P. Singh, J. in *Committee of Management, Kaushalya Devi Balika Uchchar Madhyamik Vidyalaya v. State of U.P. CMW No. 7721 of 1972*. In both these cases the order of the State Government u/s 16-D(5-A) was quashed as it did not set out any exceptional or special reasons for appointing Authorised Controller. I am in respectful agreement with the law laid down in these cases.

4. In the instant case Paragraph 3 of the impugned Government order makes reference to the show cause notices issued to the Petitioner u/s 16-D(2) and (3) of the Act and the explanation submitted by the management of the institution and thereafter the order states that on perusal of the explanation of the Petitioner and the report of the Director of Education it was clear that the illegalities and irregularities mentioned in the show cause notice were still present in the institution, therefore it was fully proved that a number of illegalities prevailed in the institution as a result of which administration of the

institution could not be carried on. It is noteworthy that the impugned order does not refer to any particular illegality or irregularity, instead it contains a general observation to that effect. The order does not deal with the Petitioner's explanation as to show and in what respect its explanation was not acceptable. The order further does not disclose any reasons to show how any exceptional and special circumstances existed compelling the Government to divest the management of its right to administer and manage the institution. In a matter like the present one where the State Government is required to act in a quasi judicial manner and is required to record reasons making out special case for taking over the right of the Petitioner, it is incumbent on the State Government to deal with the charges, irregularities and the explanation furnished by the management in an objective manner with a speaking order pointing out the exceptional or special circumstances which may persuade the State Government to take the extreme action against the management of the institution by appointing Authorised Controller u/s 16-D(5-A) of the Act and investing him with all the powers of management. The impugned order does not set out the charge nor it sets out any reasons, it merely contains State Government's conclusions that the explanation submitted by the Petitioner was unsatisfactory and that it was necessary to appoint an Authorised Controller. In the circumstances the impugned order is vitiated and is not sustainable in law.

5. In the result, I allow the petition and quash the order of the State Government dated 14th June, 1975. There will be no order as to costs.