
(2009) 12 AHC CK 0328
In the Allahabad High Court

Ranveer Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 03-12-2009

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 21

Citation : (2010) 2 AWC 1119

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.P. Sahi, J.—Heard Shri Ashok Khare, learned senior counsel for the petitioner assisted by Shri Sunil Kumar, advocate, Shri Amit Saxena, learned Counsel for the respondent Nos. 4 and 5 and the learned standing counsel for the respondent Nos. 1, 2 and 3.

2. Learned Counsel agree that the matter be disposed of at this stage as it involves only legal questions and as facts are not in dispute without awaiting for any further affidavits.

3. The petitioner was functioning as an Officiating Head of the Institution namely Adarsh Inter College, which is recognized and governed by the provisions of U.P. Intermediate Education Act, 1921 and the Regulations framed thereunder.

4. The Committee of Management passed a resolution for dispensing with the services of the petitioner after holding an inquiry and has forwarded the same to the U.P. Secondary Education Services Selection Board for approval in accordance with the provisions thereof.

5. Preceding the aforesaid proposal of termination the dispute relating to the charge of officiating Principal travelled up to this Court in Special Appeal No. 1480 of 2008, which was decided on 5.11.2008.

6. Following the law laid down in the case of Smt. Pramodini Agarwal v. Regional Inpectress of Girls Schools, Bareilly and Ors., which has been referred to in the said judgment, the decision of the Committee of Management against resolving the petitioner to work as officiating Principal was set aside and as a consequence thereof the order of the District Inspector of Schools dated 2.9.2008 was quashed. This was done after considering the fact that there was no resolution of the Committee of Management either suspending the petitioner or seeking any prior approval in a disciplinary proceeding and therefore it was held that the petitioner was entitled to function as Officiating Principal. It appears that subsequently the Committee of Management proceeded to hold an inquiry and thereafter has resolved to dispense with the services of the petitioner.

7. Shri Amit Saxena contends that in view of the seriousness of the charges, it was resolved by the Committee of Management on 2.10.2009 that the charge should be handed over to some other person and the petitioner should be relieved of his duty as Officiating Principal of the Institution. The said resolution appears to have been forwarded to the District Inspector of Schools, who has now passed the order on 7.11.2009 on the ground that, since the matter pertaining to the approval or otherwise of the resolution of the Committee of Management against the petitioner is pending consideration, therefore the signatures of the respondent No. 5 Daan Singh Yadav were being attested as Officiating Principal of the Institution.

8. Shri Khare contends that the aforesaid action is mala fide, inasmuch as, the Committee has repeated its earlier performance and the entire inquiry has been conducted in order to give a colour to the illegal action of the Committee of Management to some how the other eliminate the petitioner from the office of officiating Principal of the Institution. He further submits that the order is in violation of principles of natural justice.

9. Shri Saxena contends that, as a matter of fact, the proposal has been forwarded and is pending consideration before the Board and therefore the District Inspector of Schools has justifiably approved the resolution of the Committee of Management not to allow the petitioner to function as officiating head of the institution. He submits that merely because there is no approval of the Board, the same cannot be a ground to allow the petitioner to continue, who is facing serious charges and has been found guilty by the. Committee of Management.

10. I have perused the impugned order and in view of the background of the case, it is evident that the Committee of Management did not either choose to suspend the petitioner or to take any action prior to the inquiry or even during the pendency of the inquiry. In the absence of any such,action taken, the subsequent proposal to eliminate the petitioner and not to allow him to function is a colourable exercise of power by the Committee of Management in order to eliminate the petitioner and prevent him from functioning as an Officiating Principal of the Institution.

11. As a matter of fact, the Division Bench earlier while considering the contentions, which were advanced on behalf of the Committee of Management, had set aside the resolution of the Committee vide judgment dated 5.11.2008. There is nothing new except for the alleged inquiry and the proposal, which is yet to be approved by the Board and which cannot be given effect to in view of the provisions of Section 21 of the 1982 Act.

12. In such a situation, the District Inspector of Schools appears to have without giving any notice or opportunity acted hastily in approving the said resolution of the Committee of Management of not allowing the petitioner to function as the officiating head of the institution. As a matter of fact, the District Inspector of Schools ought to have awaited any order of the U.P. Secondary Education Services Selection Board before having proceeded to pass the order. Accordingly, the order dated 7.11.2009 is unsustainable and is therefore set aside.

13. The Committee of Management shall approach the U.P. Secondary Education Services Selection Board, who shall proceed to consider the said resolution and render its decision within a reasonable period preferably within a period of three months.

14. The parties shall abide by the decision of the U.P. Secondary Education Services Selection Board.

15. The writ petition is allowed with the aforesaid observations.