
(2006) 05 AHC CK 0040

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 27402 of 2006

Shishu Pal Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-05-2006

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 16G(7)

Citation : (2006) 3 AWC 3093 : (2006) 3 UPLBEC 2230

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

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

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—The petitioner is the Principal of the College and was suspended on certain charges by an order dated 27.3.2005. The petitioner filed a Writ Petition No. 37014 of 2005 praying for the payment of the salary, on the ground, that the suspension order had not been approved within the stipulated period of 60 days, as contemplated u/s 16-G(7) of the U.P. Intermediate Education Act. The Court by an order dated 5.5.2005 passed an interim order which is quoted herein under: -

In the meantime, in case suspension order dated 28.2.2005 has not been approved, then respondents are directed to ensure payment of salary to the petitioner month by month along with teaching and non-teaching staff of the institution.

2. The petitioner has filed the present writ petition for the quashing of the orders dated 9.3.2006 and 11.3.2006 passed by the District Inspector of Schools, whereby he has approved the suspension order dated 27.2.2005.

3. Dr. Daya Shanker, the learned Counsel for the petitioner submitted, that the suspension order, having not being approved within the stipulated period of 60

days, became inoperative and the suspension order came to an automatic end, in view of Section 16-G(7) of the U.P. Intermediate Education Act and, therefore the District Inspector of Schools had no authority to approve the suspension order after the expiry of 60 days.

4. Sri V.K. Singh, the learned Counsel for the Committee of Management submitted that even after the expiry of 60 days, the District Inspector of Schools was empowered and competent to approve or disapprove the order of suspension. In support of his submission, the learned Counsel for the respondent has relied upon a decision of a Full Bench of this Court in Chandra Bhushan Misra v. District Inspector of Schools, Deoria and Ors. (1995)¹ UPLBEC 460, in which the Full Bench answered the reference as under:

An order of suspension of the Head or a teacher of an Institution does not lapse even if not approved by the Inspector within sixty days from the date of such order and it merely ceases to operate and becomes effective again after it is approved by the Inspector.

5. The Full Bench further held-

In view of the provisions of Sub-section (7), an order of suspension of Head or a teacher of an Institution shall remain in force for a period of sixty days from the date of such order even if it is not approved in writing by the Inspector; but in the absence of the approval by the Inspector such an order will cease to operate on expiry of sixty days from the date of the order, although it will continue to exist though inoperative. But if the order of suspension is approved even after the expiry of sixty days, it will come into force again and will become effective immediately on such approval. Any other interpretation will lead to serious consequences. Inaction on the part of the Inspector either deliberate or otherwise may frustrate the object of the provision itself.

5. In view of the aforesaid, it is clear, that the District Inspector of Schools was competent to approve or disapprove the suspension order even after the expiry of 60 days. Consequently, the submission of the learned Counsel for the petitioner is bereft of merit. No other point was raised by the learned Counsel for the petitioner.

6. It has come on record that there is a lot of acrimony between the petitioner and the Manager of the Committee of Management of the Institution concerned. From the record, it transpires, that the petitioner was suspended on a variety of charges on three occasions and on each occasion the petitioner obtained an interim order from the Court. Upon a query being raised by the Court, Sri V.K. Singh, the learned Counsel for the Manager and the Committee of Management submitted, that no charge sheet was issued on the suspension order issued earlier and, that the charge-sheet, pursuant to the suspension order dated 27.2.2005 had been issued on 10.4.2006 which the petitioner refused to accept. Dr. Daya Shanker, on the other hand, submitted that till date, no charge-sheet has been served upon the petitioner and, therefore, the question of refusal to

accept the charge sheet does not arise.

7. Be that as it may. In view of the fact, that the suspension order has been approved and a charge-sheet has been issued, I direct the learned Counsel for the Committee of Management and the Manager to serve a copy of the charge-sheet upon the learned Counsel for the petitioner today, who in turn, will handover or forward the copy to the petitioner. The petitioner may file a reply to the said charge-sheet within a reasonable period. Upon the receipt of the reply, the Committee of Management may proceed accordingly and complete the inquiry and pass a final order within four months from the date of the submission of the reply to the charge-sheet.

8. The writ petition dismissed with the aforesaid observation.